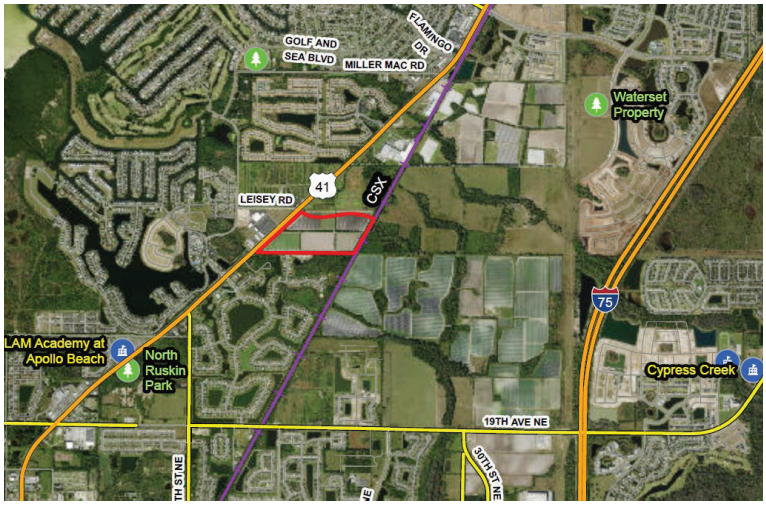
PD Modification Application:	MM 22-1228
Zoning Hearing Master Date:	January 17, 2023
BOCC Land Use Meeting Date:	March 14, 2023

Hillsborough County Florida

Development Services Department

1.0 APPLICATION SUMMARY

Applicant:	Council Bay Farms
FLU Category:	Office Commercial – 20 (OC – 20) Suburban Mixed Use – 6 (SMU – 6)
Service Area:	Urban
Site Acreage:	66.83
Community Plan Area:	Apollo Beach
Overlay:	None



Introduction Summary
PD 06-1035 was approved in 2007 to allow for 71.1 acres located along the east side of N US Highway 41 (N US 41) to the south of Leisey Road to be developed with up to 300,000 square feet (SF) of Commercial Intensive (CI) uses, and 335,000 SF of office (BPO), flexspace uses, personal services, minor industrial, RCP, warehousing, and open storage. The applicant is requesting a modification to: reduce the maximum entitlements on the property from the currently approved Commercial Intensive uses of 300,000 square feet to 230,000 square feet; to eliminate the currently approved 335,000 square feet of BPO, warehouse, open storage, RCP and personal service uses and replace it with 303 multi-family dwelling; and to modify the boundaries between Pods A and B.

Existing Approval(s)	Proposed Modification(s)
Site development to allow up to 300,000 SF of CI uses without open storage within Pocket A.	Site development to allow up to 230,000 SF of CI uses without open storage within Pocket A.
Site development to allow up to 335,000 square feet of BPO with flex space, personal services, minor industry within completely enclosed buildings, RCP, warehousing, and open storage within Pocket B.	Site development to allow up to 303 multi-family dwelling units within Pocket B.

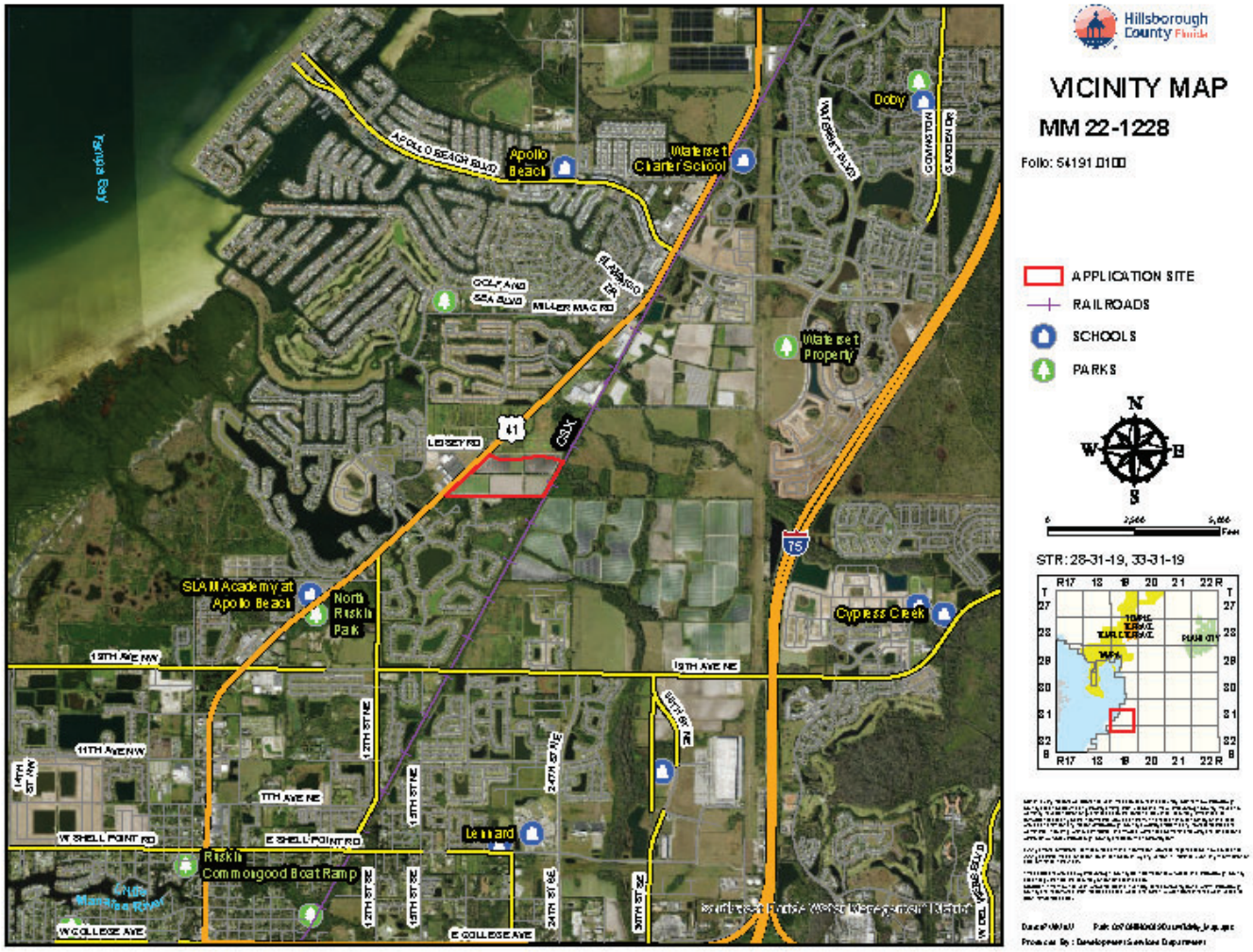
Additional Information	
PD Variation(s)	Section 6.05.02 – Parking and Loading Standards A variation to allow a 4.0 spaces per 1,000 SF where 5.0 spaces per 1,000 square feet is required.
Waiver(s) to the Land Development Code	None

Planning Commission Recommendation	Development Services Recommendation
Consistent	Approvable, subject to proposed conditions

Created: 8-17-21

2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map



Context of Surrounding Area:

The subject property is located at the southeast corner of the N US 41 intersection and Leisey Road (Brandermill Road). The uses in the immediate vicinity include single-family residential, auto repair, shopping center, railroad right-of-way, acreage, and vacant lands.

The properties to the west are separated by 182-foot of N US 41 right-of-way and are zoned PD 98-1513. The uses to the west include a shopping center, auto repair, vacant residential and vacant commercial land.

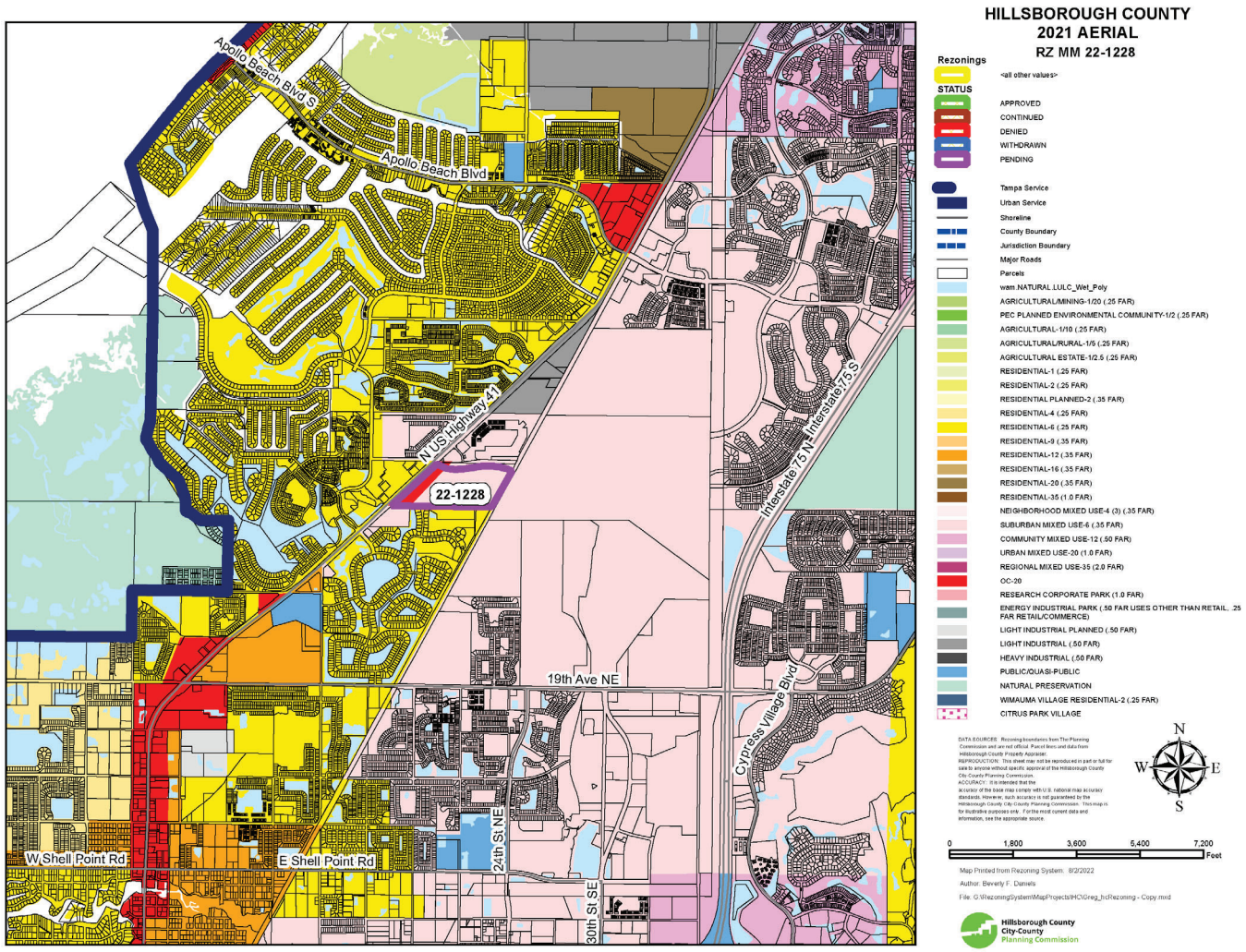
The adjoining properties to the south are zoned PD 00-1167 and PD 05-1951, The PD 00-1167 property abuts the majority of the southern property boundary and is developed for single-family residential use. The remaining southern boundary abuts a planned development (PD 05-1951) that is approved for a mix of commercial uses and multi-family; the site is currently undeveloped.

The properties to the north are vacant lands that are zoned PD 06-0120 which allows for a mix of BPO, GC, and single-family and multi-family residential uses.

The subject property abuts a 100-foot wide railroad right-of-way to the east. The properties located on the opposite side of the railroad right-of-way, to the east, are part of a 1,626 acre planned development that allows for a town center and mixed use the development. The properties within the PD that abut the railroad right-of-way are designated for single-family, villa-duplex, and townhouse development with an allowable density up to six dwellings per acre.

2.0 LAND USE MAP SET AND SUMMARY DATA

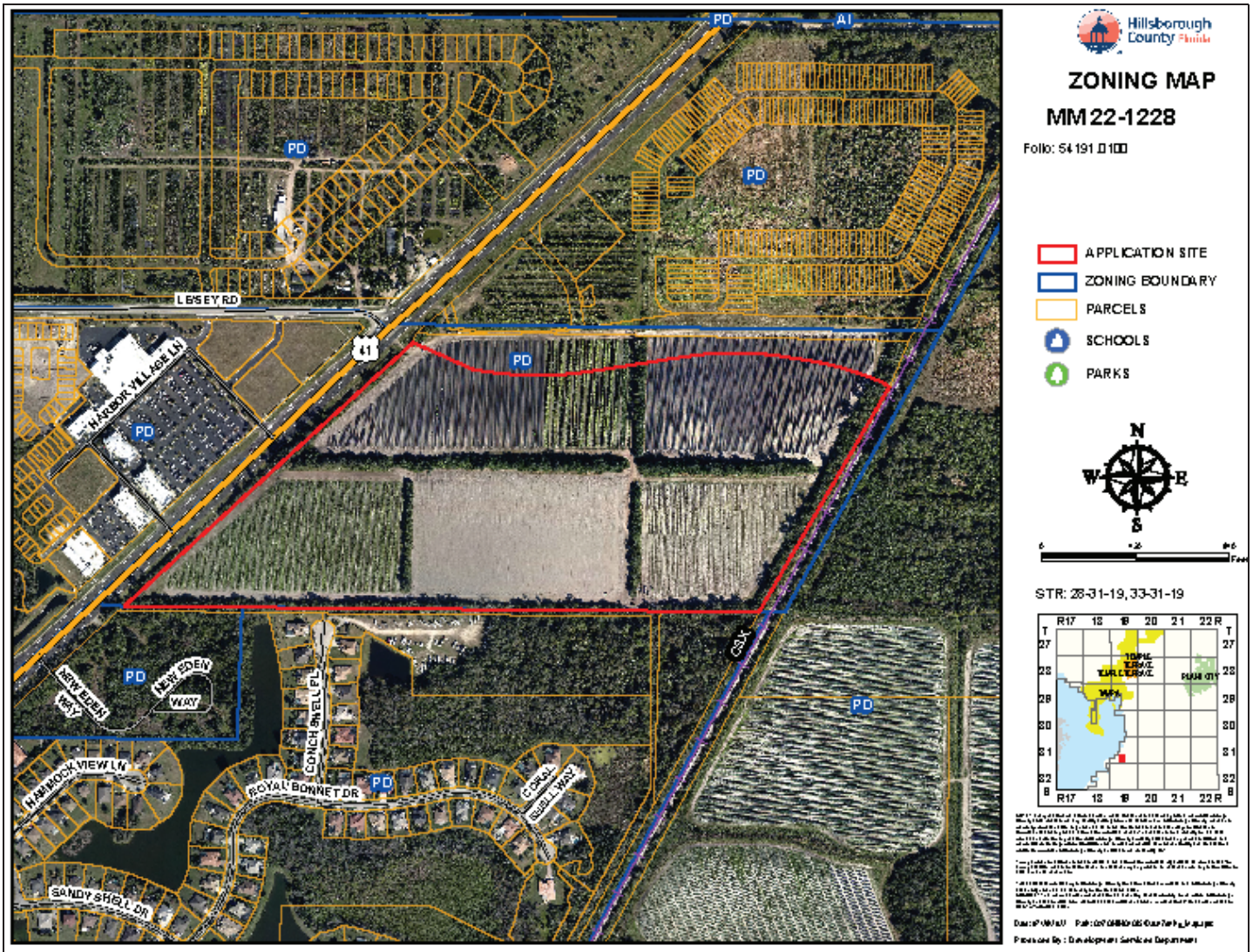
2.2 Future Land Use Map



Subject Site Future Land Use Category	Office Commercial-20 (OC-20) Suburban Mixed Use-6 (SMU-6)
Maximum Density/F.A.R.	Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)
Typical Uses	Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.

2.0 LAND USE MAP SET AND SUMMARY DATA

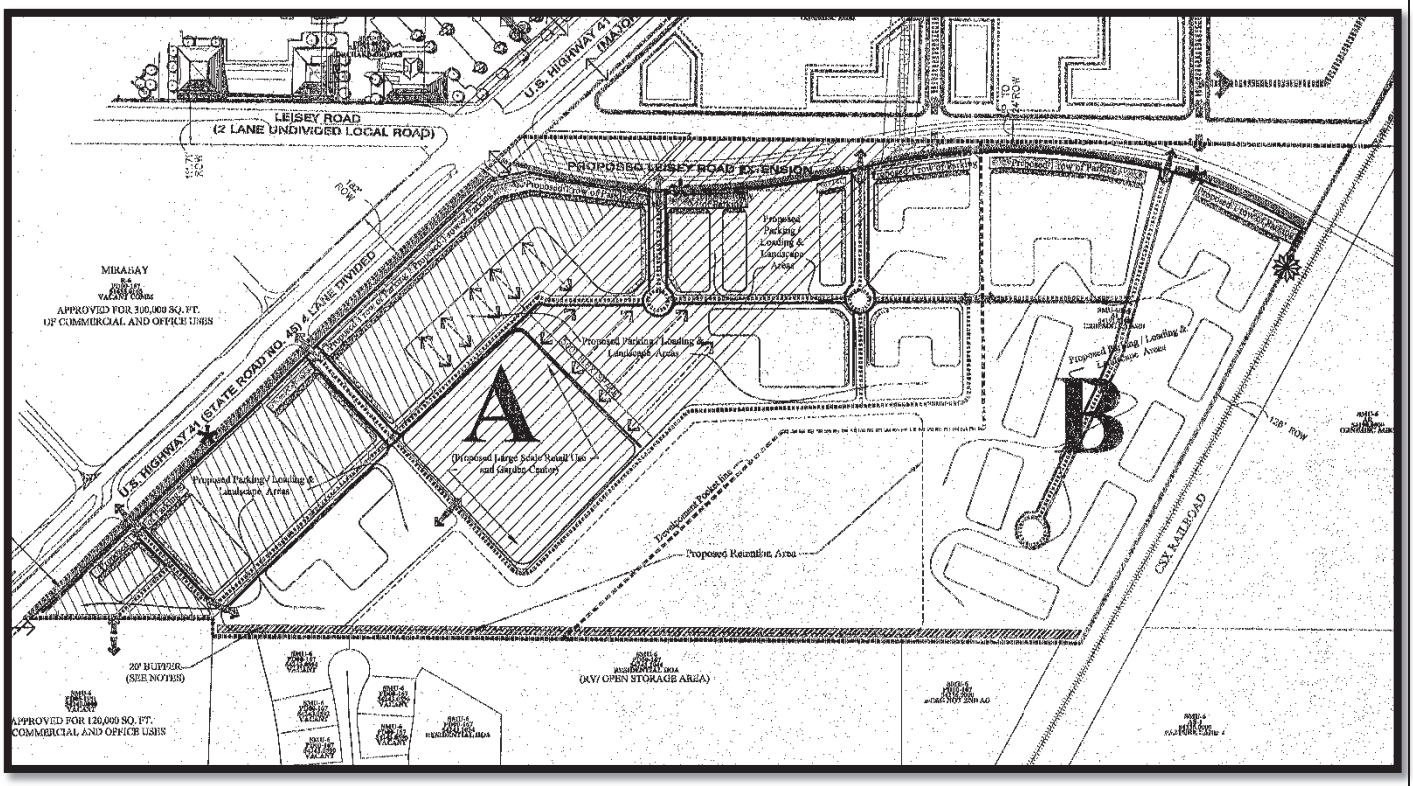
2.3 Immediate Area Map



Adjacent Zonings and Uses				
Location	Zoning	Maximum Density/F.A.R. Permitted by Zoning District	Allowable Use	Existing Use
North	PD 20-0329	3.97 du/1 ga FAR: 0.25	BPO, GC, single-family, multi-family residential	Vacant
South	PD 00-1167	1 du/ga FAR: 0.25	Single-family, multi-family, CG	Single-family, conventional
South	PD 05-1951	4.24 du/ga FAR: 0.30	BPO, GC, multi-family residential	Vacant
East	PD 14-0815	6 du/ga FAR: 0.25	Town center, mixed use commercial and residential	Vacant
West	PD 13-0591	20 du/ga FAR: 0.25	Town center, mixed use commercial, single-family, multi-family residential	Shopping center, automotive repair, vacant

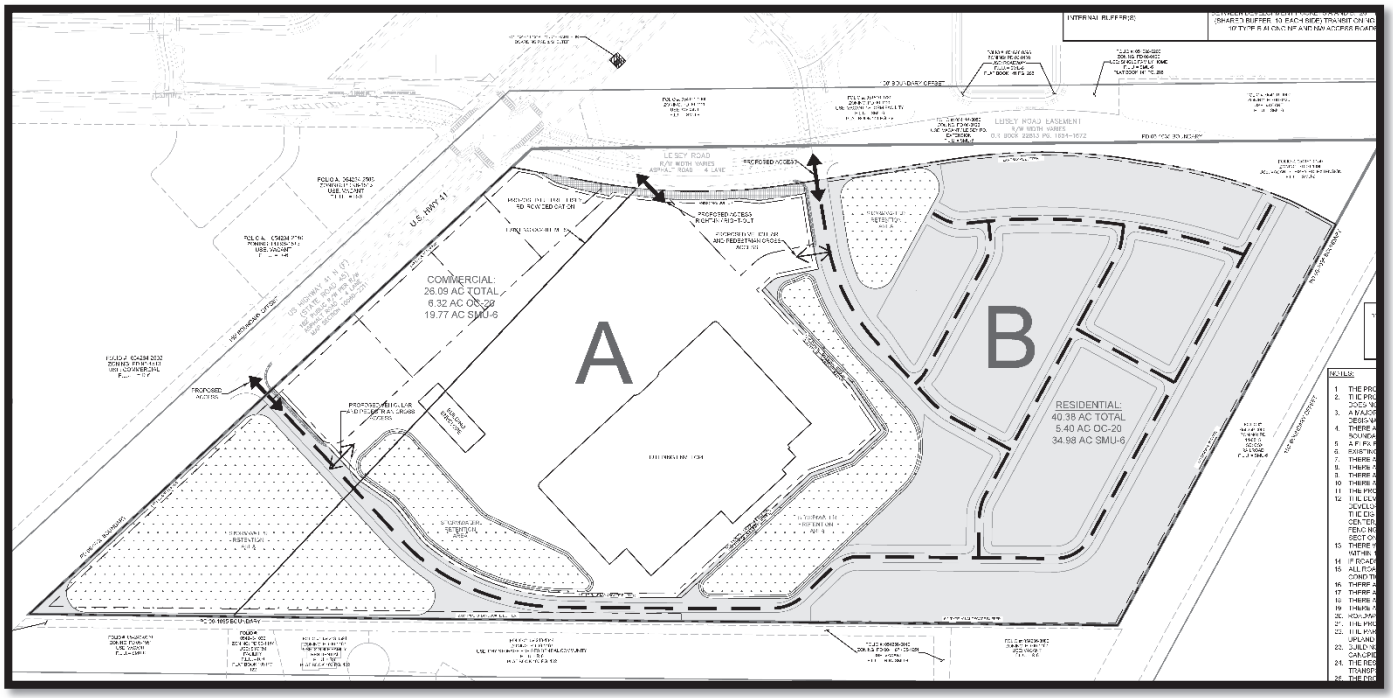
2.0 LAND USE MAP SET AND SUMMARY DATA

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**
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request			
	Average Annual Daily Trips	**A.M. Peak Hour Trips**	**P.M. Peak Hour Trips**
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request		
Road Name/Nature of Request	**Type**	**Finding**
	Choose an item.	Choose an item.
	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	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Natural Resources	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ No	
Conservation & Environ. Lands Mgmt.	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ 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**
Transportation ☐ Design Exc./Adm. Variance Requested ☒ Off-site Improvements Provided	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Service Area/ Water & Wastewater ☒Urban ☐ City of Tampa ☐Rural ☐ City of Temple Terrace	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	South County Statement of Record
Hillsborough County School Board Adequate ☐ K-5 ☐6-8 ☐9-12 ☐N/A Inadequate ☐ K-5 ☐6-8 ☐9-12 ☐N/A	☐ Yes ☒ No	☐ Yes ☐ No	☐ Yes ☐ No	
Impact/Mobility Fees: Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore				
Discount Superstore (per 1,000 sf) **Mobility: $14,708*230 = $3,382,840** **Fire: $ 313*320 = $ 100,160** **Total: $3,483,000**	**Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story** **Mobility: $6,661 * 303 units = $2,018,283** **Parks: $1,555 * 303 units = $ 471,165** **School: $3,891 * 303 units = $1,178,973** **Fire: $249 * 303 units = $ 75,447** **Total Multi-Family (1-2 story) = $3,743,868**			
Comprehensive Plan:	**Comments Received**	**Findings**	**Conditions Requested**	**Additional Information/Comments**
Planning Commission ☐ Meets Locational Criteria ☒N/A ☐ Locational Criteria Waiver Requested ☐ Minimum Density Met ☒ N/A	☒ Yes ☐ No	☐ Inconsistent ☒ Consistent	☐ Yes ☒ No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

Based on the adjacent zonings and uses identified in the report, staff finds that the proposed reduction in allowable Commercial Intensive entitlements in conjunction with replacing 335,000 SF of BPO, warehouse, open storage, RCP and personal service use entitlements with 303 multi-family dwellings is compatible with the existing zoning districts and development pattern in the area. Additionally, staff finds that the result of the variation to reduce the required parking ratio from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet for the 208,000 square-foot discount superstore would reduce the number required parking spaces from 1,040 spaces to 832 spaces, and would be in harmony with the purpose and intent of the Land Development Code.

5.2 Recommendation

Based on the above considerations, staff recommends approval of the request, subject to conditions.

6.0 PROPOSED CONDITIONS

Prior to PD site plan certification, applicant shall:

1. Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
2. Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
3. Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
4. Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
5. The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
6. The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
7. Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
8. Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
9. Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
10. Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
11. Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
12. Delete the box and information within the box titled "Waiver Under MM-22-1228".

Approval - Recommended zoning conditions are based on site plan received ~~November 7, 2006~~ December 28, 2022.

1. The project shall be permitted the following development options:

   1.1 Pocket A – ~~300,000~~ 230,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box

   1.2 Pocket B – ~~335,000 square feet of the following uses:~~ 303 Multi-family units

~~Business, Professional Offices Uses (Includes Flex Space Uses)~~

~~Personal Services~~

~~Minor Industry (Within completely Enclosed Buildings)~~

~~Research Corporate Park~~

~~Warehousing~~

~~Open Storage~~

2. The project shall be subject to the Apollo Beach Community Plan and Pocket A shall follow the Land Development Code (LDC) Development Standards of the Commercial Intensive (CI) zoning district and, where applicable, LDC Section 6.11.106 – Large Scale Retail Development (Single Tenant Big Box), unless otherwise stated herein:

3. All large scale retail development ~~other than the~~ within Pocket A shall be developed pursuant to LDC Section 6.11.106 Large Scale Retail Development. All other Pocket A development shall comply with the following standards, unless otherwise referenced herein.

~~3.1 All buildings shall be placed within the building envelopes as shown on the site plan. Buildings constructed within envelopes indicating either "front façade build to line" (adjacent to U.S. Hwy 41 and Leisey Road) or "other build to line" (adjacent to internal roadways) shall be placed along those lines.~~

~~3.2 Not less than sixty percent (60%) or more than ninety percent (90%) of the total surface area of the front elevation of any building with a "front façade build to line" shall include public entrances and windows.~~

3.1 ~~3.3~~ Ground floor walls or sections of walls that front onto U.S. 41 or Leisey Road without windows or entryways shall not exceed twenty (20) feet in length.

3.2 ~~3.4~~ All building elevations fronting along U.S. 41 and Leisey Road shall have an entrance and be designed as a front elevation, regardless of any other access which may be provided. Buildings on ~~comer~~ corner lots with frontages on two sidewalks may have an individual entrance on each sidewalk, or one entrance oriented diagonally to the corner with direct access to both sidewalks.

3.3 ~~3.5~~ Buildings may be recessed to accommodate courtyards.

3.4 ~~3.6~~ Buildings shall be articulated so that facades that face public streets and exceed fifty (50) feet in horizontal length shall include vertical piers, columns, colonnades or other vertical visual elements to break the plane of the façade. Such vertical visual elements shall be spaced six (6) feet to thirty-five (35) feet apart along the façade.

3.5 ~~3.7~~ Galleries, cafes, and arcades may include outdoor seating.

3.6 ~~3.8~~ Within the building envelope along US ~~4 1~~ 41 directly west of the building labeled "large scale retail", the developer shall set aside an area or areas, totaling no less than 30% of this frontage, for the construction of a building, or buildings, to screen the large scale retail building from US 41. Parking areas may be provided between these building areas and the large scale retail building, subject to LDC Section 6.11.106 design standards. ~~No parking shall be allowed within the subject building envelope until such time as the buildings adjacent to U.S. 41 are constructed.~~

~~3.9 No more than 50 percent of the frontage on U.S. 41 and on Leisey Road shall be an open parking lot without buildings in front of it. The single row of parking areas shall not be considered open parking lots or be counted in the allowed 50 percent.~~

~~3.10 A prominent architectural feature may be placed at the traffic circle in front of the large scale retail building. Said feature may include a bell or clock tower, sculpture or other public art which reaches a height of at least 25 feet.~~

3.7 ~~3.11~~ Vehicular and pedestrian interconnectivity shall be provided between all portions of the project.

~~4. The developer shall provide a minimum eight-foot buffer along US 41 and Leisey Road. Within said area the developer shall provide a decorative fence a minimum of 4 feet in height. Landscaping treatment within the eight-foot buffer area shall consist of eight to ten foot high shade trees, spaced 20 feet on center, and of a hedge measuring 30 inches high at the time of planting, spaced 36 inches on center. PVC fencing material shall be prohibited. This buffering shall be provided instead of the buffer in LDC Section 6.11.106.C.7.c.~~

~~5. Maximum building setbacks for buildings within pockets A and B that front on U.S. 41 and Leisey Road shall be 57 feet from the right-of-way line. This may vary up to eight additional feet for variations in the wall facade.~~

4. ~~6.~~ Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

4.1 ~~6.2~~ On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

4.2 Large scale retail development parking shall be provided at 4 parking spaces per 1,000 square feet of big box gross floor area.

4.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

4.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

5. ~~7. The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~ As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

6. ~~8. If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~ The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

6.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;

6.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Road.;

6.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only

driveway;

6.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;

6.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;

6.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;

6.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Road.;

6.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Road.;

6.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Road.;

6.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Road.;

6.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,

6.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

~~6. 10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

7. ~~12.~~ Prior to ~~Construction Plan approval~~ or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others) ~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~ Hillsborough County Corridor Preservation Plan.

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project. as a four lane divided arterial as identified in the South Shore Corridor Plan.~~

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entity has committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

8. ~~17.~~ The Developer shall construct sidewalks ~~within the right-of-way along all (i) roadways adjacent to the property boundaries and along both sides of all (ii) internal roadways~~ in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The sidewalks~~ Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

9. ~~18.~~ Prior to or concurrent with the initial increment of development, ~~The~~ the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

10. ~~19.~~ The project may be permitted a maximum of ~~635,000~~ 230,000 square feet of commercial/office/industrial uses and 303 multi-family units, subject to formal delineation of on-site conservation areas, preservation areas and water bodies and final calculation of maximum density/intensity (FAR) permitted by the Comprehensive Plan in accordance with the Environmentally Sensitive Lands Credits requirement of the Comprehensive Plan. If the maximum number of units and/or maximum square footage for the project as permitted herein exceeds the maximum density/intensity (FAR) permitted by the Comprehensive Plan, per the Environmentally Sensitive Lands Credits requirement, the number of dwelling units and/or square footage allowed in the project shall decrease as necessary to conform to the Comprehensive Plan.

11. ~~20.~~ The stormwater management system shall be designed and constructed in such a manner so as to not adversely impact off-site surface and groundwater elevations.

~~21. The type, location, size and number of signs permitted shall be as set forth in Part 7.03.00 of the Land Development Code with the following exception(s):~~

~~21.1 Ground Signs shall be limited to Monument Signs.~~

~~21.2 Billboards, pennants and banners shall be prohibited.~~

~~22. Approval of this application does not ensure that water will be available at the time when the applicant seeks permits to actually develop.~~

12. ~~23.~~ Approval of this rezoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impacts to wetlands, and does not grant any implied or vested right to environmental approvals.

13. ~~24.~~ If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval.

14. In accordance with LDC Section 5.03.07.C, the certified PD general site plan shall expire for the internal transportation network and external access points, as well as for any conditions related to the internal transportation network and external access points, if site construction plans, or equivalent thereof, have not been approved for all or part of the subject Planned Development within 5 years of the effective date of the PD unless an extension is granted as provided in the LDC. Upon expiration, re-certification of the PD General Site Plan shall be required in accordance with provisions set forth in LDC Section 5.03.07.C.

15. Water distribution system improvements will need to be completed prior to connection to the Count's water system for a multi-family development approved through MM 22-1228. No building permits for the multi-family dwellings shall be issued until the completion by the County of funded Capital Improvement Projects C32001 – South County Potable Water Repump Station Expansion and C32011 – Potable Water In-Line Booster Pump Station, and the projects are put into operation.

~~25. The Development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.~~

~~26. Within 90 days of approval by the Hillsborough County Board of County Commissioners, the applicant shall submit to the Planning and Growth Management Department a revised General Development Plan for certification which conforms the notes and graphic of the plan to the conditions outlined above and the Land Development Code (LDC). Subsequent to certification of the plan, if it is determined the certified plan does not accurately reflect the conditions of approval or requirements of the LDC, said plan will be deemed invalid and certification of the revised plan will be required.~~

~~27. Effective as of February 1, 1990, this development order/permit shall meet the concurrency requirements of Chapter 163, Part II, Florida Statutes. Approval of this development order/permit does not constitute a guarantee that there will be public facilities at the time of application for subsequent development orders or permits to allow issuance of such development orders or permits.~~

Zoning Administrator Sign Off:	J. Brian Grady Tue Jan 10 2023 07:20:44

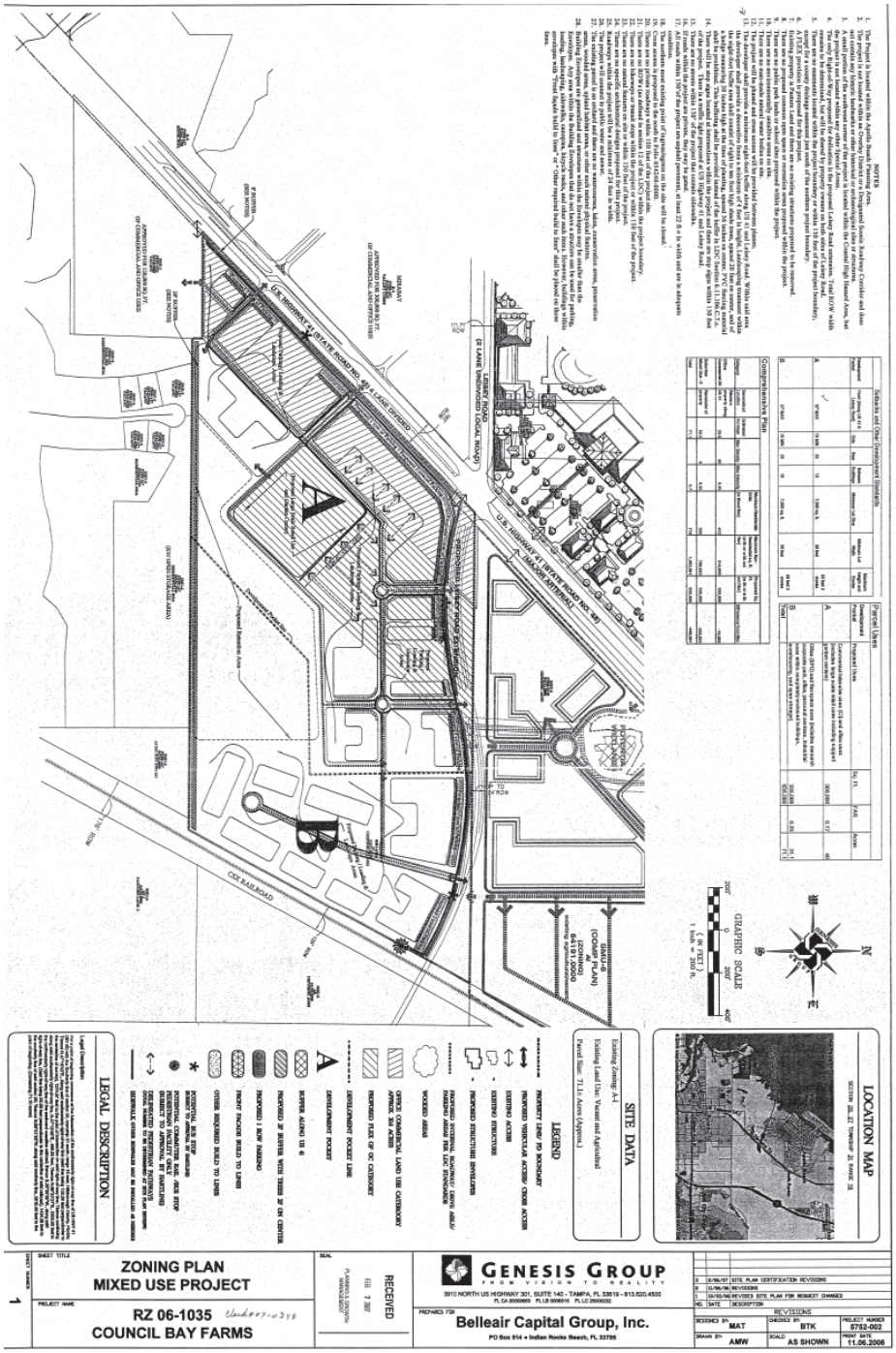
SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

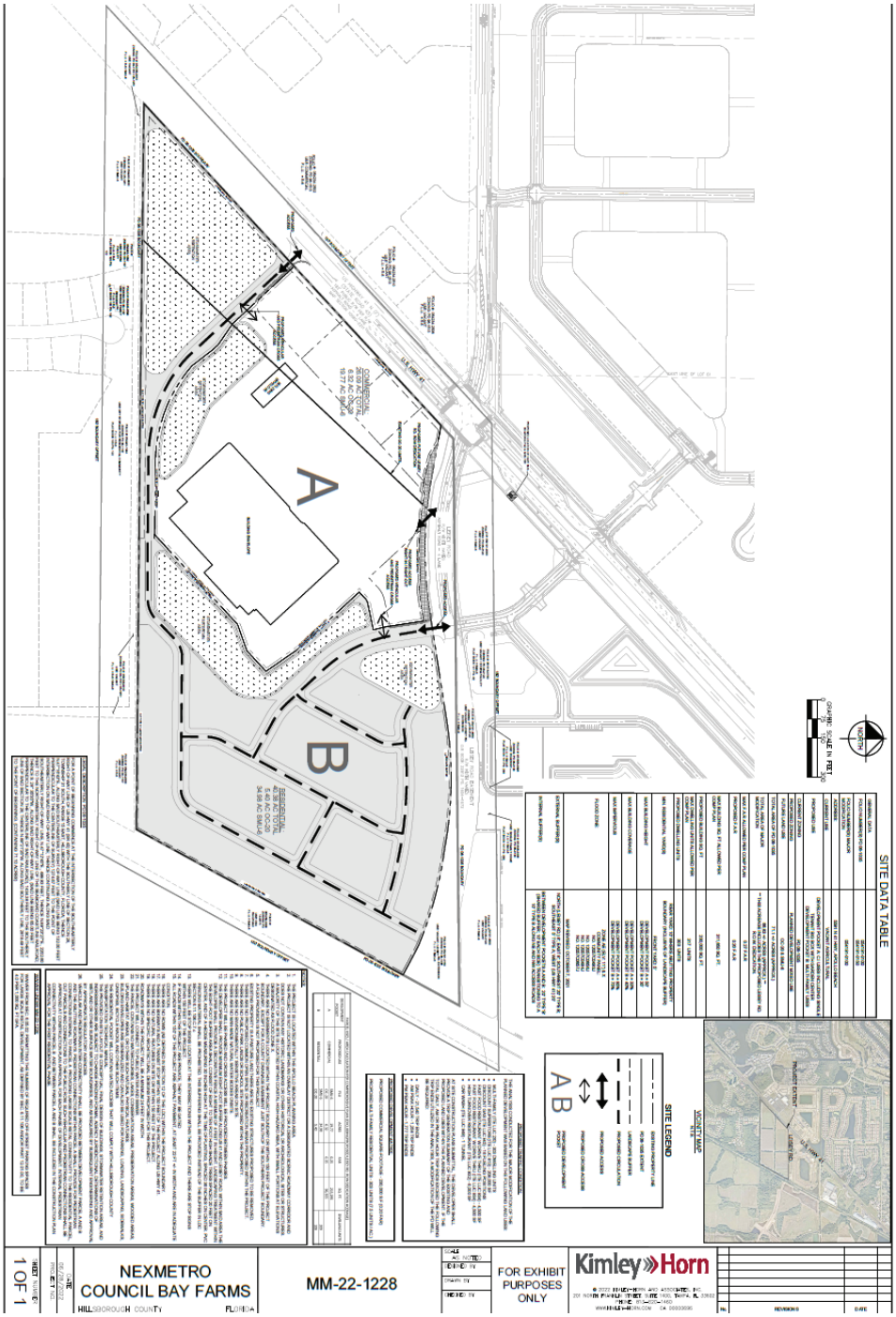
8.0 SITE PLANS (FULL)

8.1 Approved Site Plan (Full)



8.0 SITE PLANS (FULL)

8.2 Proposed Site Plan (Full)



9.0 FULL TRANSPORTATION REPORT (see following pages)

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department	DATE: 1/08/2022
REVIEWER: James Ratliff, AICP, PTP, Principal Planner	AGENCY/DEPT: Transportation
PLANNING AREA/SECTOR: APB/ South	PETITION NO: MM 22-1228

☐ This agency has no comments.

☐ This agency has no objection.

☒ This agency has no objection, subject to the listed or attached conditions.

☐ This agency objects for the reasons set forth below.

NEW AND REVISED CONDITIONS OF APPROVAL

Revised Conditions

6. Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

6.~~2~~1 On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

6.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single-tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

6.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

[Staff recommends modification of this above condition to reflect the applicant's requested PD variation for parking. Staff notes that the applicant has requested a change to 6.1. This is a design related condition and, as such, was not reviewed by Transportation Review Section staff. It is shown only for clarity. Comments related to this change will be addressed by Zoning Section staff.]

7. ~~The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by~~

~~Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and access configuration requirements by the County and/or FDOT.]

8. ~~If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

   8.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
   8.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
   8.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
   8.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
   8.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;
   8.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;
   8.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
   8.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
   8.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
   8.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
   8.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
   8.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and site access improvements requirements by the County and/or FDOT.]

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system

for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that some of the listed improvements will be completed as required site-access improvements—see revised condition 8.]

~~10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

[Staff is recommending deletion of this condition to comport with current practice. Staff notes that, regardless of the deletion of a condition addressing throat depth within the PD zoning, the developer will be required to comply with then current throat depth standards as found within the LDC at the time of plat/site/construction plan review.]

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

[Staff is recommending deletion of this condition. Staff notes the zoning to the south, #20-1029, was recently modified for a charter school use and as such cross would not be required pursuant to Sec. 6.04.03.Q of the LDC. Also, as shown on the Property Appraiser's website and on the PD site plan, there appears to be an intervening strip of land between the subject PD and property to the south owned by Hillsborough County which separates the two developments.]

12. Prior to ~~Construction Plan approval~~or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others)~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~Hillsborough County Corridor Preservation Plan.

[Staff is recommending modification of this condition. Staff notes that the majority of needed road right-of-way has been acquired by the developers of Waterset. A portion of the 2-lane Leisey Rd. extension is under construction and is anticipated to be dedicated/conveyed/accepted by Hillsborough County for maintenance in the near future. The above additional right-of-way ensures that the required site access improvements which must be constructed by the subject PD do not jeopardize the County's ability to construct the 4-lane widening envisioned by--and for which right-of-way must be preserved in accordance with--the Hillsborough County Corridor Preservation.]

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

[Staff is recommending deletion of this condition. Staff notes that there is sufficient right-of-way along US 41 to accommodate the future 6-laning of the facility.]

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that the project will be required to construct certain site-access improvements as detailed in revised condition 8.]

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project as a four lane divided arterial as identified in the South Shore Corridor Plan~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that, given the proposed access changes, the 2-lane portion of the roadway has already been completed to the easternmost project driveway.]

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entityhas committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT~~.

[Staff is recommending deletion of this condition. Staff notes that a traffic signal already exists at this intersection. Modification of the signal by the developer of the subject PD is required, and such condition has been proposed as a part of revised condition 8, above.]

17. The Developer shall construct sidewalks ~~within the right-of-way along all roadways adjacent to the property boundaries and along both sides of all internal roadways~~in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The s~~Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

[Staff is recommending modification of this condition for clarity and to comport with current practice.]

18. Prior to or concurrent with the initial increment of development, ~~T~~the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

[Staff is recommending modification of this condition to comport with current practice and LDC requirements. Additionally, staff is unsure of the type of HART service which will be provided, and the zoning condition should not bind the developer or HART to provision of a certain frequency of service, e.g. express service.]

Other Conditions

- Prior to PD site plan certification, the developer shall:
    - Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
    - Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
    - Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
    - Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
    - The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
    - The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
    - Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
    - Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
    - Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
    - Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
    - Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
    - Delete the box and information within the box titled "Waiver Under MM-22-1228".

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting a Major Modification a +/- 66.83 ac. parcel currently zoned Planned Development (PD) 06-1035-1402. The existing PD has approval for two development pockets. Pocket A is approved for 300,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box. Pocket B is approved for 335,000 square feet of Business, Professional Offices Uses (Includes Flex Space Uses), Personal Services, Minor Industry (Within completely Enclosed Buildings), Research Corporate Park, Warehousing and Open Storage uses.

The applicant is proposing the following transportation related changes:

1. Modify the boundaries of Pockets A and B as shown on the PD site plan;
2. Reduce the entitlements in Pocket A from 300,000 s.f. to 230,000 s.f.;
3. Replace the uses currently approved within Pocket B with entitlements for up to 303 multi-family dwelling units.; and,
4. Modify project access as follows:
    a. Eliminate one (1) of the two (2) previously approved access from Pocket A to US 41; and,
    b. Eliminate one (1) of the three (3) previously approved access from Pockets A and B to Leisey Rd.

Staff notes additional changes, including more design related transportation changes are proposed and will be addressed by zoning section staff. Staff also notes the applicant is proposing to modify the right-in/right-out access to Leisey Rd. from Pocket A (such that allows right-in only movements), and retain one full access connection to Leisey Rd. within Pocket B, which will be shared with the Pocket A development. Staff notes the PD site plan is incorrectly labeled as right-in/right-out (staff has proposed a condition to address this issue). Similarly, access to US 41 from Pocket A has been eliminated, but there will be one (1) right-in/right-out/left-in access within Pocket B which will be shared with the Pocket A development.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a trip generation and site access analysis for the proposed project which was reviewed by staffs of both the Florida Department of Transportation and Hillsborough County. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition and the applicant's transportation analysis.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 300,000 s.f. Shopping Center (Multiple Uses, Reference Applicant's Analysis in Optix Adjusted by Increasing g.s.f. of Proposed by 70k)	23,058	1,271	1929
PD, Pocket B, 335,000 s.f. Office Park (ITE LUC 750)	3,923	509	443
Subtotal:	26,981	1,780	2,372

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 230,000 s.f. Shopping Center, Reference Applicant's Analysis in Optix)	19,522	1,141	1,626
PD, Pocket B, 303 Multi-Family Dwelling Units (ITE LUC 220)	2,018	117	151
Subtotal:	21,540	1,258	1,777

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	**(-) 5,441**	**(-) 522**	**(-) 595**

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 4-lane principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot wide travel lanes in average condition. The roadway lies within a +/- 182 foot wide right-of-way along the project's frontage. There are bicycle facilities (on paved shoulders) along both sides of the roadway in the vicinity of the project. There +/- 5-foot wide sidewalks along portions of the east and west sides of US 41 in the vicinity of the proposed project.

US 41 is shown on the Hillsborough County Corridor Preservation Plan as a future 6-lane roadway along the project's frontage. There is adequate existing right-of-way along the project's frontage to accommodate the future widening.

Leisey Rd. is currently a 2-lane collector roadway which has been recently constructed for a distance of 800 feet east of US 41 to collector roadway standards as found within the Transportation Technical Manual (TTM); however, the roadway has not yet been accepted by the County for maintenance (current Hillsborough County Property Appraiser's records indicate the road right-of-way is currently owned by the developer of Waterset to the east of the proposed project).

In order to accommodate traffic generated by development on both the north and south sides of Leisey Rd. (between US 41 and the CSX railroad) and proposed site access changes, the developer is required to construct a variety of site access improvements as specified in the section hereinbelow. In order to retain the County's ability to 4-lane this roadway in the future in accordance with the Corridor Preservation Plan, this will necessitate the developer to dedicate and convey up to an additional 29 feet of right-of-way along the project's Leisey Rd. frontage (staff notes that some areas of the frontage require less or no additional right-of-way dedication and conveyance).

SITE ACCESS AND CONNECTIVITY

General project site access is summarized hereinabove. The developer will be required by FDOT and the County to make certain improvements prior to or concurrent with the initial increment of development. Specifically, the developer will be required to:

1. Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
2. Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
3. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
4. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
5. Construct a southbound to eastbound left turn lane on US 41 at the project access;
6. Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
7. Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8. Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
9. Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
10. Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
11. Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

TRANSIT FACILITIES

Pursuant to Section 6.03.09.C.2 of the LDC, non-residential and mixed-use projects containing greater than 200,000 s.f. but less than 500,000 s.f. are required to provide a bus bay and transit accessory pad including shelter, trash receptacle and bicycle rack. FDOT has indicated a preferred location of the transit facility, but has stated they will ultimately defer to whatever location Hillsborough Area Regional Transit (HART) prefers. Staff has proposed a zoning condition requiring the location to be coordinate with an approved by the County, FDOT and HART prior to or concurrent with the initial increment of development.

REQUESTED PD VARIATION

The applicant submitted the PD variation request for the retail anchor tenant which they indicate will be a "discount retail superstore" (as it's referred to in the ITE Parking Generation Manual, 5th Edition, LUC 813). The Hillsborough County Land Development Code, Section 6.05.02.E. requires such use to provide parking at a rate of 5 spaces per 1,000 s.f. (reference the "All Other Retail" parking standard). The applicant is proposing to provide parking at a rate of 4.0 spaces per 1,000 s.f. The applicant submitted supporting documentation from the ITE Parking Generation Manual indicating that such rate could be appropriate. Staff believes that the proposed rate, in combination with bicycle parking spaces, can be supported. Staff notes that Section 6.05.02.P.1. of the LDC allows for a 5% reduction of parking spaces if bicycle parking meeting certain location criteria is provided. The applicant is requesting a reduction of 20% of the required parking rate.

As such, while staff believes that the parking reduction requested is supportable, staff also believes that provision of a number of bicycle parking meeting such location criteria in an amount equivalent to 5% of the number of vehicular spaces (calculated at a rate of 5 per 1,000 is also appropriate). This PD variation essentially has the effect of granting a further 15% decrease in the parking rate from what could already be authorized under the LDC.

Staff recommends approval of the proposed PD variation request and has proposed conditions of approval consistent with the above.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway section(s) is reported below. LOS information for the segment east of US 41 cannot be provided, as the roadway is not yet open to traffic (or has not been accepted by the County for maintenance).

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	19th Ave NE	Apollo Beach Blvd./ Paseo al Mar Blvd.	D	C
Leisey Rd.	Golf and Sea Blvd.	US 41	D	B

Source: Hillsborough County 2020 Level of Service Report.

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**
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request			
	Average Annual Daily Trips	**A.M. Peak Hour Trips**	**P.M. Peak Hour Trips**
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request		
Road Name/Nature of Request	**Type**	**Finding**
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	**Objections**	**Conditions Requested**	**Additional Information/Comments**
☐ Design Exception/Adm. Variance Requested ☒ Off-Site Improvements Provided	☐ Yes ☐N/A ☒ No	☒ Yes ☐ No	

COUNTY OF HILLSBOROUGH

RECOMMENDATION OF THE LAND USE HEARING OFFICER

APPLICATION NUMBER:	MM 22-1228
DATE OF HEARING:	January 17, 2023
APPLICANT:	Council Bay Farms, LTD
PETITION REQUEST:	The Major Modification request is to modify PD 06-1035 to reduce the Commercial Intensive entitlements, eliminate the 335,000 square feet of BPO, warehouse, opens storage, research corporate park and personal services land uses and replace it with 303 multi-family dwelling units
LOCATION:	5591 North 41 Hwy.
SIZE OF PROPERTY:	66.83 acres, m.o.l.
EXISTING ZONING DISTRICT:	PD 06-1035
FUTURE LAND USE CATEGORY:	OC-20 and SMU-6
SERVICE AREA:	Urban
COMMUNITY PLAN:	Apollo Beach

DEVELOPMENT REVIEW STAFF REPORT

1.0 APPLICATION SUMMARY

Applicant: Council Bay Farms

FLU Category: Office Commercial – 20 (OC – 20) Suburban Mixed Use – 6 (SMU – 6)

Service Area: Urban

Site Acreage: 66.83

Community Plan Area: Apollo Beach

Overlay: None

Introduction Summary	
PD 06-1035 was approved in 2007 to allow for 71.1 acres located along the east side of N US Highway 41 (N US 41) to the south of Leisey Road to be developed with up to 300,000 square feet (SF) of Commercial Intensive (CI) uses, and 335,000 SF of office (BPO), flex space uses, personal services, minor industrial, RCP, warehousing, and open storage. The applicant is requesting a modification to: reduce the maximum entitlements on the property from the currently approved Commercial Intensive uses of 300,000 square feet to 230,000 square feet; to eliminate the currently approved 335,000 square feet of BPO, warehouse, open storage, RCP and personal service uses and replace it with 303 multi-family dwelling; and to modify the boundaries between Pods A and B.	
Existing Approval(s)	Proposed Modification(s)
Site development to allow up to 300,000 SF of CI uses without open storage within Pocket A.	Site development to allow up to 230,000 SF of CI uses without open storage within Pocket A.
Site development to allow up to 335,000 square feet of BPO with flex space, personal services, minor industry within completely enclosed buildings, RCP,	Site development to allow up to 303 multi-family dwelling units within Pocket B.

warehousing, and open storage within Pocket B.	

PD Variation(s)

Section 6.05.02 – Parking and Loading Standards

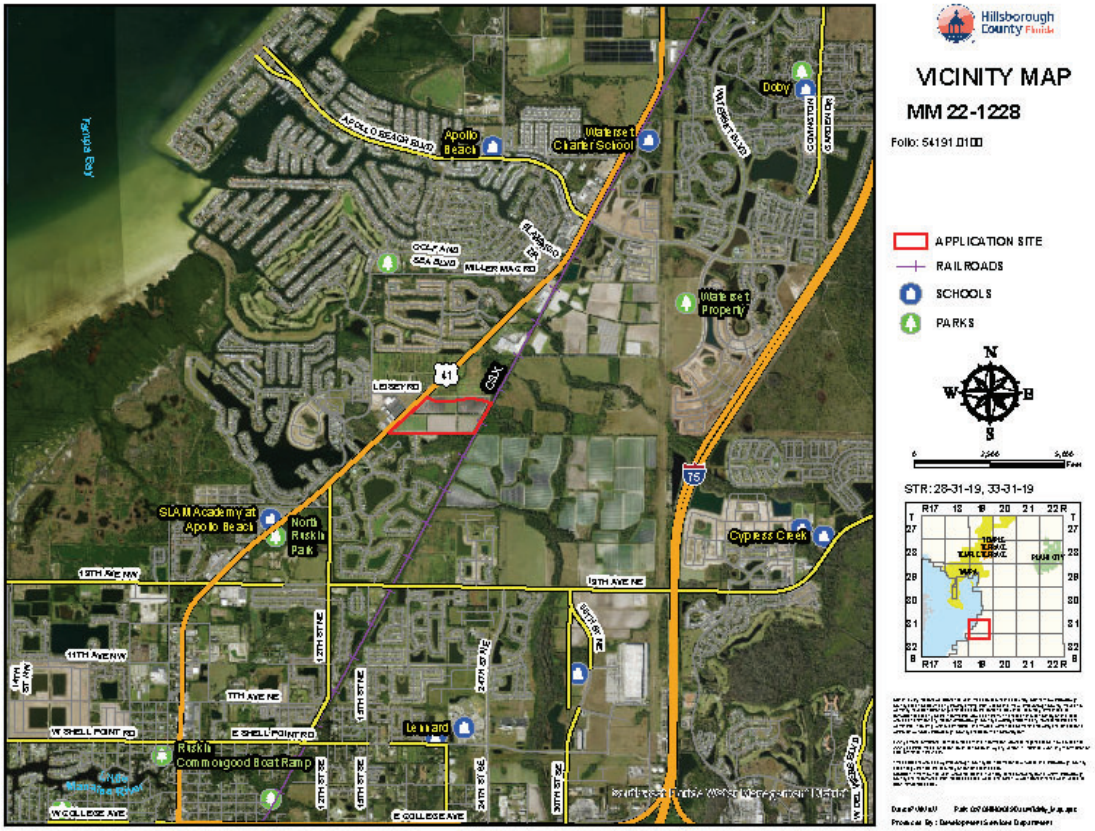
A variation to allow a 4.0 spaces per 1,000 SF where 5.0 spaces per 1,000 square feet is required.

Waiver(s) to the Land Development Code

None

Planning Commission Recommendation	**Development Services Recommendation**
Consistent	Approvable, subject to proposed conditions

2.0 LAND USE MAP SET AND SUMMARY DATA 2.1 Vicinity Map



Context of Surrounding Area:

The subject property is located at the southeast corner of the N US 41 intersection and Leisey Road (Brandermill Road). The uses in the immediate vicinity include single-family residential, auto repair, shopping center, railroad right-of-way, acreage, and vacant lands.

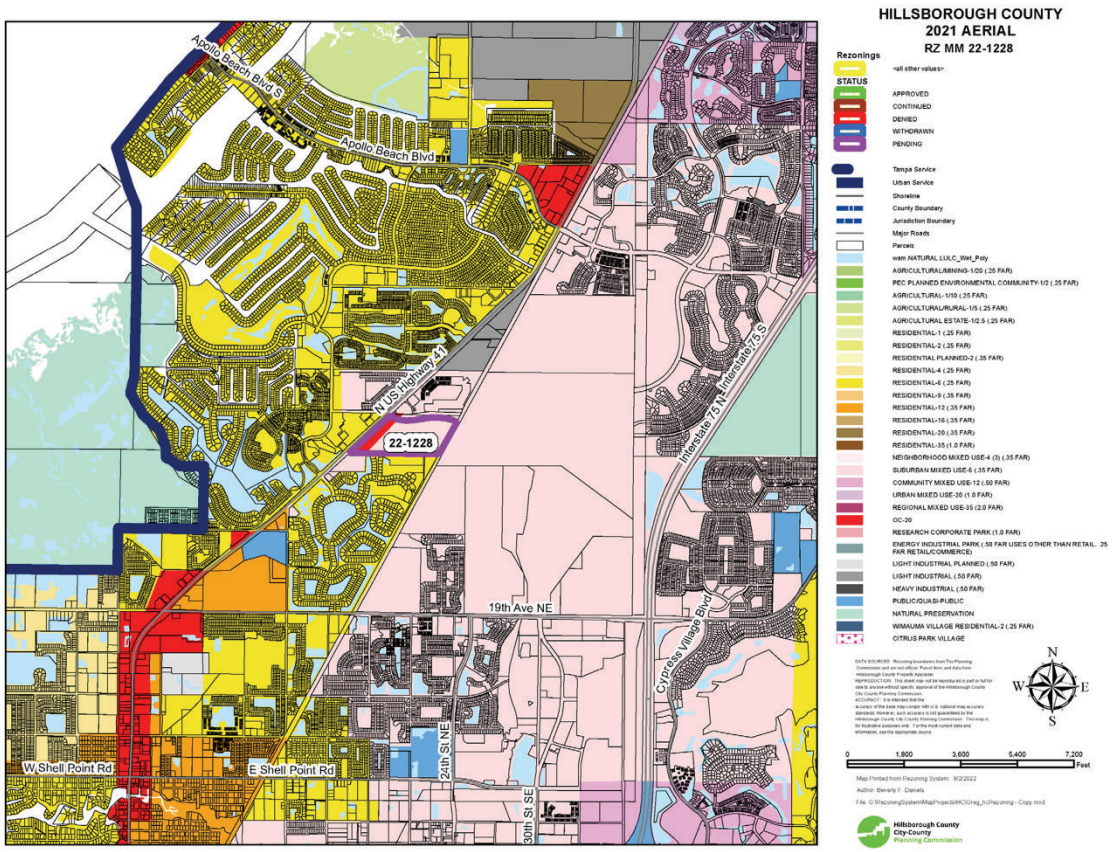
The properties to the west are separated by 182-foot of N US 41 right-of-way and are zoned PD 98-1513. The uses to the west include a shopping center, auto repair, vacant residential and vacant commercial land.

The adjoining properties to the south are zoned PD 00-1167 and PD 05-1951, The PD 00-1167 property abuts the majority of the southern property boundary and is developed for single-family residential use. The remaining southern boundary abuts a planned development (PD 05-1951) that is approved for a mix of commercial uses and multi-family; the site is currently undeveloped.

The properties to the north are vacant lands that are zoned PD 06-0120 which allows for a mix of BPO, GC, and single-family and multi-family residential uses.

The subject property abuts a 100-foot wide railroad right-of-way to the east. The properties located on the opposite side of the railroad right-of-way, to the east, are part of a 1,626 acre planned development that allows for a town center and mixed use the development. The properties within the PD that abut the railroad right-of-way are designated for single-family, villa-duplex, and townhouse development with an allowable density up to six dwellings per acre.

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

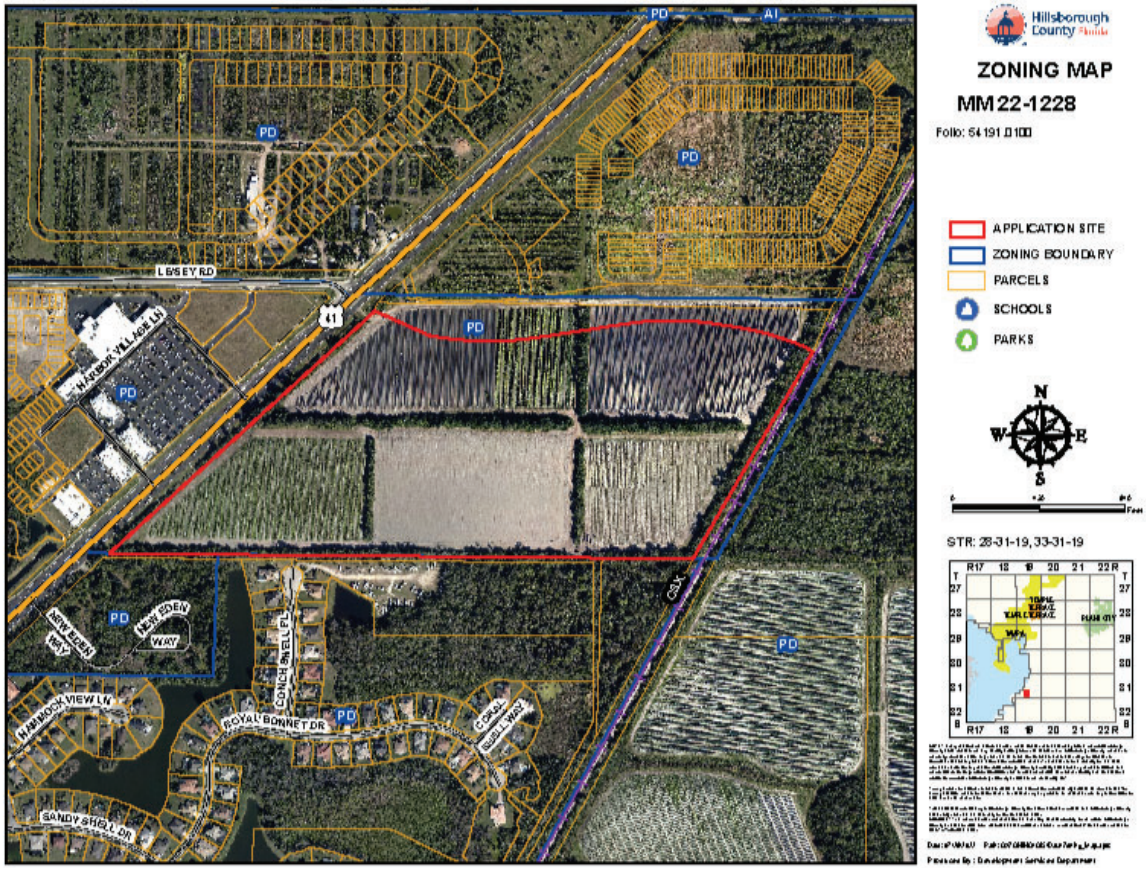


Subject Site Future Land Use Category	Office Commercial-20 (OC-20) Suburban Mixed Use-6 (SMU-6)
Maximum Density/F.A.R.	Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)

Typical Uses	Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.

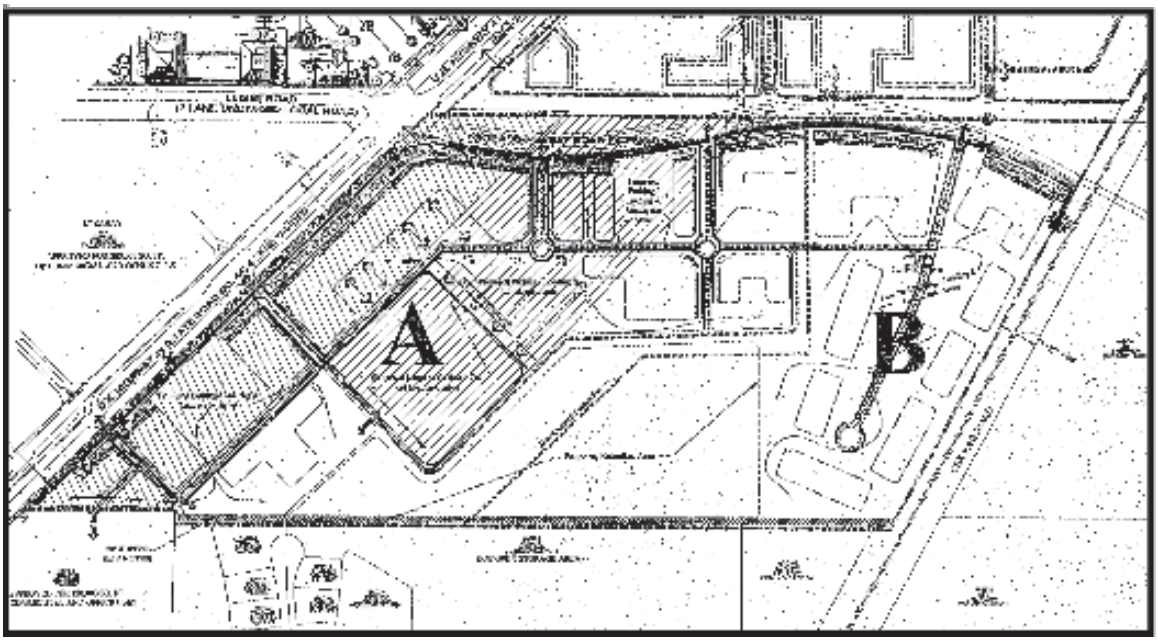
2.0 LAND USE MAP SET AND SUMMARY DATA 2.3 Immediate Area Map

Adjacent Zonings and Uses				
Location	Zoning	Maximum Density/F.A.R. Permitted by Zoning District	Allowable Use	Existing Use
North	PD 20-0329	3.97 du/1 ga FAR: 0.25	BPO, GC, single-family, multi-family residential	Vacant
South	PD 00-1167	1 du/ga FAR: 0.25	Single-family, multi-family, CG	Single-family, conventional
South	PD 05-1951	4.24 du/ga FAR: 0.30	BPO, GC, multi-family residential	Vacant
East	PD 14-0815	6 du/ga FAR: 0.25	Town center, mixed use commercial and residential	Vacant
West	PD 13-0591	20 du/ga FAR: 0.25	Town center, mixed use commercial, single-family, multi-family residential	Shopping center, automotive repair, vacant


Hillsborough County
ZONING MAP
MM 22-1228
Folio: 54191.0100
APPLICATION SITE
ZONING BOUNDARY
PARCELS
SCHOOLS
PARKS
N
W
E
S
STR: 28-31-19, 33-31-19
PD
AI
LESSEY RD
HARBOR VILLAGE LN
41
NEW EDEN WAY
HAMMOCK VIEW LN
COACH SHELL PL
ROYAL BONNET DR
CORAL SHELL WAY
SANDY SHELL DR
CSX

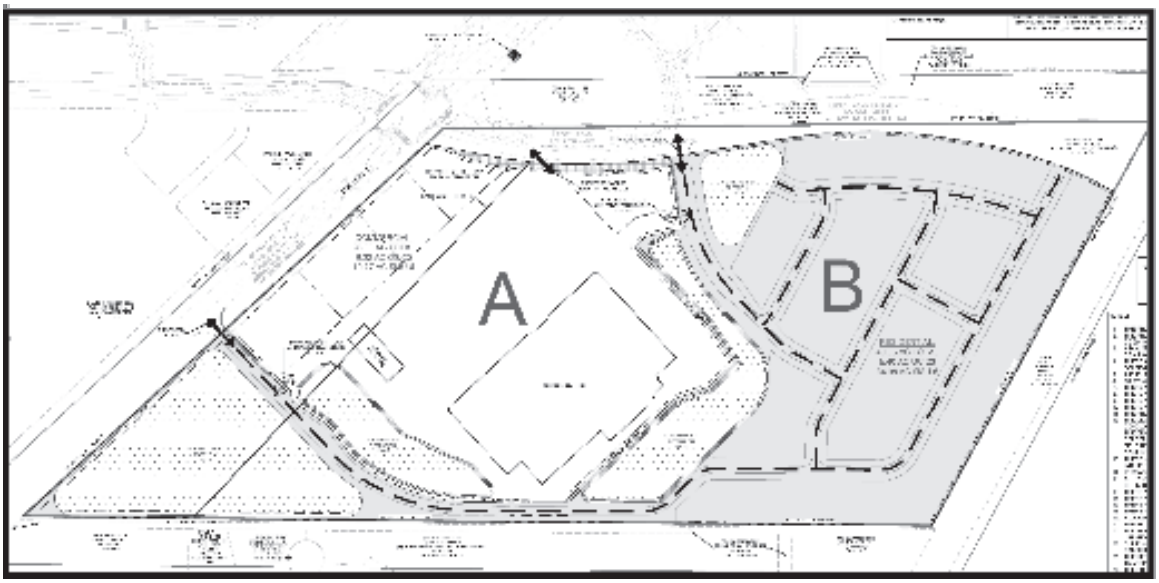
2.0 LAND USE MAP SET AND SUMMARY DATA

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**
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
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	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request			
	Average Annual Daily Trips	**A.M. Peak Hour Trips**	**P.M. Peak Hour Trips**
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

	Design Exception/Administrative Variance ☒Not applicable for this request	
Road Name/Nature of Request	**Type**	**Finding**

	Choose an item.	Choose an item.
	Choose an item.	Choose an item.

4.0 ADDITIONAL SITE INFORMATION & AGENCY COMMENTS SUMMARY

Service Area/ Water & Wastewater

☒Urban ☐ City of Tampa
☐Rural ☐ City of Temple Terrace

Hillsborough County School Board

Adequate ☐ K-5 ☐6-8 ☐9-12 ☐N/A Inadequate ☐ K-5 ☐6-8 ☐9-12 ☐N/A

Comments Received

Impact/Mobility Fees: Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore

Discount Superstore (per 1,000 sf) Mobility: $14,708*230 = $3,382,840 Fire: $ 313*320 = $ 100,160 Total: $3,483,000

Comprehensive Plan:

Planning Commission

☐ Meets Locational Criteria ☒N/A ☐ Locational Criteria Waiver Requested ☐ Minimum Density Met ☒ N/A

Environmental Protection Commission

☐ Yes ☒No

Natural Resources

☐ Yes ☒No

Conservation & Environ. Lands Mgmt.

☐ Yes ☒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:

Transportation

☐ Design Exc./Adm. Variance Requested ☒ Off-site Improvements Provided

Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story

Mobility: $6,661 * 303 units

= $2,018,283 = $ 471,165 = $1,178,973

= $ 75,447 = $3,743,868

Parks:
School:
Fire:
Total Multi-Family (1-2 story)

$1,555 * 303 units $3,891 * 303 units $249 * 303 units

Findings

5.0 IMPLEMENTATION RECOMMENDATIONS 5.1 Compatibility

Based on the adjacent zonings and uses identified in the report, staff finds that the proposed reduction in allowable Commercial Intensive entitlements in conjunction with replacing 335,000 SF of BPO, warehouse, open storage, RCP and personal service use entitlements with 303 multi-family dwellings is compatible with the existing zoning districts and development pattern in the area. Additionally, staff finds that the result of the variation to reduce the required parking ratio from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet for the 208,000 square-foot discount superstore would reduce the number required parking spaces from 1,040 spaces to 832 spaces and would be in harmony with the purpose and intent of the Land Development Code.

5.2 Recommendation

Based on the above considerations, staff recommends approval of the request, subject to 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 January 17, 2023. Mr. Brian Grady of the Hillsborough County Development Services Department introduced the petition.

Ms. Elise Batsel 401 East Jackson Street testified on behalf of the applicant. Ms. Batsel stated that the property is located in Apollo Beach near US 41 south of Leisey Road. The parcel is 71.1 acres and has a split Future Land Use category of OC-20 and SMU-6. Ms. Batsel showed a graphic to discuss the location and neighboring uses which include a townhome development to the north, a commercial activity center to the west, single-family with open storage to the south and the CSX railway to the east. She stated that the property is not a clean slate and the request is a Major Modification to the Planned Development. The current approvals are separated into two development pockets. She showed a graphic to delineate Pocket A which is approved for 300,000 square feet of development and Pocket B which is approved for 335,000 square feet of development. She added that all of it can be built and permitted without any further approvals. Ms. Batsel testified that Pocket A is approved for 300,000 square feet of Commercial Intensive uses which could include retail, big box and other heavy commercial intensive uses. The square footage relies on a flex for additional square footage which is similar to a bonus. She stated that Pocket B is approved for 335,000 square feet of office, personal service, minor industry, research corporate park and warehousing with open storage. Ms. Batsel testified that the property is on the corridor preservation plan as Leisey Road is preserved

and planned to be a four lane road. The applicant has reserved some additional right-of-way for that purpose. She emphasized that Leisey Road in the subject area is intended to have commercial nodes and development under the Comprehensive Plan. The Major Modification is requested to remove the flex of the Future Land Use category due to the proposed reduction in entitlements. The boundary between Pocket A and B is proposed to be modified to make the storm water retention and buffer more practical and provide more buffering and screening to the adjacent development. Ms. Batsel continued her presentation by discussing the approved access and also the amendment to the Pocket boundaries. Pocket B is proposed to be developed with 303 multi-family dwelling units that have access to US 41 and also a cross connection between uses which will provide access to Leisey Road. The existing Pocket B approval permits a maximum height of 50 for commercial development. The modification proposes to reduce the height to 35 feet for the multi-family units. Ms. Batsel discussed the neighbors' concerns and stated that she had a Zoom information meeting to address the two majors concerns which are that 1) people did not was a Walmart at this location. She added that there is no deal with Walmart, Lowe's, Target, Homegoods or PetSmart. There is no confirmed end user for the site. The second concern addressed was that those in opposition did not understand that the site is currently approved for more intense commercial development. Ms. Batsel stated that 99% of the people that filed letters of objection, live outside the adjacent property owner notice boundary. She added that some were 6 and 7 miles away. She stated that a second meeting was held with the neighborhood to the south. Their Homeowners Association legal counsel will testify in support of the modification at the ZHM hearing. The applicant has committed to providing an additional buffer with a masonry wall to mitigate noise and provide additional security for the residential development to the south.

Mr. David Smith 401 East Jackson Street testified on behalf of the applicant regarding land use planning issues. Mr. Smith showed a graphic to discuss the compatibility of the proposed use with the surrounding area. He added that more intense development has previously been found to be consistent and compatible with the area. Pocket A is more compatible with the modification as it pulls the building further away from the single-family to the south. Pocket B is more compatible as an additional buffer will be provided between the residential internal to the project. The approved 335,000 square feet of commercial warehouse and storage will be eliminated and the height will be reduced from 50 feet to 35 feet for the multi-family units which will be single-family homes and for rent. Mr. Smith detailed the proposed buffering and screening and stated that the decrease in intensity of the uses and compatibility of the multi-family closer to the single-family and adjacent uses is consistent with the land use categories and the Apollo Beach Community Plan.

Mr. Steve Henry 5023 West Laurel Street testified on behalf of the applicant regarding transportation issues. Mr. Henry stated that he conducted the traffic analysis for the project and showed a graphic to discuss the reduction in vehicular trip generation from 23,000 daily trips to 17,000 daily trips for the

modification of the project which is a reduction of about 5,900 trips. Mr. Henry discussed the County's transportation analysis and reduction of trips as well as the estimated mobility fees that will be assessed by the County. He concluded his remarks by stating that the developer will improve the transportation network with additional turn lanes.

Ms. Batsel completed the applicant's presentation by stating that Comprehensive Plan Policies 1.1, 1.2 and Objective 3 address property rights for an existing commercial and entitled property.

Hearing Master Finch asked Ms. Batsel about the staff report mention of a parking reduction for a discount superstore land use. Ms. Batsel replied that it is for a big box store and not a discount superstore. Mr. Henry addressed the question by stating that the ITE trip generation manual has a lower rate. Hearing Master Finch asked what was the justification for requesting four spaces per 1,000 gross square feet as opposed to the required five spaces for the use. Mr. Henry replied he would obtain the information requested.

Mr. Fred Ball of the Development Services Department, testified regarding the County staff report. Mr. Ball testified that the Planned Development was approved in 2007 for 300,000 square feet of commercial intensive uses and 335,000 square feet of business professional office, flex space, personal services, minor industrial research corporate park, warehousing and other storage uses. The applicant is requesting a modification to reduce its entitlements from 300,000 square feet of commercial intensive to 230,000 square feet of commercial intensive land uses. Mr. Ball stated that the applicant is requesting to eliminate the approved 335,000 square feet of business professional office, flex space, personal services, minor industrial research corporate park, warehousing and other storage uses and replace it with 303 multi-family dwelling units. The modification also includes modifying the boundaries of Pods A and B. He stated that the modification applies to 67 acres. A parking variation is requested which would reduce the required parking for a large scale retail space from five spaces to four spaces per 1,000 square feet of gross floor area. Mr. Ball detailed the surrounding land uses and stated that staff found the request compatible with the area and supportable.

Mr. James Ratliff of the County's Transportation Review section stated that he reviewed the parking reduction request and technical justification submitted by the applicant. A portion of the Institute of Transportation Engineers (ITE) Parking Generation Manual was submitted that addressed the use Freestanding Discount Superstore which is slightly different language than the Land Development Code but a comparable use. Mr. Ratliff testified that the data supported the reduced amount of parking and a zoning condition was drafted to require bicycle parking. He added that he reviewed aerial photos of big box retailer in the County and found that the proposed parking should provide adequate sufficient parking other than at certain holiday periods such as Christmas or Black Friday.

Hearing Master Finch asked Mr. Ratliff if the County's support was based on the ITE Parking Manual for Freestanding Discount Superstore at four spaces per 1,000 square feet. Mr. Ratliff replied that was correct. He added that the requirement for bicycle parking that it be calculated at the five per 1,000 rate.

Hearing Master Finch asked Mr. Ratliff if it was correct that because of the bicycle parking the reduction is 15% rather than 20%. Mr. Ratliff replied that was correct.

Ms. Elise Batsel testified that the parking variation only applies to the big box land use.

Ms. Jillian Massey of the Planning Commission testified regarding the Planning Commission staff report. Ms. Massey stated that the property is designated Office Commercial-20 and Suburban Mixed Use-6 by the Future Land Use Map and is located within the Urban Service Area and the Apollo Beach Community Plan. She described the request and stated that the request meets Objective 6 regarding commercial uses being closer to US Hwy. 41 and Leisey Road. She concluded her presentation by stating that the project is consistent with the Apollo Beach Community Plan and the Comprehensive Plan.

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

Ms. Katie Russo 400 North Ashley Drive Suite 2020 testified as the attorney for the Harbor Isles Homeowners Association which is comprised of about 500 homes just south of the subject property. Ms. Russo stated that she has been working with the applicant and there is a lot of misinformation about the Major Modification request. She added that the Homeowners association supports the modification because it will reduce the amount of commercial intensive land uses which is the best case scenario for her clients. Ms. Russo testified that the applicant has been very open to listening to her clients concerns. She concluded her comments by stating that she had authority from the Homeowners Association Board to support the modification request.

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

Ms. Sherri Southwell 552 Frander Place Apollo Beach testified in opposition. Ms. Southwell referenced the nine rules and strategies in the Apollo Beach Community Plan and that the project as a whole violates Goal 1 which is to enhance the community character. She added that she feels there are better uses for the property than what is proposed. Ms. Southwell testified that the use should be community focused with event spaces that would benefit the entire community. She stated that the request did not comply with Goal 4 of the Community plan regarding transportation as the traffic will be chaotic with what is proposed. She asked the applicant who they are negotiating with regarding the

user of the site. She concluded her remarks by stating that the infrastructure in South County is lacking and that there are not enough fire stations and the roads need to be fixed.

Ms. Jeanine Lussier 477 Flamingo Drive testified in opposition. Ms. Lussier stated that the population of Apollo Beach has risen by over 48% in the last four years. She cited the population and average household income data. Ms. Lussier testified that the request to develop a big box store is short sided. She added that she would like a mixed use project such as Sparkman Wharf or Midtown Tampa instead. She asked the developer to meet with the major Homeowner Associations to discuss what the residents would like. She also asked if the hearing could be postponed to have the community meetings.

Mr. Steven Finely 815 Isle Bay Drive testified in opposition and stated that he was speaking on behalf of the 1,400 plus MiraBay residents and the non-profit Save Our Bay of which he is the President. He stated that the modification is not in compliance with the health, welfare and safety of the current and future Apollo Beach residents. Mr. Finely discussed the condition of the fresh drinking water sources and the increase in development in the area. He testified that a thorough environmental impact assessment should be done to identify unknown current or future issues. He stated that the modification should be subject to extensive regulatory requirements for wetlands and manatee protection.

Ms. Kim Plant 1029 Apollo Beach Blvd testified in opposition and stated that the name of the area is Apollo Beach which used to have a beach before the homes in Analucia and along the beach were built with 100 yard jetties that changed the currents and destroyed the beach. Ms. Plant stated that there is a better use than a big box store which would do nothing for the community.

Ms. Laura Shepherd 5218 Point Harbor Lane testified in opposition. Ms. Shepherd stated that there was a study done in 2021 which showed that the South Shore area does not have enough water availability and there were three projects introduced in 2022. She described the projects and stated that and evaluation needed to be done for the subject modification. She also stated that there was a breach in the berm between Delva and Mangrove Manor which resulted in water flow from that area into Biscayne Canal.

Ms. Nicole Cameron 5414 Conch Shell Place testified in opposition and stated that she lives in the home immediately below the lot and asked that the developer extend the wall to where the pond begins to protect her home from the noise and light. Ms. Cameron asked the developer not to permit 24 hour businesses.

County staff did not have additional comments.

Ms. Batsel testified during the rebuttal period that the water projects noted in zoning condition 15 have been completed so the condition is no longer

necessary.

Mr. Grady of the Development Services Department stated that two of the water projects have not been completed.

Ms. Batsel continued her rebuttal testimony by stating that the Maingrove Point and other developments were included in the background for the traffic study. Regarding potential users, Ms. Batsel stated that her client is talking to a number of people but she emphasized the project could be many small boxes similar to Sparkman Wharf and it will depend on the developer and market regarding the final user. The request for the modification is to approve the 230,000 square feet. She added that the end user is not a part of the rezoning and is determined at a later time. The project will comply with all local, state and federal regulations including SWFWMD, EPC and all other that are required. Ms. Batsel stated that with respect to stormwater, the project will be required to meet or exceed all County stormwater requirements and hold and attenuate all stormwater on-site. It will either be the same or the stormwater situation will be better than it was prior to the development. Regarding the mention of the Community Plans, Ms. Batsel testified that the South Shore Plan supports development that is strategically place in an activity center and connected to rapid transit. The subject property is directly on an area designated for a four lane road. If CSX were to leave, the line could potentially be used for light rail. A bus stop is required by the zoning conditions in accordance with HART requirements. She stated that there is also a policy that encourages a range of housing choices including multi-family in and around the town centers which is exactly what is proposed. By converting Pocket B to multi-family in an area close to commercial, the project furthers the goal and objective from the Apollo Beach Plan. The project supports a transit opportunity including buses, light rail and water shuttles. She stated that the property is not on the water but the developer is providing bus service. Connectivity is required and there is a sidewalk and transportation improvements all around the development in accordance with the Plan. Ms. Batsel testified that the request is not to increase development but rather to reduce development. The applicant is eliminating more intense land uses in favor of less intense uses on Pocket B and reducing the commercial square footage on Pocket A. This includes a restriction on height on Pocket B from 50 feet to 35 feet. Additionally buffering will be added on the south side to enhance the buffer to the neighborhood in the form of a stucco or masonry wall. The modification will reduce the amount of traffic and add $5.5 million dollars to the County fund for transportation improvements including numerous turn lanes.

Hearing Master Finch then concluded the hearing.

EVIDENCE SUBMITTED

Mr. Grady submitted a revised staff report into the record.
Ms. Southwell submitted copies of petitions in opposition to the Major Modification request and the results of a survey regarding the application into the record.
Mr. Smith submitted a copy of his PowerPoint presentation, a copy of the site plan, expert resumes and copies of case law regarding Quasi-Judicial hearings and citizen testimony at the hearing 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 66.83 acres in size and is zoned Planned Development (06-1035). The property is designated OC-20 and SMU-6 by the Comprehensive Plan and located in the Urban Service Area and the Apollo Beach Community Planning Area.

2. The Planned Development (PD) is currently approved for 300,000 square feet of Commercial Intensive (CI) uses including Single Tenant Big Box) in Pocket A and 335,000 square feet of Business Professional Office, Personal Services, Minor Industry, Research Corporate Park, Warehousing and Open Storage land uses in Pocket B.

3. The Major Modification request proposes to reduce the square footage of CI uses in Pocket A from 300,000 to 230,000 square feet in Pocket A and eliminate the 335,000 square feet of Business Professional Office, Personal Services, Minor Industry, Research Corporate Park, Warehousing and Open Storage land uses and replace it with 303 Multi-Family Dwelling units in Pocket B.

4. A Planned Development variation is requested to reduce the required parking for the large scale retail big box land use only from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet of gross floor area (GFA). The applicant submitted parking study results from the Institute of Transportation Engineers (ITE) Parking Generation Manual for the land use "discount retail superstore" to support the reduction in parking. County Transportation staff reviewed and request and supports it based on the applicant's commitment to provide bicycle parking spaces equal to 5% of the number of required vehicular spaces calculated at the rate of 5 spaces per 1,000 square feet GFA.

   Therefore, the Planned Development variation meets Land Development Code Section 5.03.06.C.6(b) as the request is in harmony with the intent of the Land Development Code and is mitigated by the additional bicycle parking.

   It is noted that all other proposed land uses will be required to adhere to the Land Development Code parking standards.

5. The Planning Commission found the request meets Objective 6 regarding commercial uses being closer to US Hwy. 41 and Leisey Road. Staff found the modification consistent with the Apollo Beach Community Plan and the Comprehensive Plan.

6. The surrounding area is zoned Planned Development and approved for a mix of commercial, office, single and multi-family residential.

7. Testimony in support was provided at the Zoning Hearing Master hearing from an attorney representing the Harbor Isles Homeowners Association which is a community of approximately 500 homes located immediately south of the subject property.

8. Testimony in opposition was provided at the Zoning Hearing Master and submitted into the record. The testimony focused on the opposition to a proposed big box retail land use as well as concerns regarding the project traffic, the lack of sufficient infrastructure in the area and the need for analysis regarding stormwater and environmental impacts.

9. The current zoning entitlements permit a single tenant big box retail land use, as well as other CI land uses, in Pocket A. The proposed modification reduces the maximum square footage in Pocket A from 300,000 to 230,000 square feet.

10. County Transportation Review staff stated that the Average Daily Vehicular Trips will be reduced based on the reduction in square footage in Pocket A and the elimination of the non-residential uses in Pocket B which will be replaced with multi-family residential dwelling units.

11. The applicant's representative testified that the developer would meet or exceed all local, state and federal regulations including SWFWMD, EPC, stormwater and all other that are required.

12. The proposed modification reduces the transportation impacts of the Planned Development and provides an alternative housing option to the community. The request is consistent with the Apollo Beach Community Plan, the Comprehensive Plan and Land Development Code and is compatible with the existing development pattern in the area.

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 06-1035 is currently approved for 300,000 square feet of Commercial Intensive (CI) uses including Single Tenant Big Box) in Pocket A and 335,000 square feet of Business Professional Office, Personal Services, Minor Industry, Research Corporate Park, Warehousing and Open Storage land uses in Pocket B.

The Major Modification request proposes to reduce the square footage of CI uses in Pocket A from 300,000 to 230,000 square feet in Pocket A and eliminate the 335,000 square feet of Business Professional Office, Personal Services, Minor Industry, Research Corporate Park, Warehousing and Open Storage land uses and replace it with 303 Multi-Family Dwelling units in Pocket B.

A Planned Development variation is requested to reduce the required parking for the large scale retail big box land use only from 5 spaces per 1,000 square feet

to 4 spaces per 1,000 square feet of gross floor area (GFA). The applicant submitted parking study results from the Institute of Transportation Engineers (ITE) Parking Generation Manual for the land use “discount retail superstore” to support the reduction in parking. County Transportation staff reviewed and request and supports it based on the applicant’s commitment to provide bicycle parking spaces equal to 5% of the number of required vehicular spaces calculated at the rate of 5 spaces per 1,000 square feet GFA. Therefore, the Planned Development variation meets Land Development Code Section 5.03.06.C.6(b) as the request is in harmony with the intent of the Land Development Code and is mitigated by the additional bicycle parking. All other proposed land uses will be required to adhere to the Land Development Code parking standards.

The Planning Commission found the request meets Objective 6 regarding commercial uses being closer to US Hwy. 41 and Leisey Road. Staff found the modification consistent with the Apollo Beach Community Plan and the Comprehensive Plan.

Testimony in support was provided at the Zoning Hearing Master hearing from an attorney representing the Harbor Isles Homeowners Association which is a community of approximately 500 homes located immediately south of the subject property.

Testimony in opposition was provided at the Zoning Hearing Master and submitted into the record. The testimony focused on the opposition to a proposed big box retail land use as well as concerns regarding the project traffic, the lack of sufficient infrastructure in the area and the need for analysis regarding stormwater and environmental impacts.

The current zoning entitlements permit a single tenant big box retail land use, as well as other CI land uses, in Pocket A. The proposed modification reduces the maximum square footage in Pocket A from 300,000 to 230,000 square feet. County Transportation Review staff stated that the Average Daily Vehicular Trips will be reduced based on the reduction in square footage in Pocket A and the elimination of the non-residential uses in Pocket B which will be replaced with multi-family residential dwelling units. The applicant’s representative testified that the developer would meet or exceed all local, state and federal regulations including SWFWMD, EPC, stormwater and all other that are required.

The proposed modification reduces the transportation impacts of the Planned Development and provides an alternative housing option to the community. The request is consistent with the Apollo Beach Community Plan, the Comprehensive Plan and Land Development Code and is compatible with the existing development pattern in the area.

RECOMMENDATION

Based on the foregoing, this recommendation is for **APPROVAL** of the Major Modification to Planned Development 06-1035 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

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

Hillsborough County City-County Planning Commission

Unincorporated Hillsborough County Rezoning	
Hearing Date: January 17, 2023 **Report Prepared:** January 5, 2023	**Petition: MM 22-1228** 5591 North 41 Highway *East of North US highway 41, south of the Leisey Road Extension, west of the CSX Railroad*
Comprehensive Plan Finding	**CONSISTENT**
Adopted Future Land Use	**Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)**
Service Area	**Urban**
Community Plan	**Apollo Beach and Southshore Areawide Systems**
Request	The applicant is requesting a Major Modification to a Planned Development (PD 06-1035) to allow for 230,000 square feet of Commercial Intensive (CI) uses and 303 multi-family dwelling units
Parcel Size	66.83 +/- acres (modification areas including the proposed Leisey Road ROW dedication)
Street Functional Classification	US Highway 41 – **State Principal Arterial** Leisey Road– **Local Road**
Locational Criteria	N/A
Evacuation Zone	A

Plan Hillsborough
planhillsborough.org
planner@plancom.org
813 – 272 – 5940
601 E Kennedy Blvd
18th floor
Tampa, FL, 33602

Context

- The +/- 66.83 acre subject property is located at 5591 US Highway 41, on the east side of US Highway 41, south of the Leisey Road extension and west of the CSX Railroad.
- The applicant is requesting a Major Modification to Planned Development (PD) 06-1035 to allow for 230,000 square feet of Commercial Intensive (CI) uses and 303 multi-family dwelling units.
- The subject property is located within the Office Commercial-20 (OC-20) and Suburban Mixed Use-6 (SMU-6) Future Land Use categories. The OC-20 FLU category allows a maximum density of 20 dwelling units per gross acre and a maximum intensity of 0.75 Floor Area Ratio (FAR). Typical uses in the OC-20 FLU category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. The SMU-6 FLU category allows for 6 dwelling units an acre and varying Floor Area Ratios: 0.25 for retail, 0.35 for office and residential support uses and 0.50 for light industrial uses. Typical uses include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.
- The site is located within the Urban Service Area and is located within the limits of the Southshore Areawide Systems Plan and the Apollo Beach Community Plan.
- The subject site is located within a Costal High Hazard Area (CHHA) and is within Evacuation Zone A.
- The surrounding Future Land Use category designations include SMU-6 to the north, northeast, east, northwest, southeast and a small pocket to the southwest. To the west and south is the Residential-6 (RES-6) FLU category.
- With more recent developments, the general area is starting to develop a more suburban character. The subject site currently contains agricultural uses. To the north of the subject site is vacant land and an undeveloped platted subdivision. To the south is a developed single-family subdivision and to the east is the CSX railroad and vacant land. To the southeast is a small parcel with a public institutional use and to the northwest are vacant lands, an undeveloped platted residential subdivision and agricultural uses. To the west is vacant land and light and heavy commercial uses.

Compliance with Comprehensive Plan:
The following Goals, Objectives and Policies apply to this rezoning request and are used as a basis for a consistency finding.

FUTURE LAND USE ELEMENT

Urban Service Area (USA)

Objective 1: *Hillsborough County shall pro-actively direct new growth into the urban service area with the goal that at least 80% of all population growth will occur within the USA during the planning horizon of this Plan. Within the Urban Service Area, Hillsborough County will not impede agriculture. Building permit activity and other similar measures will be used to evaluate this objective.*

Policy 1.4: *Compatibility is defined as the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements*

affecting compatibility include the following: height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, it refers to the sensitivity of development proposals in maintaining the character of existing development.

Relationship to the Future Land Use Map

Objective 7: *The Future Land Use Map is a graphic illustration of the county''s policies governing the determination of its pattern of development in the unincorporated areas of Hillsborough County through the year 2025.*

Policy 7.1: *The Future Land Use Map shall be used to make an initial determination regarding the permissible locations for various land uses and the maximum possible levels of residential densities and/or non-residential intensities, subject to any special density provisions, locational criteria and exceptions of the Future Land Use Element text.*

Land Use Categories

Objective 8: *The Future Land Use Map will include Land Use Categories which outline the maximum level of intensity or density and range of permitted land uses allowed and planned for an area. A table of the land use categories and description of each category can be found in Appendix A.*

Policy 8.8: *For projects whose boundaries encompass more than one land use category, density and intensity calculations will allow for the blending of those categories across the entire project. All portions of the project must be contiguous to qualify for blending. Blending of densities and intensities is not permitted across improved public roadways or between the Urban Service Area (USA) and Rural Service Area (RSA) boundary. vii The combined total number of dwelling units and/or FAR possible under all the land use categories within the project will be used as a ceiling for review purposes. This provides maximum design flexibility for those projects, because the location or clustering of those units on the project site need not conform to the land use category boundary on the site as long as the maximum number of dwelling units permitted for the entire project are not exceeded.*

Neighborhood/Community Development

Objective 16: Neighborhood Protection *The neighborhood is the functional unit of community development. There is a need to protect existing, neighborhoods and communities and those that will emerge in the future. To preserve, protect, and enhance neighborhoods and communities, all new development must conform to the following policies.*

Policy 16.1: *Established and planned neighborhoods and communities shall be protected by restricting incompatible land uses through mechanisms such as:*

1. *locational criteria for the placement of non-residential uses as identified in this Plan,*
2. *limiting commercial development in residential land use categories to neighborhood scale;*
3. *requiring buffer areas and screening devices between unlike land uses;*

Policy 16.2: *Gradual transitions of intensities between different land uses shall be provided for as new development is proposed and approved, through the use of professional site planning, buffering and screening techniques and control of specific land uses.*

Policy 16.3: *Development and redevelopment shall be integrated with the adjacent land uses through:*

1. *the creation of like uses; or*
2. *creation of complementary uses; or*
3. *mitigation of adverse impacts; and*
4. *transportation/pedestrian connections*

Policy 16.5: *Development of higher intensity non-residential land uses that are adjacent to established neighborhoods shall be restricted to collectors and arterials and to locations external to established and developing neighborhoods.*

Community Design Component

1.3 Suburban Pattern Characteristics

Much of the populated portion of the County is in the suburban category. This applies primarily to areas covered by future land use designations of two (2) to nine (9) dwelling units per acre. The suburban pattern is characterized by the following:

Suburban Development Pattern

- *Suburban is transition between the urban and rural patterns – it can be very similar to either, depending on the location*
- *Less compact and intense than the urban pattern*
- *Tracts of undeveloped land may intersperse the developed portions*
- *Development may include residential subdivisions, community and neighborhood oriented commercial, agricultural uses, environmental areas, and fewer employment centers*
- *Activity centers are smaller and farther apart*
- *Open space tends to be large tracts of environmental parkland*
- *Because of the transitional nature of the suburbs, there tend to be more land use conflicts*

Housing

- *Residential density – may range from two (2) to nine (9) dwelling units per acre*
- *Lot sizes – typically from 5,000 square feet up and higher*
- *Developments are likely to be more homogeneous in size and type*
- *Transportation The pattern is more dependent on the auto for all trips*
- *There may be limited transit service*
- *Streets have fewer pedestrian amenities*

Public Services
Public facilities are required, however to a lesser degree than in urban areas

5.0 Neighborhood Level Design
5.1 COMPATIBILITY

OBJECTIVE 12-1: *New developments should recognize the existing community and be designed in a way that is compatible (as defined in FLUE policy 1.4) with the established character of the surrounding neighborhood.*

Policy 12-1.2*: Walls and buffering used to separate new development from the existing, lower density community should be designed in a style compatible with the community and should allow pedestrian penetration. In rural areas, perimeter walls are discouraged and buffering with berms and landscaping are strongly encouraged.*

Policy 12-1.4: *Compatibility may be achieved through the utilization of site design techniques including but not limited to transitions in uses, buffering, setbacks, open space and graduated height restrictions, to affect elements such as height, scale, mass and bulk of structures, pedestrian or vehicular traffic, circulation, access and parking impacts, landscaping, lighting, noise, odor and architecture.*

LIVABLE COMMUNITIES ELEMENT: SOUTHSHORE AREAWIDE SYSTEMS PLAN

Southshore Areawide Systems

Transportation Objective

The communities within the SouthShore Areawide Systems Plan boundary desire to be served by a balanced transportation system. A thoughtfully planned system of roadways accommodates existing automobile traffic, supports strategically placed activity centers, connected by efficient public transit and is designed to connect to a rapid transit system. Community groups actively participate in planning transportation facilities, resulting in a harmonious integration of roads and communities. People living here have mobility choices; they can safely walk, bicycle, drive a car, and take the bus or rail transit. The whole array of transportation options is designed to be user-friendly with sidewalks, bike lanes, and tree-shaded environments everywhere.

The County will:

- *At the time community plans for this area are updated the following corridors will be examined, with input from FDOT, with regard to alternatives to widening to alleviate traffic congestion:*
  - *SR 674 between I-75 and West Lake Dr. (Sun City Center, Wimauma and Ruskin)*
  - *US 41 between 19th Ave. N.E. and SR 674 (Ruskin)*
  - *US 41 between Elsberry Rd. and Leisey Rd. (Apollo Beach)*

LIVABLE COMMUNITIES ELEMENT: APOLLO BEACH

2. Ensure Quality Land Use and Design

- *Encourage mixed use town centers at Apollo Beach Boulevard and U.S. Highway 41, and between U.S. Highway 41 and Interstate 75 in close proximity to the Apollo Beach Boulevard extension, as well as at other appropriate locations.*
- *Incorporate a range of housing choices including multi-family and live-work units in and around town centers.*
- *Create a special district for the commercial node at Apollo Beach Boulevard west of U.S. Highway 41 that requires new construction to meet design guidelines that further the town center concept.*
- *Create a special district containing design guidelines for the Apollo Beach Boulevard corridor west of the commercial node at U.S. Highway 41.*
- *Discourage development of over 50 feet in height in residentially zoned areas.*

Staff Analysis of Goals, Objectives and Policies:

The subject property is located east of US Highway 41, south of the Leisey Road extension and west of the CSX Railroad. The site is located within the Urban Service Area and is within the limits of the Southshore Area Wide Systems Plan and the Apollo Beach Community Plan. The applicant is requesting a Major Modification to PD 06-1035 to allow for 230,000 square feet of Commercial Intensive (CI) uses and 303 multi-family dwellings. The applicant is proposing to utilize Future Land Use Element (FLUE) Policy 8.8 by blending densities and intensities between multiple Future Land Use categories. The intersection of US Highway 41 and Leisey Road is identified on the 2040 Highway Cost Affordable Map. Per FLUE Policy 22.10, Commercial Locational Criteria does not apply to the subject property as it is considered a mixed-use project and located within Office Commercial-20 Future Land Use Category.

The subject property is located within the Office Commercial-20 (OC-20) and Suburban Mixed Use-6 (SMU-6) Future Land Use categories. The OC-20 FLU category allows a maximum density of 20 dwelling units per gross acre and a maximum intensity of 0.75 FAR. Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. The SMU-6 Future Land Use category allows for 6 dwelling units an acre and a range of FARs (0.25 FAR for retail, 0.35 FAR for office and residential support uses and 0.50 for light industrial uses). Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations. Surrounding the property is the SMU-6 category to the north, east and west. To the west and south is the Residential-6 (RES-6) Future Land Use category.

The general area is developing from a more rural character into a suburban character. The subject site currently contains agricultural uses. To the north is vacant land and an undeveloped platted subdivision. To the south is a developed single-family subdivision and to the east is the CSX railroad followed by vacant land. To the southeast is a small parcel with public institutional uses and to the northwest is a variety of uses such as vacant land, undeveloped platted residential subdivision and agricultural uses. To the west is vacant land and light and heavy commercial uses.

The proposed rezoning is compatible with FLUE Objective 1 and Policy 1.4 which directs at least 80 % of growth to happen within the Urban Service Area. The property is located in the Urban Service Area (USA). FLUE Policy 1.4 refers to compatibility with the surrounding neighborhood and uses and defines compatibility 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.

The general area is slowly transitioning from a rural character to a suburban character. This is evident through the increase in residential development in the area and the integration of non-residential uses. The proposed intensity of development would be comparable to the scale of non-residential development occurring in this segment of US 41. The other quadrants of the intersection of US 41 and Leisey Road are zoned for several larger scale commercial and office projects. The proposed Planned Development would not be out of character with what is occurring at this intersection.

The rezoning is consistent with FLUE Objective 7, Policy 7.1, and Objective 8, which requires development to be consistent with the Future Land Use category. The subject property is located within the OC-20 and SMU-6 Future Land Use categories. The applicant is proposing to utilize FLUE Policy 8.8 by blending the densities and intensities of the two Future Land Use categories to help spread the entitlements across the property. The property has 11.72 acres of OC-20 FLU and 54.75 acres of SMU-6 FLU. The site plan is broken into parcel A and parcel B. Parcel A contains the commercial portion which is proposed at 230,000 sq. ft. of non-residential uses and parcel B is proposed to contain 303 multi-family residential dwelling units. The applicant has explained the calculations on the Parcel Uses/Area Calculation Table on site plan (see below). PC Staff has reviewed the density and intensity calculations and finds the table consistent with the aforementioned policy direction. The applicant's request is not exceeding the maximum density and intensity of the OC-20 and SMU-6 Future Land Use categories.

PARCEL USES / AREA CALCULATION PER COMPREHENSIVE PLAN (EXCLUDING PROPOSED LEISEY RD. ROW DEDICATION ACERAGE)						
DEVELOPMENT POCKET	PROPOSED USE	FLU	ACRES	FAR	SQ. FT.	DWELLING UNITS
A	COMMERCIAL	SMU-6	19.77	0.25	215,295	
		OC-20	6.32	0.35	96,355	
B	RESIDENTIAL	SMU-6	34.98			209
		OC-20	5.40			108

The rezoning is consistent with FLUE Objective 16 and its accompanying Policies 16.1, 16.2, 16.3, and 16.5, which emphasize the need to protect existing neighborhoods and communities and those that will emerge in the future. The request does protect existing neighborhoods by concentrating the commercial uses closer to US Highway 41 and Leisey Road.

Per the Community Design Component Objective 1.3 Suburban Pattern Characteristics, the proposed request is consistent with the Development Pattern criteria for housing, transportation, and public services. The rezoning will introduce a mixed-use project composed of commercial intensive use and multi-family residential which is appropriate for the area.

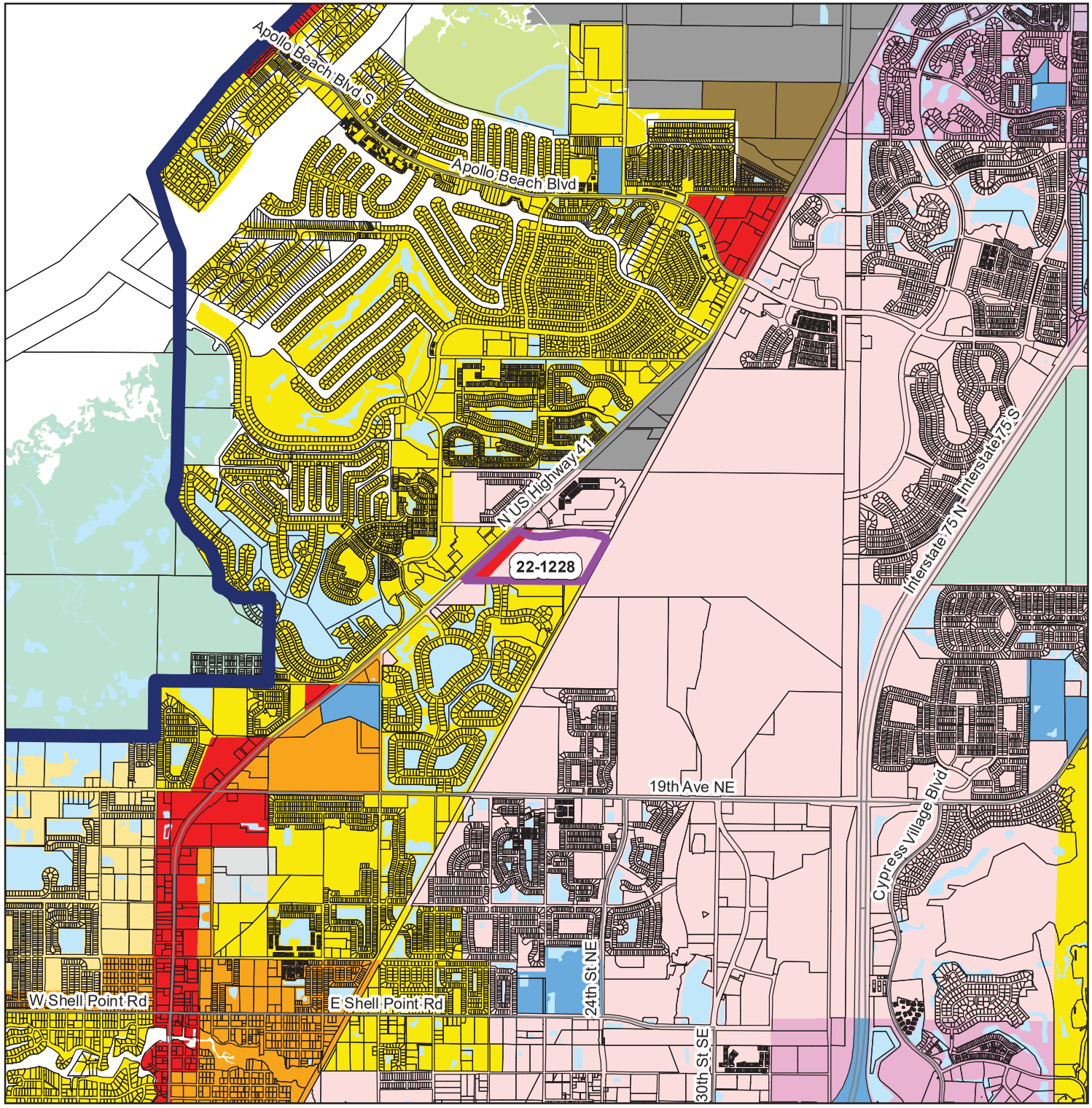
FLUE Objective 6 requires consistency with, and furthering the intent of, the Community Plan. The property is located within the limits of the Apollo Beach Community Plan and Southshore Areawide Systems Plan. The request is consistent with Objective 6 and the goals found in the Apollo Beach and Southshore Community Plan. The Southshore Area Wide Systems Plan Transportation Objective indicates a need to alleviate traffic congestion by extending Leisey Road. The Leisey road extension is shown on the Corridor Preservation Map as a 4-lane facility. In 2013, CSX and Hillsborough County agreed to an at-grade extension of Apollo Beach Blvd./Paseo al Mar crossing the CSX railroad north of Leisey Road. One stipulation of this agreement is that there would be no additional at-grade crossings of the CSX railroad between Paseo al Mar and 19th Ave. NE to the south. This requires that any extension of Leisey Road be grade separated. There is no requirement for either the Waterset DRI or the property owners west of the CSX railroad to construct the overpass. Though external sidewalks are not required to be constructed with this modification, the Right of Way in front of the subject property has been preserved for any future extension. The project has condition of approval to provide internal sidewalks and pedestrian connections to create safe integration between the commercial and the residential portions of this planned development, consistent with policy direction.

Overall, the proposed rezoning would allow for development that is consistent with the Goals, Objectives and Policies of the Future Land Use Element of the Unincorporated Hillsborough County Comprehensive Plan. The rezoning request is compatible with the existing residential and commercial development pattern in the area. The request is also consistent with the intensity and type of development expected in the OC-20 and SMU-6 Future Land Use categories.

Recommendation

Based upon the above considerations, the Planning Commission staff finds the proposed Major Modification is **CONSISTENT** with the *Unincorporated Hillsborough County Comprehensive Plan*, subject to the conditions proposed by the Hillsborough County Development Services Department.

HILLSBOROUGH COUNTY
FUTURE LAND USE
RZ MM 22-1228



Rezonings

- <all other values>

STATUS

- APPROVED
- CONTINUED
- DENIED
- WITHDRAWN
- PENDING

- Tampa Service
- Urban Service
- Shoreline
- County Boundary
- Jurisdiction Boundary
- Major Roads
- Parcels
- wam.NATURAL.LULC_Wet_Poly
- AGRICULTURAL/MINING-1/20 (.25 FAR)
- PEC PLANNED ENVIRONMENTAL COMMUNITY-1/2 (.25 FAR)
- AGRICULTURAL-1/10 (.25 FAR)
- AGRICULTURAL/RURAL-1/5 (.25 FAR)
- AGRICULTURAL ESTATE-1/2.5 (.25 FAR)
- RESIDENTIAL-1 (.25 FAR)
- RESIDENTIAL-2 (.25 FAR)
- RESIDENTIAL PLANNED-2 (.35 FAR)
- RESIDENTIAL-4 (.25 FAR)
- RESIDENTIAL-6 (.25 FAR)
- RESIDENTIAL-9 (.35 FAR)
- RESIDENTIAL-12 (.35 FAR)
- RESIDENTIAL-16 (.35 FAR)
- RESIDENTIAL-20 (.35 FAR)
- RESIDENTIAL-35 (1.0 FAR)
- NEIGHBORHOOD MIXED USE-4 (3) (.35 FAR)
- SUBURBAN MIXED USE-6 (.35 FAR)
- COMMUNITY MIXED USE-12 (.50 FAR)
- URBAN MIXED USE-20 (1.0 FAR)
- REGIONAL MIXED USE-35 (2.0 FAR)
- OC-20
- RESEARCH CORPORATE PARK (1.0 FAR)
- ENERGY INDUSTRIAL PARK (.50 FAR USES OTHER THAN RETAIL, .25 FAR RETAIL/COMMERCE)
- LIGHT INDUSTRIAL PLANNED (.50 FAR)
- LIGHT INDUSTRIAL (.50 FAR)
- HEAVY INDUSTRIAL (.50 FAR)
- PUBLIC/QUASI-PUBLIC
- NATURAL PRESERVATION
- WIMAUMA VILLAGE RESIDENTIAL-2 (.25 FAR)
- CITRUS PARK VILLAGE

DATA SOURCES: Rezoning boundaries from The Planning Commission and are not official. Parcel lines and data from Hillsborough County Property Appraiser.
REPRODUCTION: This sheet may not be reproduced in part or full for sale to anyone without specific approval of the Hillsborough County City-County Planning Commission.
ACCURACY: It is intended that the accuracy of the base map comply with U.S. national map accuracy standards. However, such accuracy is not guaranteed by the Hillsborough County City-County Planning Commission. This map is for illustrative purposes only. For the most current data and information, see the appropriate source.

N W E S

0 1,800 3,600 5,400 7,200 Feet

Map Printed from Rezoning System: 8/2/2022

Author: Beverly F. Daniels

File: G:\RezoningSystem\MapProjects\HC\Greg_hcRezoning - Copy.mxd

Hillsborough County City-County Planning Commission

GENERAL
SITE PLAN
FOR
CERTIFICATION

Hillsborough County Florida

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

BOARD OF COUNTY COMMISSIONERS
Harry Cohen
Ken Hagan
Pat Kemp
Gwendolyn "Gwen" Myers
Michael Owen
Donna Cameron Cepeda
Joshua Wostal
COUNTY ADMINISTRATOR Bonnie M. Wise **COUNTY ATTORNEY** Christine M. Beck **INTERNAL AUDITOR** Peggy Caskey

DEPUTY COUNTY ADMINISTRATOR
Gregory S. Horwedel

HILLSBOROUGH COUNTY
DEVELOPMENT SERVICES DEPARTMENT

GENERAL SITE PLAN REVIEW/CERTIFICATION

Project Name: Council Bay Farms, Ltd.

Zoning File: MM(22-1228) **Modification:** None

Atlas Page: None **Submitted:** 02/16/23

To Planner for Review: 02/16/23 **Date Due:** ASAP

Contact Person: S. Elise Bats el, Esq. **Phone:** 813-223-4800/ ebatsel@stearnsweaver.com (and swalker@stearnsweaver.com)

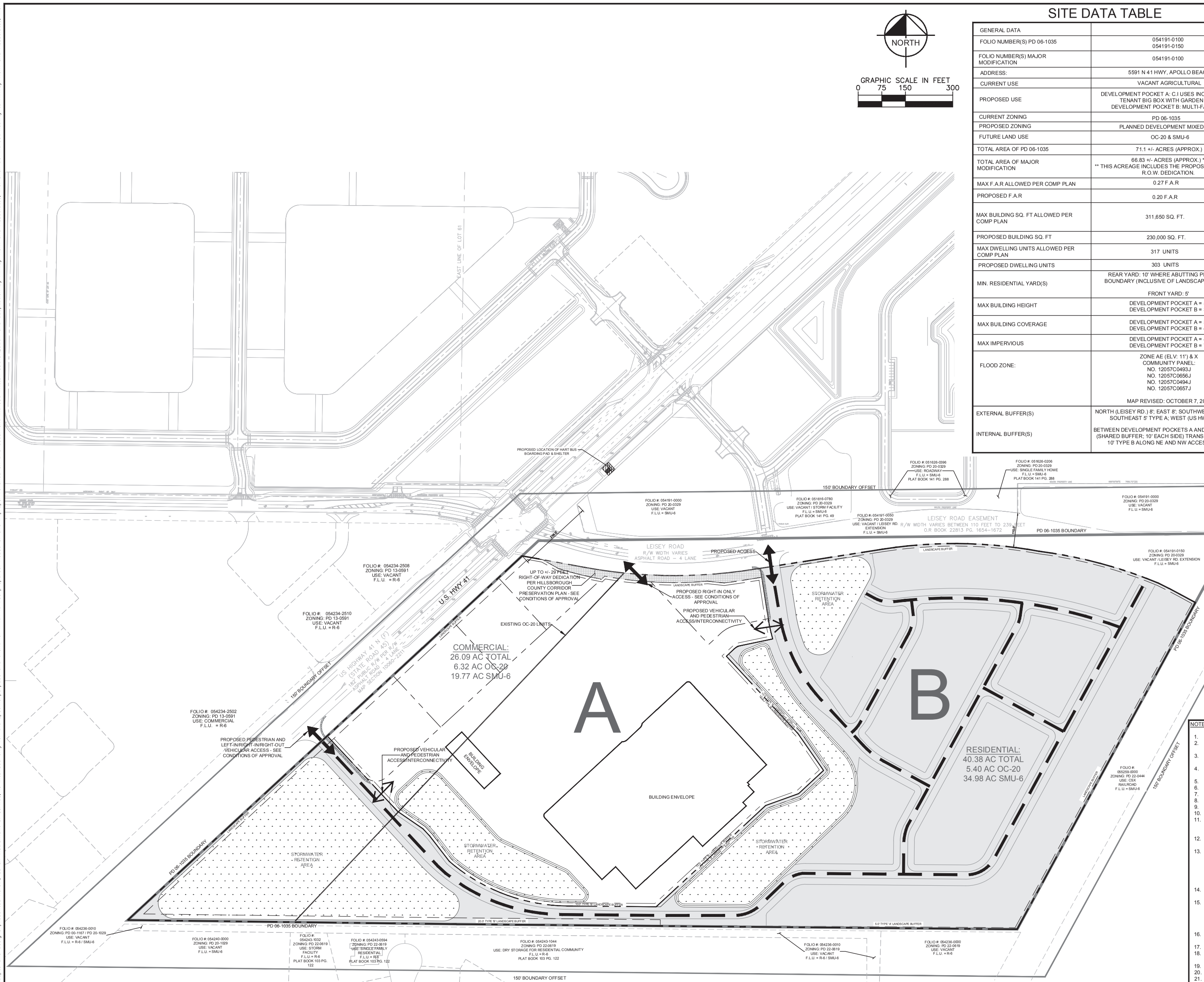
Right-Of-Way or Land Required for Dedication: **Yes** ☑ **No** ☐

☑ The Development Services Department HAS NO OBJECTION to this General Site Plan.

☐ The Development Services Department RECOMMENDS DISAPPROVAL of this General Site Plan for the following reasons:

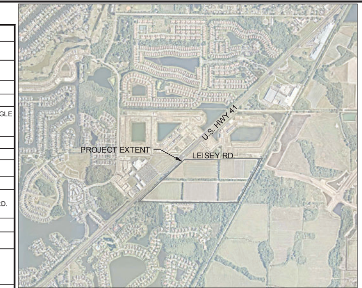
Reviewed by: Sam Ball Date: 2-20-23

Date Agent/Owner notified of Disapproval: _____



SITE DATA TABLE

GENERAL DATA	
FOLIO NUMBER(S) PD 06-1035	054191-0100 054191-0150
FOLIO NUMBER(S) MAJOR MODIFICATION	054191-0100
ADDRESS:	5591 N 41 HWY, APOLLO BEACH
CURRENT USE	VACANT AGRICULTURAL
PROPOSED USE	DEVELOPMENT POCKET A: C.I USES INCLUDING SINGLE TENANT BIG BOX WITH GARDEN CENTER DEVELOPMENT POCKET B: MULTI-FAMILY USES
CURRENT ZONING	PD 06-1035
PROPOSED ZONING	PLANNED DEVELOPMENT MIXED USE
FUTURE LAND USE	OC-20 & SMU-6
TOTAL AREA OF PD 06-1035	71.1 +/- ACRES (APPROX.)
TOTAL AREA OF MAJOR MODIFICATION	66.83 +/- ACRES (APPROX.) ** ** THIS ACREAGE INCLUDES THE PROPOSED LEISEY RD. R.O.W. DEDICATION.
MAX F.A.R ALLOWED PER COMP PLAN	0.27 F.A.R
PROPOSED F.A.R	0.20 F.A.R
MAX BUILDING SQ. FT ALLOWED PER COMP PLAN	311,650 SQ. FT.
PROPOSED BUILDING SQ. FT	230,000 SQ. FT.
MAX DWELLING UNITS ALLOWED PER COMP PLAN	317 UNITS
PROPOSED DWELLING UNITS	303 UNITS
MIN. RESIDENTIAL YARD(S)	REAR YARD: 10' WHERE ABUTTING PROPERTY BOUNDARY (INCLUSIVE OF LANDSCAPE BUFFER) FRONT YARD: 5'
MAX BUILDING HEIGHT	DEVELOPMENT POCKET A = 50' DEVELOPMENT POCKET B = 35'
MAX BUILDING COVERAGE	DEVELOPMENT POCKET A = 33% DEVELOPMENT POCKET B = 40%
MAX IMPERVIOUS	DEVELOPMENT POCKET A = 85% DEVELOPMENT POCKET B = 75%
FLOOD ZONE:	ZONE AE (ELV: 11') & X COMMUNITY PANEL: NO. 12057C0493J NO. 12057C0656J NO. 12057C0494J NO. 12057C0657J MAP REVISED: OCTOBER 7, 2021
EXTERNAL BUFFER(S)	NORTH (LEISEY RD.) 8'; EAST 8'; SOUTHWEST 20' TYPE B; SOUTHEAST 5' TYPE A; WEST (US HWY 41) 20'
INTERNAL BUFFER(S)	BETWEEN DEVELOPMENT POCKETS A AND B: 20' TYPE 'B' (SHARED BUFFER; 10' EACH SIDE) TRANSITIONING TO A 10' TYPE B ALONG NE AND NW ACCESS ROADS



VICINITY MAP
N.T.S.

SITE LEGEND

- EXISTING PROPERTY LINE
- PD 06-1035 EXTENT
- LANDSCAPE BUFFER
- PROPOSED CIRCULATION
- PROPOSED ACCESS
- PROPOSED CROSS-ACCESS
- A B — PROPOSED DEVELOPMENT POCKET

PROPOSED TRAFFIC CONDITION:

THE ANALYSIS CONDUCTED FOR THE MAJOR MODIFICATION OF THE PLANNED DEVELOPMENT WAS BASED ON THE FOLLOWING LAND USES:

- MULTI-FAMILY (ITE LUC 220) - 303 DWELLING UNITS
- DISCOUNT SUPERSTORE (ITE LUC 813) - 208,000 SF
- DISCOUNT GAS (ITE LUC 945) - 16 FUELING POSITIONS
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- HIGH TURNOVER RESTAURANT (ITE LUC 932) - 6,000 SF
- CAR WASH (ITE LUC 948) - 1 TUNNEL

AT SITE CONSTRUCTION PLANS SUBMITTAL, THE DEVELOPER SHALL PROVIDE A TRIP GENERATION SUMMARY OF THE EXISTING AND PROPOSED LAND USES WITHIN THE PLANNED DEVELOPMENT. IF THE TOTAL DAILY, AM OR PM PEAK HOUR TRIP ENDS EXCEED THE FOLLOWING TRIP ENDS UTILIZED IN THE ANALYSIS, A MODIFICATION OF THE PD WILL BE REQUIRED:

- DAILY - 21,540 TRIP ENDS
- AM PEAK HOUR - 1,258 TRIP ENDS
- PM PEAK HOUR - 1,777 TRIP ENDS

PROPOSED DEVELOPMENT MATRIX:

PROPOSED COMMERCIAL SQUARE-FOOTAGE - 230,000 S.F (0.20 FAR)

PROPOSED MULTI-FAMILY RESIDENTIAL UNITS - 303 UNITS (7.5 UNITS / AC.)

PARCEL USES / AREA CALCULATION PER COMPREHENSIVE PLAN (EXCLUDING PROPOSED LEISEY RD. ROW DEDICATION ACERAGE)

DEVELOPMENT POCKET	PROPOSED USE	FLU	ACRES	FAR	SQ. FT.	DWELLING UNITS
A	COMMERCIAL	SMU-6	19.77	0.25	215,295	
		OC-20	6.32	0.35	96,355	
B	RESIDENTIAL	SMU-6	34.98			209
		OC-20	5.40			108

NOTES:

1. THE PROJECT IS LOCATED WITHIN THE APOLLO BEACH PLANNING AREA.
2. THE PROJECT IS NOT LOCATED WITHIN AN OVERLAY DISTRICT OR A DESIGNATED SCENIC ROADWAY CORRIDOR AND DOES NOT CONTAIN ANY HISTORIC LANDMARKS OR OTHER HISTORICAL OR ARCHEOLOGICAL SITES OR STRUCTURES.
3. A MAJORITY OF THE SITE IS LOCATED WITHIN COASTAL HIGH-HAZARD AREA, WITH SMALL PORTIONS AT ELEVATIONS DESIGNATED AS FLOOD ZONE X.
4. THERE ARE NO EASEMENTS LOCATED WITHIN THE PROJECT BOUNDARY OR WITHIN 150 FEET OF THE PROJECT BOUNDARY, EXCEPT FOR A COUNTY DRAINAGE EASEMENT JUST SOUTH OF THE SOUTHERN PROJECT BOUNDARY.
5. A FLEX PROVISION IS NOT PROPOSED FOR THIS PROJECT.
6. EXISTING PROPERTY IS A PASTURE LAND THERE ARE NO EXISTING STRUCTURES PROPOSED TO BE REMOVED.
7. THERE ARE NO PROPOSED COMMON OPEN SPACE OR RECREATION AREAS PROPOSED WITHIN THE PROJECT.
8. THERE ARE NO PUBLIC PARK LANDS OR SCHOOL SITE PROPOSED WITHIN THE PROPERTY.
9. THERE ARE NO ENVIRONMENTALLY SENSITIVE AREAS ON SITE.
10. THERE ARE NO MAN-MADE NATURAL WATER BODIES ONSITE.
11. THE PROJECT WILL BE DEVELOPED IN PHASES. VEHICULAR AND PEDESTRIAN INTERCONNECTIVITY TO BE PROVIDED BETWEEN PHASE, AND ACCESS POINTS TO LEISEY RD. AND US 41 AND SHARED BY DEVELOPMENT WITHIN POCKETS A AND B.
12. PARKING WILL BE PROVIDED IN ACCORDANCE WITH SECTION 6.05 OF THE LDC AND THE PD VARIATION APPROVED CONCURRENTLY WITH MM 22-1228 – SEE ZONING CONDITIONS OF APPROVAL.
13. THE DEVELOPER SHALL PROVIDE MINIMUM EIGHT-FOOT BUFFER ALONG US 41 AND LEISEY ROAD. WITHIN SAID AREA THE DEVELOPER SHALL PROVIDE A DECORATIVE FENCE A MINIMUM OF 4 FEET IN HEIGHT. LANDSCAPING TREATMENT WITHIN THE EIGHT-FOOT BUFFER AREA SHALL CONSIST OF EIGHT TO TEN FOOT HIGH SHADE TREES SPACED 20 FEET ON CENTER, AND OF A HEDGE MEASURING 30 INCHES HIGH AT THE TIME OF PLANTING, SPACED 36 INCHES ON CENTER. PVC FENCING MATERIAL SHALL BE PROHIBITED. THIS BUFFERING SHALL BE PROVIDED INSTEAD OF THE BUFFER IN LDC SECTION 6.11.106.C.7.c
14. THERE WILL BE STOP SIGNS LOCATED AT THE INTERSECTIONS WITHIN THE PROJECT AND THERE ARE STOP SIGNS WITHIN 150 FEET OF THE PROJECT.
15. INTERNAL PROJECT DRIVEWAYS WILL BE PRIVATELY OWNED AND MAINTAINED. PORTIONS OF DRIVEWAYS SERVING ONLY MULTI-FAMILY USES MAY BE GATED. ANY INTERNAL PRIVATE ROADWAYS MAY BE PUBLIC OR PRIVATE AND, IF PRIVATE, MAY BE GATED. ALL FACILITIES WITHIN THE PROJECT WILL BE CONSTRUCTED TO APPLICABLE TRANSPORTATION TECHNICAL MANUAL (TTM) AND LDC STANDARDS. ALL RESIDENTIAL GATES SHALL COMPLY WITH TYPICAL DETAIL – 9 WITHIN THE TTM.
16. ALL ROADS WITHIN 150' OF THE PROJECT ARE ASPHALT PAVEMENT, AT LEAST 22 FT +/- IN WIDTH AND ARE IN ADEQUATE CONDITION.
17. THERE ARE NO ROWS (AS DEFINED IN SECTION 12 OF THE LDC) WITHIN THE PROJECT BOUNDARY.
18. THERE ARE BIKEWAYS AND A TRANSIT STOP WITHIN 150 FEET OF THE PROJECT ALONG US HWY 41. TRANSIT ACCOMMODATIONS WILL BE PROVIDED – SEE CONDITIONS OF ZONING APPROVAL.
19. THERE ARE NO NATURAL FEATURES ON SITE OR WITHIN 150 FEET OF THE PROJECT.
20. THERE ARE NO SPECIFIC ARCHITECTURAL DESIGNS PROPOSED FOR THIS PROJECT.
21. ROADWAYS WITHIN THE PROJECT WILL BE A MINIMUM 24 FEET IN WIDTH.
22. THE PROJECT WILL CONNECT TO PUBLIC WATER AND SEWER.
23. THE PARCEL CONTAINS NO WATERCOURSES, LAKES, CONSERVATION AREAS, PRESERVATION AREAS, WOODED AREAS, UPLAND HABITAT AREAS, OR OTHER SUCH NATURAL PHYSICAL FEATURES.
24. BUILDING ENVELOPES ARE GENERALIZED AND CAN ALSO BE USED FOR PARKING, LOADING, LANDSCAPING, SIDEWALKS, CANOPIES, BICYCLE RACKS, AND OTHER SUCH ITEMS.
25. FINAL DESIGN OF BUILDINGS, AND STORMWATER RETENTION AREAS ARE SUBJECT TO CHANGE PENDING FORMAL AGENCY JURISDICTIONAL DETERMINATIONS OF WETLAND OR OTHER SURFACE WATER BOUNDARIES, AND AS REQUIRED BY SUBSEQUENT ENGINEERING AND APPROVAL BY APPROPRIATE REGULATORY AGENCIES.
26. VEHICULAR AND PEDESTRIAN INTER-CONNECTIVITY SHALL BE PROVIDED BETWEEN DEVELOPMENT PARCEL A AND B AND THE ABUTTING ROADWAYS. PEDESTRIAN CONNECTIONS WITHIN PARCEL A SHALL PROVIDE FOR PEDESTRIAN CONNECTIONS INTERNAL TO PARCEL A PROVIDING LARGE SCALE RETAIL CONNECTIVITY TO THE RESIDENTIAL PARCEL, OUT PARCELS AND CONNECTIONS TO THE PUBLIC ROW. SUCH VEHICULAR AND PEDESTRIAN CONNECTIONS SHALL BE APPROVED AT CONSTRUCTION PLAN APPROVAL FOR EACH PHASE OF DEVELOPMENT. INTERNAL PEDESTRIAN CONNECTIVITY WITHIN PARCEL B AND BETWEEN PARCEL A AND B SHALL BE INCLUDED IN THE CONSTRUCTION PLAN APPROVAL FOR THE FIRST RESIDENTIAL PHASE.

LEGAL DESCRIPTION PD 06-1035

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF US HWY 41 (SR 45) WITH THE SOUTHERLY LINE OF SECTION 28, TOWNSHIP 31 SOUTH, RANGE 15 EAST, HILLSBOROUGH COUNTY, FLORIDA; THENCE N.47°16'43"E., ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE (SAID LINE BEING 132.00 FEET PERPENDICULAR TO THE CENTERLINE OF SURVEY) 1274.67 FEET TO THE POINT OF INTERSECTION ON SAID RIGHT-OF-WAY LINE; THENCE CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N.47°12'45"E., 499.93 FEET, THENCE N.89°23'27"E., 2202.60 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD; THENCE S. 28° 35'35"W., ALONG SAID RIGHT-OF-WAY LINE, (SAID LINE BEING 65.00 FEET PERPENDICULAR TO THE CENTERLINE OF SAID RAILROAD), 1434.38 FEET TO THE SOUTHERLY LINE OF SAID SECTION 28; THENCE N.89°21'25"W. ALONG SAID SOUTHERLY LINE, 2819.49 FEET TO THE POINT OF BEGINNING. (CONTAINING 71.10 ACRES)

No.	REVISIONS	DATE

Kimley»Horn

© 2022 KIMLEY-HORN AND ASSOCIATES, INC.
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PHONE: 813-620-1460
WWW.KIMLEY-HORN.COM CA 00000696

FOR EXHIBIT PURPOSES ONLY

SCALE AS NOTED
DESIGNED BY
DRAWN BY
CHECKED BY

MM-22-1228

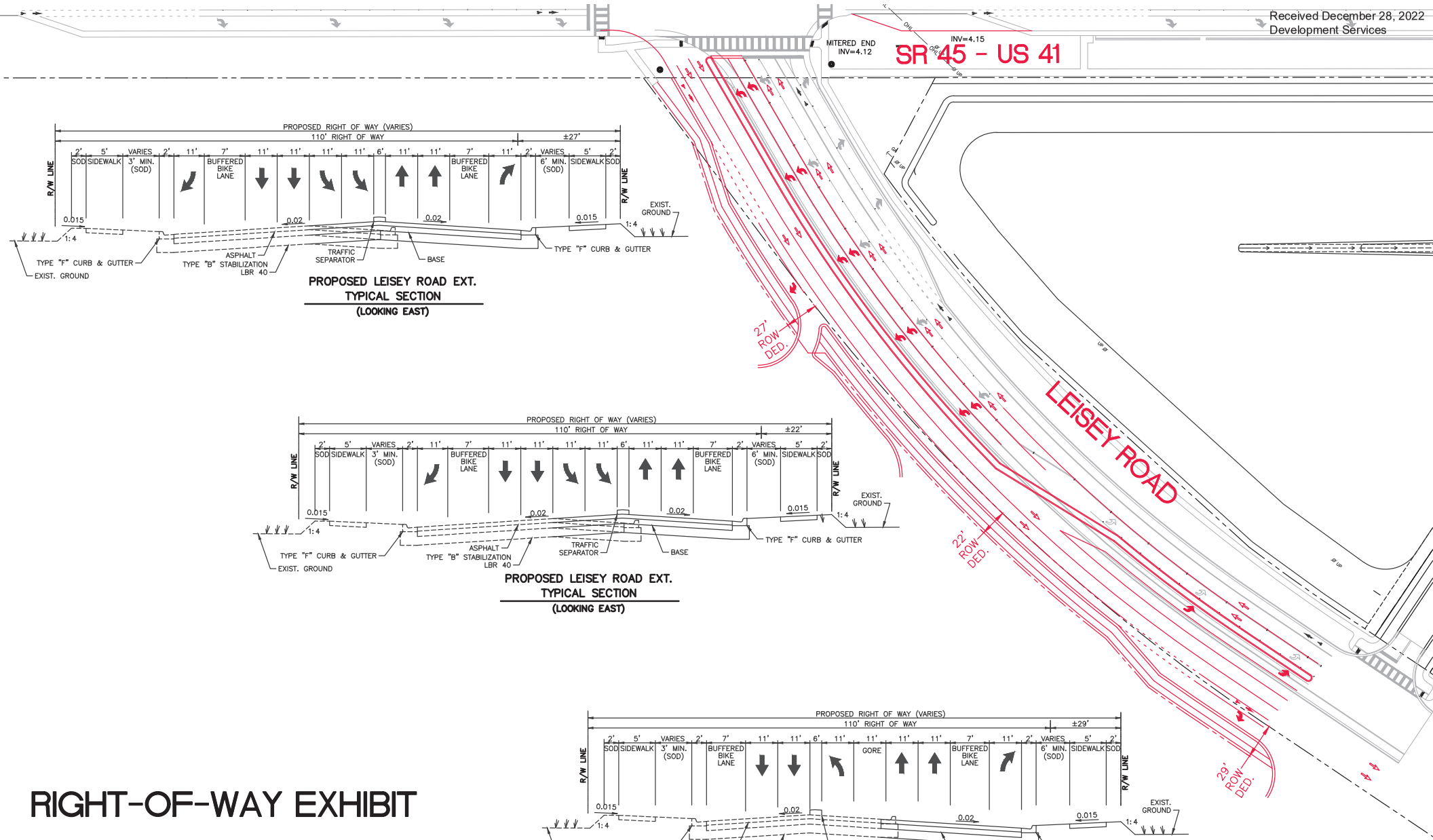
NEXMETRO COUNCIL BAY FARMS

HILLSBOROUGH COUNTY FLORIDA

DATE 06/28/2022
PROJECT NO.
SHEET NUMBER
1 OF 1

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Received December 28, 2022
Development Services



RIGHT-OF-WAY EXHIBIT

22-1228

AGENCY COMMENTS

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department	DATE: 1/08/2022
REVIEWER: James Ratliff, AICP, PTP, Principal Planner	AGENCY/DEPT: Transportation
PLANNING AREA/SECTOR: APB/ South	PETITION NO: MM 22-1228

☐ This agency has no comments.

☐ This agency has no objection.

☒ This agency has no objection, subject to the listed or attached conditions.

☐ This agency objects for the reasons set forth below.

NEW AND REVISED CONDITIONS OF APPROVAL

Revised Conditions

6. Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

6.~~2~~1 On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

6.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single-tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

6.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

[Staff recommends modification of this above condition to reflect the applicant's requested PD variation for parking. Staff notes that the applicant has requested a change to 6.1. This is a design related condition and, as such, was not reviewed by Transportation Review Section staff. It is shown only for clarity. Comments related to this change will be addressed by Zoning Section staff.]

7. ~~The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by~~

~~Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and access configuration requirements by the County and/or FDOT.]

8. ~~If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

   8.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
   8.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
   8.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
   8.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
   8.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;
   8.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;
   8.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
   8.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
   8.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
   8.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
   8.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
   8.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and site access improvements requirements by the County and/or FDOT.]

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system

for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that some of the listed improvements will be completed as required site-access improvements—see revised condition 8.]

~~10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

[Staff is recommending deletion of this condition to comport with current practice. Staff notes that, regardless of the deletion of a condition addressing throat depth within the PD zoning, the developer will be required to comply with then current throat depth standards as found within the LDC at the time of plat/site/construction plan review.]

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

[Staff is recommending deletion of this condition. Staff notes the zoning to the south, #20-1029, was recently modified for a charter school use and as such cross would not be required pursuant to Sec. 6.04.03.Q of the LDC. Also, as shown on the Property Appraiser's website and on the PD site plan, there appears to be an intervening strip of land between the subject PD and property to the south owned by Hillsborough County which separates the two developments.]

12. Prior to ~~Construction Plan approval~~or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others)~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~Hillsborough County Corridor Preservation Plan.

[Staff is recommending modification of this condition. Staff notes that the majority of needed road right-of-way has been acquired by the developers of Waterset. A portion of the 2-lane Leisey Rd. extension is under construction and is anticipated to be dedicated/conveyed/accepted by Hillsborough County for maintenance in the near future. The above additional right-of-way ensures that the required site access improvements which must be constructed by the subject PD do not jeopardize the County's ability to construct the 4-lane widening envisioned by--and for which right-of-way must be preserved in accordance with--the Hillsborough County Corridor Preservation.]

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

[Staff is recommending deletion of this condition. Staff notes that there is sufficient right-of-way along US 41 to accommodate the future 6-laning of the facility.]

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that the project will be required to construct certain site-access improvements as detailed in revised condition 8.]

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project as a four lane divided arterial as identified in the South Shore Corridor Plan~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that, given the proposed access changes, the 2-lane portion of the roadway has already been completed to the easternmost project driveway.]

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entityhas committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT~~.

[Staff is recommending deletion of this condition. Staff notes that a traffic signal already exists at this intersection. Modification of the signal by the developer of the subject PD is required, and such condition has been proposed as a part of revised condition 8, above.]

17. The Developer shall construct sidewalks ~~within the right-of-way along all roadways adjacent to the property boundaries and along both sides of all internal roadways~~in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The s~~Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

[Staff is recommending modification of this condition for clarity and to comport with current practice.]

18. Prior to or concurrent with the initial increment of development, ~~T~~the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

[Staff is recommending modification of this condition to comport with current practice and LDC requirements. Additionally, staff is unsure of the type of HART service which will be provided, and the zoning condition should not bind the developer or HART to provision of a certain frequency of service, e.g. express service.]

Other Conditions

- Prior to PD site plan certification, the developer shall:
    - Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
    - Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
    - Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
    - Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
    - The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
    - The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
    - Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
    - Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
    - Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
    - Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
    - Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
    - Delete the box and information within the box titled "Waiver Under MM-22-1228".

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting a Major Modification a +/- 66.83 ac. parcel currently zoned Planned Development (PD) 06-1035-1402. The existing PD has approval for two development pockets. Pocket A is approved for 300,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box. Pocket B is approved for 335,000 square feet of Business, Professional Offices Uses (Includes Flex Space Uses), Personal Services, Minor Industry (Within completely Enclosed Buildings), Research Corporate Park, Warehousing and Open Storage uses.

The applicant is proposing the following transportation related changes:

1. Modify the boundaries of Pockets A and B as shown on the PD site plan;
2. Reduce the entitlements in Pocket A from 300,000 s.f. to 230,000 s.f.;
3. Replace the uses currently approved within Pocket B with entitlements for up to 303 multi-family dwelling units.; and,
4. Modify project access as follows:
    a. Eliminate one (1) of the two (2) previously approved access from Pocket A to US 41; and,
    b. Eliminate one (1) of the three (3) previously approved access from Pockets A and B to Leisey Rd.

Staff notes additional changes, including more design related transportation changes are proposed and will be addressed by zoning section staff. Staff also notes the applicant is proposing to modify the right-in/right-out access to Leisey Rd. from Pocket A (such that allows right-in only movements), and retain one full access connection to Leisey Rd. within Pocket B, which will be shared with the Pocket A development. Staff notes the PD site plan is incorrectly labeled as right-in/right-out (staff has proposed a condition to address this issue). Similarly, access to US 41 from Pocket A has been eliminated, but there will be one (1) right-in/right-out/left-in access within Pocket B which will be shared with the Pocket A development.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a trip generation and site access analysis for the proposed project which was reviewed by staffs of both the Florida Department of Transportation and Hillsborough County. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition and the applicant's transportation analysis.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 300,000 s.f. Shopping Center (Multiple Uses, Reference Applicant's Analysis in Optix Adjusted by Increasing g.s.f. of Proposed by 70k)	23,058	1,271	1929
PD, Pocket B, 335,000 s.f. Office Park (ITE LUC 750)	3,923	509	443
Subtotal:	26,981	1,780	2,372

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 230,000 s.f. Shopping Center, Reference Applicant's Analysis in Optix)	19,522	1,141	1,626
PD, Pocket B, 303 Multi-Family Dwelling Units (ITE LUC 220)	2,018	117	151
Subtotal:	21,540	1,258	1,777

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	**(-) 5,441**	**(-) 522**	**(-) 595**

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 4-lane principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot wide travel lanes in average condition. The roadway lies within a +/- 182 foot wide right-of-way along the project's frontage. There are bicycle facilities (on paved shoulders) along both sides of the roadway in the vicinity of the project. There +/- 5-foot wide sidewalks along portions of the east and west sides of US 41 in the vicinity of the proposed project.

US 41 is shown on the Hillsborough County Corridor Preservation Plan as a future 6-lane roadway along the project's frontage. There is adequate existing right-of-way along the project's frontage to accommodate the future widening.

Leisey Rd. is currently a 2-lane collector roadway which has been recently constructed for a distance of 800 feet east of US 41 to collector roadway standards as found within the Transportation Technical Manual (TTM); however, the roadway has not yet been accepted by the County for maintenance (current Hillsborough County Property Appraiser's records indicate the road right-of-way is currently owned by the developer of Waterset to the east of the proposed project).

In order to accommodate traffic generated by development on both the north and south sides of Leisey Rd. (between US 41 and the CSX railroad) and proposed site access changes, the developer is required to construct a variety of site access improvements as specified in the section hereinbelow. In order to retain the County's ability to 4-lane this roadway in the future in accordance with the Corridor Preservation Plan, this will necessitate the developer to dedicate and convey up to an additional 29 feet of right-of-way along the project's Leisey Rd. frontage (staff notes that some areas of the frontage require less or no additional right-of-way dedication and conveyance).

SITE ACCESS AND CONNECTIVITY

General project site access is summarized hereinabove. The developer will be required by FDOT and the County to make certain improvements prior to or concurrent with the initial increment of development. Specifically, the developer will be required to:

1. Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
2. Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
3. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
4. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
5. Construct a southbound to eastbound left turn lane on US 41 at the project access;
6. Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
7. Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8. Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
9. Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
10. Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
11. Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

TRANSIT FACILITIES

Pursuant to Section 6.03.09.C.2 of the LDC, non-residential and mixed-use projects containing greater than 200,000 s.f. but less than 500,000 s.f. are required to provide a bus bay and transit accessory pad including shelter, trash receptacle and bicycle rack. FDOT has indicated a preferred location of the transit facility, but has stated they will ultimately defer to whatever location Hillsborough Area Regional Transit (HART) prefers. Staff has proposed a zoning condition requiring the location to be coordinate with an approved by the County, FDOT and HART prior to or concurrent with the initial increment of development.

REQUESTED PD VARIATION

The applicant submitted the PD variation request for the retail anchor tenant which they indicate will be a "discount retail superstore" (as it's referred to in the ITE Parking Generation Manual, 5th Edition, LUC 813). The Hillsborough County Land Development Code, Section 6.05.02.E. requires such use to provide parking at a rate of 5 spaces per 1,000 s.f. (reference the "All Other Retail" parking standard). The applicant is proposing to provide parking at a rate of 4.0 spaces per 1,000 s.f. The applicant submitted supporting documentation from the ITE Parking Generation Manual indicating that such rate could be appropriate. Staff believes that the proposed rate, in combination with bicycle parking spaces, can be supported. Staff notes that Section 6.05.02.P.1. of the LDC allows for a 5% reduction of parking spaces if bicycle parking meeting certain location criteria is provided. The applicant is requesting a reduction of 20% of the required parking rate.

As such, while staff believes that the parking reduction requested is supportable, staff also believes that provision of a number of bicycle parking meeting such location criteria in an amount equivalent to 5% of the number of vehicular spaces (calculated at a rate of 5 per 1,000 is also appropriate). This PD variation essentially has the effect of granting a further 15% decrease in the parking rate from what could already be authorized under the LDC.

Staff recommends approval of the proposed PD variation request and has proposed conditions of approval consistent with the above.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway section(s) is reported below. LOS information for the segment east of US 41 cannot be provided, as the roadway is not yet open to traffic (or has not been accepted by the County for maintenance).

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	19th Ave NE	Apollo Beach Blvd./ Paseo al Mar Blvd.	D	C
Leisey Rd.	Golf and Sea Blvd.	US 41	D	B

Source: Hillsborough County 2020 Level of Service Report.

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**
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request			
	Average Annual Daily Trips	**A.M. Peak Hour Trips**	**P.M. Peak Hour Trips**
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request		
Road Name/Nature of Request	**Type**	**Finding**
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	**Objections**	**Conditions Requested**	**Additional Information/Comments**
☐ Design Exception/Adm. Variance Requested ☒ Off-Site Improvements Provided	☐ Yes ☐N/A ☒ No	☒ Yes ☐ No	

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AGENCY COMMENT SHEET

REZONING	
HEARING DATE: December 12, 2022 **PETITION NO.:** 22-1228 **EPC REVIEWER:** Kelly M. Holland **CONTACT INFORMATION:** (813) 627-2600 X 1222 **EMAIL:** hollandk@epchc.org	**COMMENT DATE:** November 29, 2022 **PROPERTY ADDRESS:** 5591 North US Highway 41, Apollo Beach **FOLIO #s:** 0541910100 and 0541910150 **STR:** 28-31S-19E
REQUESTED ZONING: Major Modification to an existing Planned Development	

FINDINGS	
WETLANDS PRESENT	YES
SITE INSPECTION DATE	11/22/2022
WETLAND LINE VALIDITY	NA
WETLANDS VERIFICATION (AERIAL PHOTO, SOILS SURVEY, EPC FILES)	Ditches running throughout the site

The EPC Wetlands Division has reviewed the proposed rezoning. In the site plan's current configuration, a resubmittal is not necessary. If the zoning proposal changes and/or the site plans are altered, EPC staff will need to review the zoning again. This project as submitted is conceptually justified to move forward through the zoning review process as long as the following conditions are included:

- Approval of this zoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested right to environmental approvals.

- The construction and location of any proposed wetland impacts are not approved by this correspondence, but shall be reviewed by EPC staff under separate application pursuant to the EPC Wetlands rule detailed in Chapter 1-11, Rules of the EPC, (Chapter 1-11) to determine whether such impacts are necessary to accomplish reasonable use of the subject property.

- Prior to the issuance of any building or land alteration permits or other development, the approved wetland / other surface water (OSW) line must be incorporated into the site plan. The wetland/ OSW line must appear on all site plans, labeled as "EPC Wetland Line", and the wetland must be labeled as "Wetland Conservation Area" pursuant to the Hillsborough County Land Development Code (LDC).

- Final design of buildings, stormwater retention areas, and ingress/egresses are subject to change pending formal agency jurisdictional determinations of wetland and other surface water boundaries and approval by the appropriate regulatory agencies.

INFORMATIONAL COMMENTS:
The following specific comments are made for informational purposes only and to provide guidance as to the EPC review process. However, future EPC staff review is not limited to the following, regardless of the obviousness of the concern as raised by the general site plan and EPC staff may identify other legitimate concerns at any time prior to final project approval.

- The subject property contains wetland/OSW areas, which have not been delineated. Knowledge of the actual extent of the wetland and OSW are necessary in order to verify the avoidance of wetland impacts pursuant to Chapter 1-11. Prior to the issuance of any building or land alteration permits or other development, the wetlands/OSWs must be field delineated in their entirety by EPC staff or Southwest Florida Water Management District staff (SWFWMD) and the wetland line surveyed. Once delineated, surveys must be submitted for review and formal approval by EPC staff.

- The site plan depicts wetland impacts that have not been authorized by the Executive Director of the EPC. The wetland impacts are indicated for internal roadways, lots and ponds. Chapter 1-11, prohibits wetland impacts unless they are necessary for reasonable use of the property. Staff of the EPC recommends that this requirement be taken into account during the earliest stages of site design so that wetland impacts are avoided or minimized to the greatest extent possible. The size, location, and configuration of the wetlands may result in requirements to reduce or reconfigure the improvements depicted on the plan. If you choose to proceed with the wetland impacts depicted on the plan, a separate wetland impact/mitigation proposal and appropriate fees must be submitted to this agency for review.

- The Hillsborough County Land Development Code (LDC) defines wetlands and other surface waters as Environmentally Sensitive Areas. Pursuant to the LDC, wetlands and other surface waters are further defined as Conservation Areas or Preservation Areas and these areas must be designated as such on all development plans and plats. A minimum setback must be maintained around the Conservation/Preservation Area and the setback line must also be shown on all future plan submittals.

- Any activity interfering with the integrity of wetland(s) or other surface water(s), such as clearing, excavating, draining or filling, without written authorization from the Executive Director of the EPC or authorized agent, pursuant to Section 1-11.07, would be a violation of Section 17 of the Environmental Protection Act of Hillsborough County, Chapter 84-446, and of Chapter 1-11.

kmh / app

ec: S. Elise Batsel, Agent - ebatsel@stearnsweaver.com

Hillsborough County
PUBLIC SCHOOLS
Preparing Students for Life

Adequate Facilities Analysis: Rezoning

Date: 1/10/2023

Jurisdiction: Hillsborough County

Case Number: MM 22-1228

HCPS #: RZ-490

Address: 5591 N. 41 Hwy, Apollo Beach

Parcel Folio Number(s): 054191.0100

Acreage: 71.1 (+/- acres)

Proposed Zoning: Planned Development

Future Land Use: PD

Maximum Residential Units: 303

Residential Type: multi-family

School Data	Doby Elementary	Eisenhower Middle	Lennard High
FISH Capacity Total school capacity as reported to the Florida Inventory of School Houses (FISH)	*958*	*1,567*	*2,494*
2022-23 Enrollment K-12 enrollment on 2022-23 40th day of school. This count is used to evaluate school concurrency per Interlocal Agreements with area jurisdictions	*522*	*1,280*	*2,406*
Current Utilization Percentage of school capacity utilized based on 40th day enrollment and FISH capacity	*54%*	*82%*	*96%*
Concurrency Reservations Existing concurrency reservations due to previously approved development. Source: CSA Tracking Sheet as of 12/23/2022	*409*	*287*	*88*
Students Generated Estimated number of new students expected in development based on adopted generation rates. Source: Duncan Associates, School Impact Fee Study for Hillsborough County, Florida, Dec. 2019	*35*	*13*	*16*
Proposed Utilization School capacity utilization based on 40th day enrollment, existing concurrency reservations, and estimated student generation for application	*101%*	*101%*	*101%*

Notes: Currently, adequate capacity does not exist at Doby Elementary Eisenhower Middle and Lennard High School for the proposed rezoning. State law requires the school district to consider whether capacity exists in adjacent concurrency service areas (i.e., school attendance boundaries). As of this writing, adjacent capacity exists in the adjacent elementary and middle school levels. Please contact School District staff regarding mitigation options at the high school level prior to submitting for a preliminary plat or site plan.

This is an analysis for adequate facilities only and is NOT a determination of school concurrency. A school concurrency review will be issued PRIOR TO preliminary plat or site plan approval.

Renée M. Kamen, AICP
Manager, Planning & Siting
Growth Management Department
Hillsborough County Public Schools
E: renee.kamen@hcps.net
P: 813.272.4083

Hillsborough County Florida
Development Services

AGENCY REVIEW COMMENT SHEET

NOTE: THIS IS ONLY FOR ESTIMATE PURPOSES, BASED ON THE FEES AT THE TIME THE REVIEW WAS MADE. ACTUAL FEES WILL BE ASSESSED BASED ON PERMIT APPLICATIONS RECEIVED AND BASED ON THE FEE SCHEDULE AT THE TIME OF BUILDING PERMIT APPLICATION.

TO:	Zoning Review, Development Services	**DATE:**	12/07/2022
REVIEWER:	Ron Barnes, Impact & Mobility Fee Coordinator		
APPLICANT:	Council Bay Farms, Ltd	**PETITION NO:**	22-1228
LOCATION:	5591 N 41 Hwy		
FOLIO NO:	54191.0100		

Estimated Fees:

(Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story)
Mobility: $6,661 * 303 units = $2,018,283
Parks: $1,555 * 303 units = $ 471,165
School: $3,891 * 303 units = $1,178,973
Fire: $249 * 303 units = $ 75,447
Total Multi-Family (1-2 story) = $3,743,868

Discount Superstore
(per 1,000 sf)
Mobility: $14,708*230 = $3,382,840
Fire: $313*320 = $ 100,160
Total: $3,483,000

Project Summary/Description:

Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore

WATER RESOURCE SERVICES
REZONING REVIEW COMMENT SHEET: WATER & WASTEWATER

PETITION NO.: PD22-1228 **REVIEWED BY:** **Randy Rochelle** **DATE:** 8/25/2022

FOLIO NO.: 54191.0100

WATER

☐ The property lies within the _____ Water Service Area. The applicant should contact the provider to determine the availability of water service.

☒ A 20 inch water main exists ☐ (adjacent to the site), ☒ (approximately 175 feet from the site) and is located west of the subject property within the west Right-of-Way of N. US Highway 41. This will be the likely point-of-connection, however there could be additional and/or different points-of-connection determined at the time of the application for service. This is not a reservation of capacity.

☒ Water distribution system improvements will need to be completed prior to connection to the County's water system. The improvements include two funded CIP projects that are currently under construction, C32001 - South County Potable Water Repump Station Expansion and C32011 - Potable Water In-Line Booster Pump Station and will need to be completed by the County prior to issuance of any building permits that will create additional demand on the system.

WASTEWATER

☐ The property lies within the _____ Wastewater Service Area. The applicant should contact the provider to determine the availability of wastewater service.

☒ A 6 inch wastewater force main exists ☐ (adjacent to the site), ☒ (approximately 875 feet from the site) and is located north of the subject within the east Right-of-Way of N. US Highway 41. This will be the likely point-of-connection, however there could be additional and/or different points-of-connection determined at the time of the application for service. This is not a reservation of capacity.

☐ Wastewater collection system improvements will need to be completed prior to connection to the County's wastewater system. The improvements include _____ and will need to be completed by the _____ prior to issuance of any building permits that will create additional demand on the system.

COMMENTS: The subject rezoning includes parcels that are within the Urban Service Area and would require connection to the County's potable water and wastewater systems.

Statement of Record

The South County service area (generally south of the Alafia River) has seen significant customer growth over the recent past. As new customers are added to the system there is an increased demand for potable water that is causing delivery issues during certain periods of the year. The greatest demand for water occurs during the spring dry season, generally the months of March through May. During the dry season of 2021 the Water Resources Department was challenged to deliver water to the southern portions of the service area to meet customer expectations for pressure and flow. While Levels of Service per the Comprehensive Plan were met, customers complained of very low pressure during early morning hours. Efforts to increase flow and pressure to the south resulted in unacceptably high pressures in the north portions of the service area. The Florida Plumbing Code limits household pressure to 80 psi to prevent damage to plumbing and possible injury due to system failure. The Department had to balance the operational challenges of customer demand in the south with over pressurization in the north, and as a result, water pressure and flow in the South County service area remained unsatisfactory during the dry period of 2021.

As a result of demand challenges, the Department initiated several projects to improve pressure and flow to the south area. Two projects currently under construction CIP C32001 - South County Potable Water Repump Station Expansion and CIP C32011 - Potable Water In-Line Booster Pump will increase the delivery pressure to customers.

These projects are scheduled to be completed and operational prior to the 2022 dry season, and must demonstrate improved water delivery through the highest demand periods before additional connections to the system can be recommended.

Florida Department of Transportation

RON DESANTIS
GOVERNOR

2822 Leslie Road
Tampa, FL 33612-6456

JARED W. PERDUE, P.E.
SECRETARY

August 16th, 2022

Mixed Use on Leisey Rd.

SR 45/US 41
10 040 000
MP 10.901 Rt Rdwy
Class 3 @ 55 MPH
Folio # 054191-0100

RE: Pre-Application Meeting Request

THIS DOCUMENT IS NOT A PERMIT APPROVAL

THE COMMENTS AND FINDINGS FROM THIS PRE-APPLICATION MEETING MAY BE SUBJECT TO CHANGE AND MAY NOT BE USED AS A BASIS OF APPROVAL AFTER 2/16/2023

Attendees:

Guests: Steve Henry, Jon Schwartz, Wally Brinkman, Haley Skinner, Jonathan Levy, James Ratliff, and Rick Perez

FDOT Staff: Todd Croft, Mecale' Roth, Tom Allen, Dan Santos, Lindsey Mineer, Amanda Serra, Tony Celani, Don Marco, and Luis Mejia

Proposed Conditions: This development is proposing new access to SR 45, a class 3 roadway with a posted speed limit of 55 MPH. Florida Administrative Code, Rule Chapter 14-97, requires 660' driveway spacing, 1320' directional, 2640' full median opening spacing, and 2640' signal spacing requirements.

FDOT Recommendations:

1. Proposing new access to US 41 for a large development with both commercial and residential units.

2. The Department is in favor of the directional left into the site despite non-conformity.
3. No outparcels are to have their own access to US 41.
4. A traffic study will be required.
5. Standard commercial driveway with 50ft driveway radii with 5ft paved shoulder that wrap around and tie into the ROW.
6. Sidewalk along the entire frontage connecting to each building. Sidewalk connections need to include residential units.
7. A bus bay will be required with a landing, a shelter, and a sidewalk connection to the site connecting to all the buildings (including residential). Coordinate with Hart.
8. The Department prefers the bus bay to be north of the entrance on US 41, but we will support Hart's decision about the location.
9. Right in return radius designed control movements.
10. On Leisey, a right turn in only that close to a signal will be allowed if a concrete separator is installed to prevent left ins. A right turn lane into the right in only driveway will also be required.
11. Channelize right turn lane to control movement.
12. Concrete separator between the dual lefts and thru lanes required.
13. Concrete separator needs to begin 100ft north of Harbor Village Lane to prevent vehicles exiting Harbor Village Lane to enter the SB left turn lane.
14. With the intersection as proposed, the U-turns will need to be controlled.
15. Coordinate with FDOT project 441387-1 that is currently underway.
    a. Dave Gillette David.Gillett@dot.state.fl.us
    b. Shari Barnwell Shari.Barnwell@kimley-horn.com
16. All roadway work or permanent structures in the right of way built by you but maintained by the Department afterwards will need to be done under a separate construction agreement (turn lanes, traffic or pedestrian signals, separators, median modifications, etc.).
17. Provide existing and proposed drainage maps.
18. Contact Joel Provenzano or Andrew Perez for any traffic or access related questions at joel.provenzano@dot.state.fl.us, andrewa.perez@dot.state.fl.us, or at 813-975-6000.
19. Contact Todd, Tom or Mecale' (makayla) for permit, pre app, or general questions at todd.croft@dot.state.fl.us, thomas.allen@dot.state.fl.us, mecale.roth@dot.state.fl.us, or 813-612-3200.

20. Contact Amanda Serra for drainage related questions at amanda.serra@dot.state.fl.us or 813-262-8257.

Summary: After reviewing and discussing the information presented in this meeting, the Department has determined we are

☒ in favor (considering the conditions stated above)
☐ not in favor
☐ willing to revisit a revised plan

If you do not agree with the pre application meeting findings or wish to appeal a permit denial, you may schedule a meeting with the AMRC. Contact Traffic Ops, David Ayala, at 813-975-6717.

The access, as proposed in this meeting, would be considered

☐ conforming
☒ non-conforming
☐ N/A (no access proposed)

in accordance with the rule chapters 1996/97 for connection spacing. The following state permits will need to be applied for on our One Stop Permitting website (osp.fdot.gov):

☐ access-category A or B
☒ access-category C, D, E, or F
☐traffic study required
☐ access safety upgrade
☒ drainage
or
☐ drainage exception
☒ construction agreement
☐ utility
☐ general Use
☐ other_____

Thank you for giving us the opportunity to review and discuss this project in advance. Please feel free to contact me with any questions. We look forward to working with you again.

Respectfully,

Mecale' Roth

Permit Coordinator II
Tampa Operations
Office - 813-612-3237
M-Th 7 AM-5:30 PM

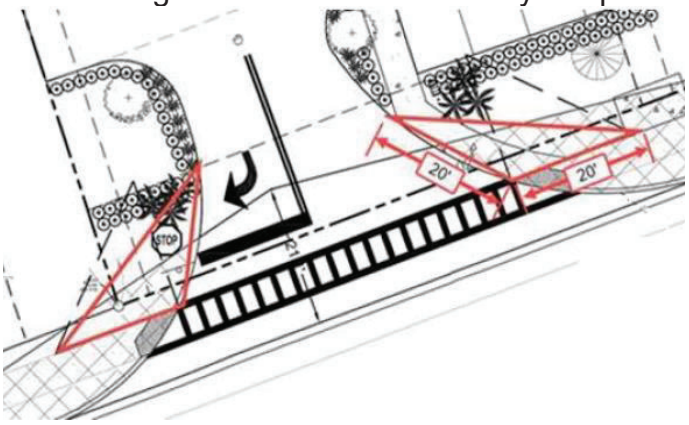
Additional Comments/Standard Information:

(These comments may or may not apply to this project, they are standard comments)

1. Document titles need to reflect what the document is before it is uploaded into OSP, and please do not upload unnecessary documents.
2. Documents need to be signed and sealed or notarized.
3. Include these notes with the application submittal.
4. Permits that fall within the limit of a FDOT project must contact project manager, provide a work schedule, and coordinate construction activities prior to permit approval. Ask Mecale' for information if not provided in the notes.
5. Plans shall be per the current Standard Plans and FDM.
6. All the following project identification information must be on the Cover Sheet of the plans:
    a. all associated FDOT permit #'s
    b. state road # (& local road name) and road section ID #
    c. mile post # and left (Lt) or right (Rt) side of the roadway (when facing north or east)
    d. roadway classification # and posted speed limit (MPH)
7. All typical driveway details are to be placed properly:
    a. 24" thermoplastic white stop bar equal to the lane width placed 4' behind crosswalk or a minimum of 25' in front of it
    b. 36" stop sign mounted on a 3" round post, aligned with the stop bar

c. if applicable, a “right turn only” sign mounted below the stop sign (FTP-55R-06 or FTP-52-06)
d. double yellow 6” lane separation lines
e. 6’ wide, high emphasis, ladder style crosswalk straddling the detectable warning mats
f. warning mats to be red in color unless specified otherwise
g. directional arrow(s) 25’ behind the stop bar
h. all markings on concrete are to be high contrast (white with black border)
i. all striping within and approaching FDOT ROW shall be thermoplastic

8. **Lighting of sidewalks and/or shared paths must be to current standards** (FDM section 231). Newly implemented FDOT Context classifications updated the required sidewalk widths (FDM section 222.2.1.1). Where sidewalk is being added and/or widened, the lighting will be analyzed to ensure sidewalks are properly lighted per FDOT FDM standards. Reference the following link for details: https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/fdm/2020/2020fdm231lighting.pdf?sfvrsn=2ad35fbf_2https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/fdm/2020/2020fdm231lighting.pdf?sfvrsn=2ad35fbf_2
9. Maintain 20’ x 20’ pedestrian sight triangles and draw the triangles on the plans to show there are no obstructions taller than 24” within the triangles. Also, no parking spaces can be in these triangles Measure 20’ up the sidewalk and 20’ up the driveway from the point at which the sidewalk meets the driveway. Here is an example of what these triangles look like and how they are positioned.



10. Any relocation of utilities, utility poles, signs, or other agency owned objects must be coordinated with the Department and the **existing and proposed location**

must be clearly labeled on the plans. Contact the Permits Department for more details and contact information.

11. Make note on plans that it is the responsibility of the contractor to not only restore the ROW, but they are also responsible for maintaining the ROW for the duration of the project.

TABLE 1

ESTIMATED DAILY TRIP GENERATION

Land Use	ITE LUC	Size	Daily Trip Ends (1)	Passerby Trip Ends (2)	New External Daily Trip Ends
Multi-Family	220	288 DU's	1,921	0	1,921
Discount Super Store	813	208,000 SF	10,508	1,650	8,858
Discount Gas	945	16 FP	3,383	1,374	2,009
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	2,104	570	1,534
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	2,104	570	1,534
High Turnover Restaurant	932	6,000 SF	643	149	494
Car Wash	948	1 Tunnel	780 (3)	0	780
		Total	21,443	4,313	17,130

(1) Source: ITE Trip Generation Manual, 11th Edition, 2021.
(2) Source: ITE Trip Generation Manual, 11th Edition.

- Passerby Trip Ends
  - Discount Super Store: 29%
    - 10,508 x 0.29 = 3,047
  - Discount Gas: 75%
    - 3,383 x 0.75 = 2,537
  - Fast Food Restaurant w/ Drive Thru: 50%
    - 2,104 x 0.50 = 1,052
  - High Turnover Restaurant: 43%
    - 643 x 0.43 = 276
- Passerby traffic should not exceed 10% of the adjacent street traffic.
  - 43,133 (a) x 0.10 = 4,313 < 7,964
  - (a) Based on PM peak hour background traffic at the intersection of US 41 and Leisey Road and K = 0.09.

TABLE 2

ESTIMATED AM PEAK HOUR TRIP GENERATION

Land Use	ITE LUC	Size	AM Peak Hour Trip Ends (1)			Passerby Trip Ends (2)			New External AM Peak Hour Trip Ends		
			In	Out	Total	In	Out	Total	In	Out	Total
Multi-Family	220	288 DU's	27	85	112	0	0	0	27	85	112
Discount Super Store	813	208,000 SF	217	170	387	43	34	77	174	136	310
Discount Gas	945	16 FP	129	128	257	67	66	133	62	62	124
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	103	98	201	36	33	69	67	65	132
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	103	98	201	36	33	69	67	65	132
High Turnover Restaurant	932	6,000 SF	31	26	57	9	7	16	22	19	41
Car Wash	948	1 Tunnel	19	19	38 (3)	0	0	0	19	19	38
		Total	629	624	1,253	191	173	364	438	451	889

(1) Source: ITE Trip Generation Manual, 11th Edition, 2021.

(2) Source: ITE Trip Generation Manual, 11th Edition.

- Passerby Trip Ends
  - Discount Super Store: 29%
    - In: 217 x 0.29 = 63
    - Out: 170 x 0.29 = 49
  - Discount Gas: 76%
    - In: 129 x 0.76 = 98
    - Out: 128 x 0.76 = 97
  - Fast Food Restaurant w/ Drive Thru: 50%
    - In: 103 x 0.50 = 52
    - Out: 98 x 0.50 = 49
  - High Turnover Restaurant: 43%
    - In: 31 x 0.43 = 13
    - Out: 26 x 0.43 = 11
- Passerby trip ends should not exceed 10% of the adjacent street traffic.
  - 3,637 (a) x 0.10 = 364 < 533
  - (a) AM peak hour peak peak season traffic at the intersection of US 41 and Leisey Road.
- Adjust Passerby Trips to 364.

TABLE 3

ESTIMATED PM PEAK HOUR TRIP GENERATION

Land Use	ITE LUC	Size	PM Peak Hour Trip Ends (1)			Passerby Trip Ends (2)			New External PM Peak Hour Trip Ends		
			In	Out	Total	In	Out	Total	In	Out	Total
Multi-Family	220	288 DU's	91	53	144	0	0	0	91	53	144
Discount Super Store	813	208,000 SF	441	460	901	75	77	152	366	383	749
Discount Gas	945	16 FP	148	147	295	64	63	127	84	84	168
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	77	72	149	24	23	47	53	49	102
Fast Food Restaurant W/Drive-Thru	934	4,500 SF	77	72	149	24	23	47	53	49	102
High Turnover Restaurant	932	6,000 SF	33	21	54	8	7	15	25	14	39
Car Wash	948	1 Tunnel	39	39	78	0	0	0	39	39	78
		Total	906	864	1,770	195	193	388	711	671	1,382

(1) Source: ITE Trip Generation Manual, 11th Edition, 2021.

(2) Source: ITE Trip Generation Manual, 11th Edition.

- Passerby Trip Ends
  - Discount Super Store: 29%
    - In: 441 x 0.29 = 128
    - Out: 460 x 0.29 = 133
  - Discount Gas: 75%
    - In: 148 x 0.75 = 111
    - Out: 147 x 0.75 = 110
  - Fast Food Restaurant w/ Drive Thru: 55%
    - In: 77 x 0.55 = 42
    - Out: 72 x 0.55 = 40
  - High Turnover Restaurant: 43%
    - In: 33 x 0.43 = 14
    - Out: 21 x 0.43 = 9
- Passerby trip ends should not exceed 10% of the adjacent street traffic.
  - 3,882 (a) x 0.10 = 388 < 669
  - (a) PM peak hour background traffic at the intersection of US 41 and Leisey Road.
- Adjust Passerby Trips to 388.

AGENCY REVIEW COMMENT SHEET

TO: ZONING TECHNICIAN, Planning Growth Management **DATE:** 16 August 2022

REVIEWER: **Bernard W. Kaiser, Conservation and Environmental Lands Management**

APPLICANT: Elise Batsel **PETITION NO:** MM 22-1228

LOCATION: Not listed

FOLIO NO: 54191.0100 **SEC:** _____ **TWN:** _____ **RNG:** _____

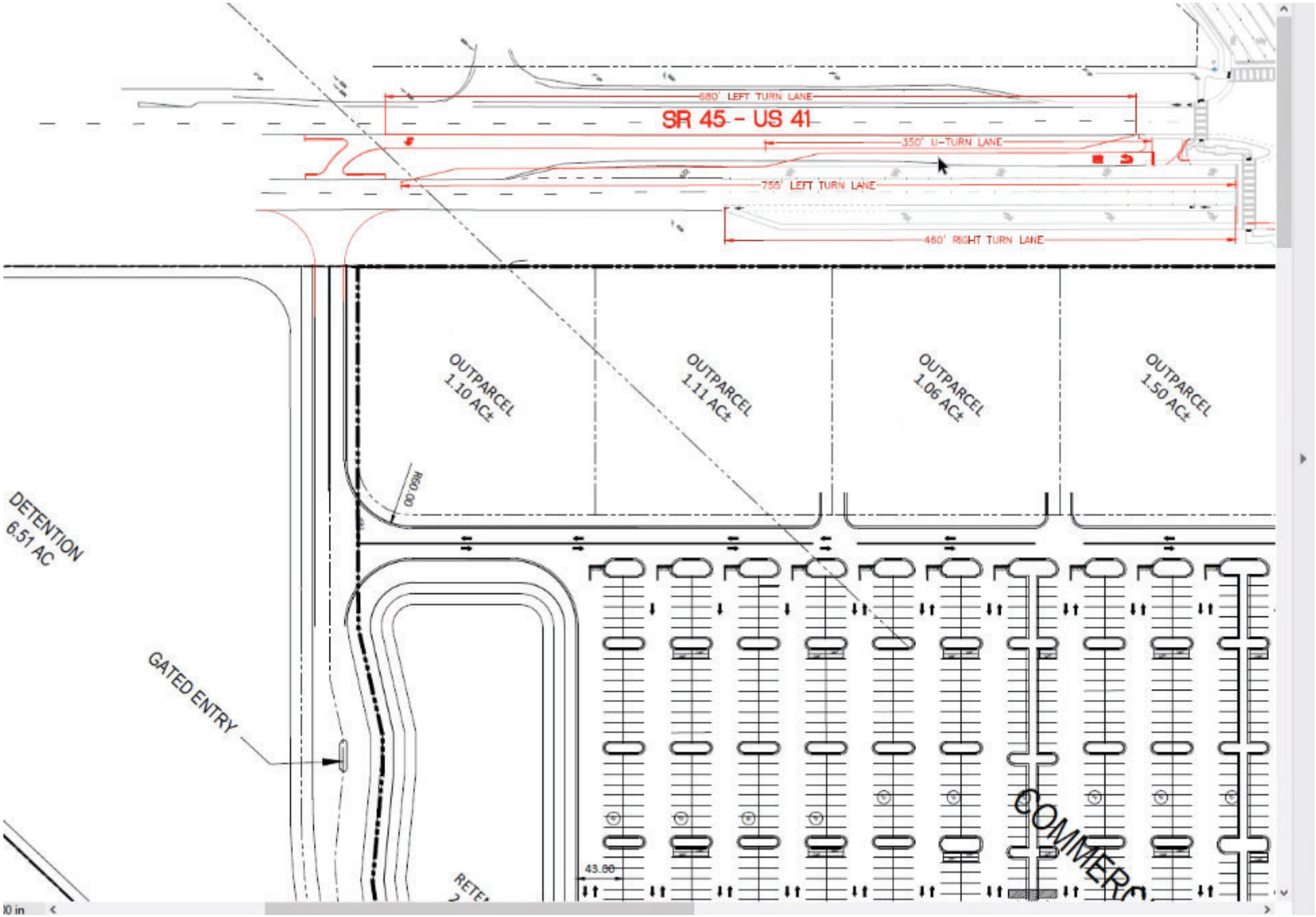
☒ This agency has no comments.

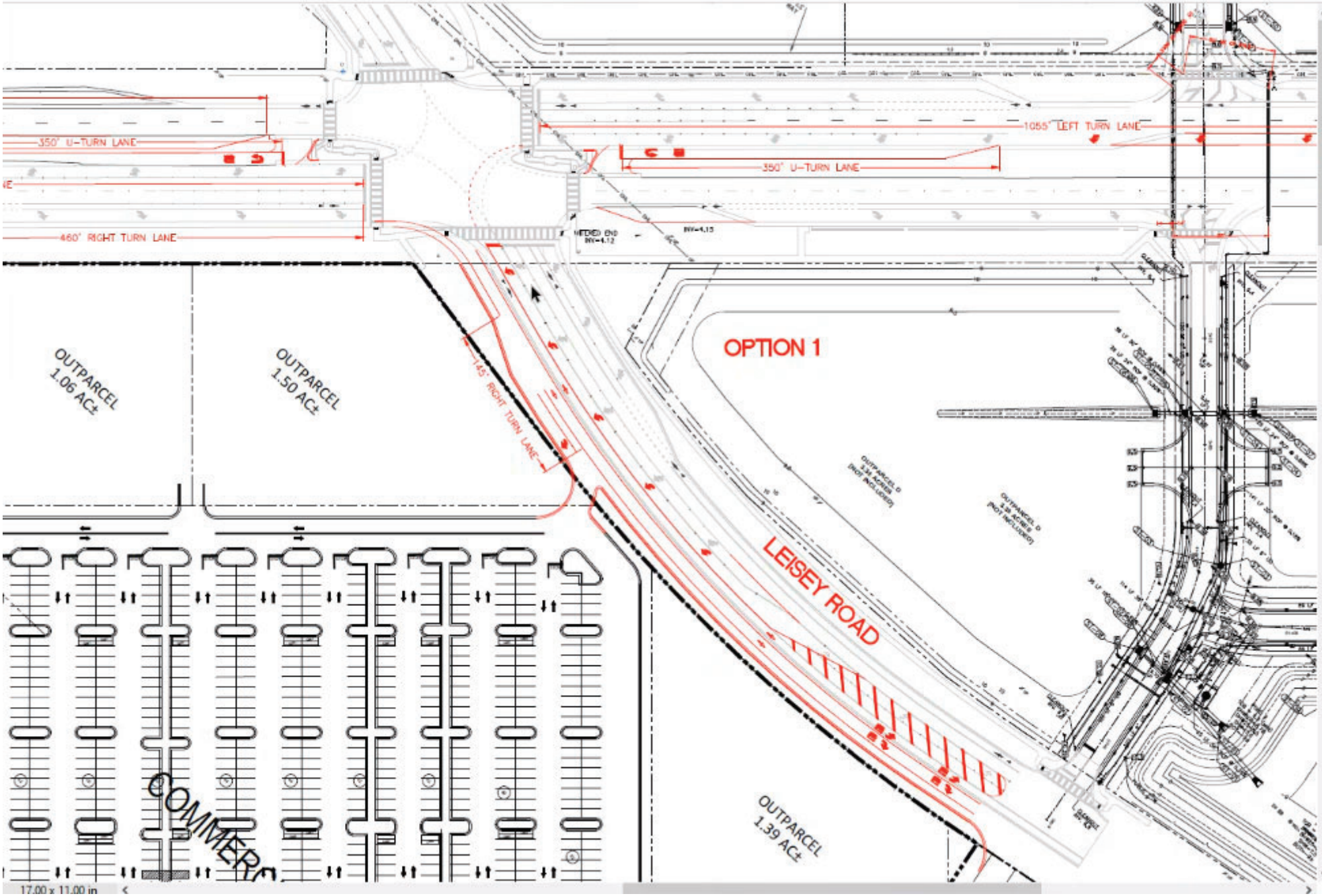
☐ This agency has no objection.

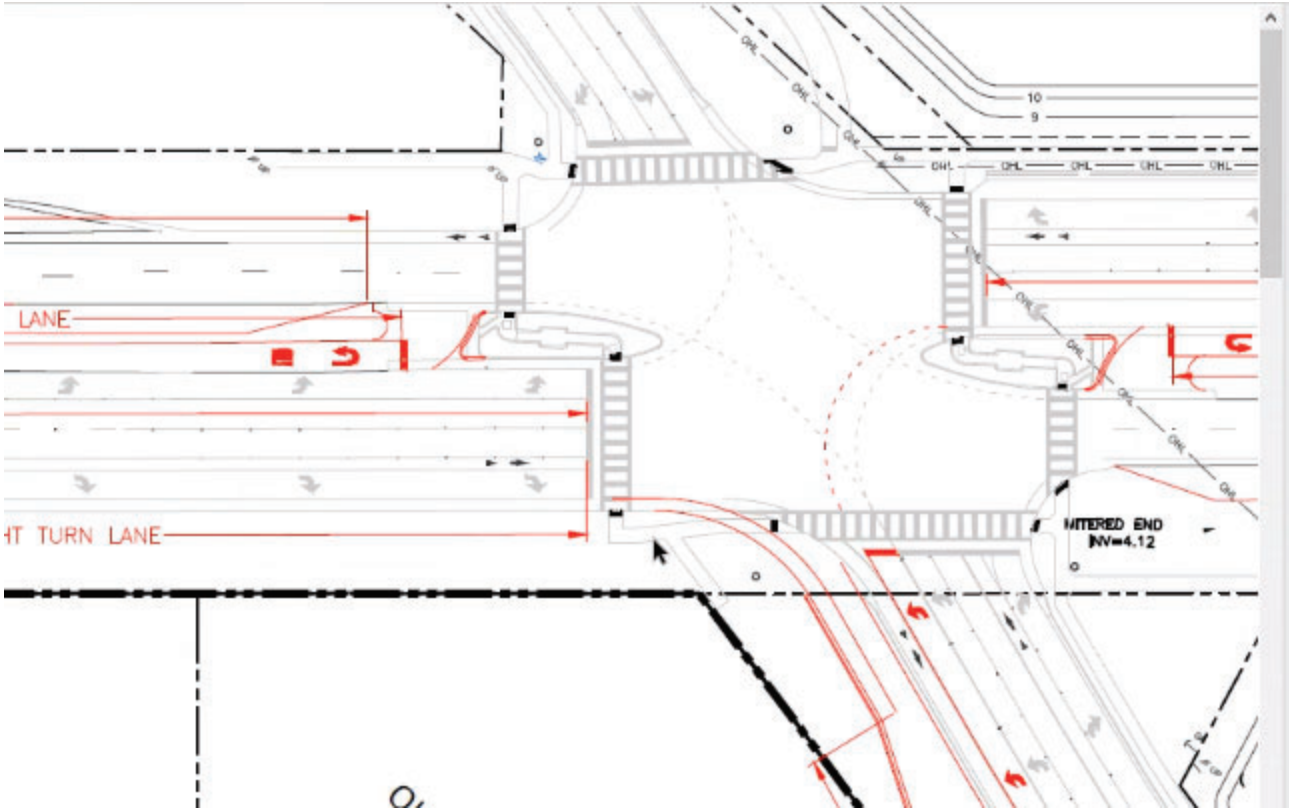
☐ This agency has no objection, subject to listed or attached conditions.

☐ This agency objects, based on the listed or attached conditions.

COMMENTS: _____.


680' LEFT TURN LANE
SR 45 - US 41
350' U-TURN LANE
755' LEFT TURN LANE
480' RIGHT TURN LANE
OUTPARCEL 1.10 AC±
OUTPARCEL 1.11 AC±
OUTPARCEL 1.06 AC±
OUTPARCEL 1.50 AC±
R60.00
DETENTION 6.51 AC
GATED ENTRY
43.80
COMMERC


350' U-TURN LANE
460' RIGHT TURN LANE
1055' LEFT TURN LANE
350' U-TURN LANE
OPTION 1
OUTPARCEL 1.06 AC±
OUTPARCEL 1.50 AC±
143' RIGHT TURN LANE
LEISEY ROAD
OUTPARCEL 1.39 AC±
COMMERC


LANE
HT TURN LANE
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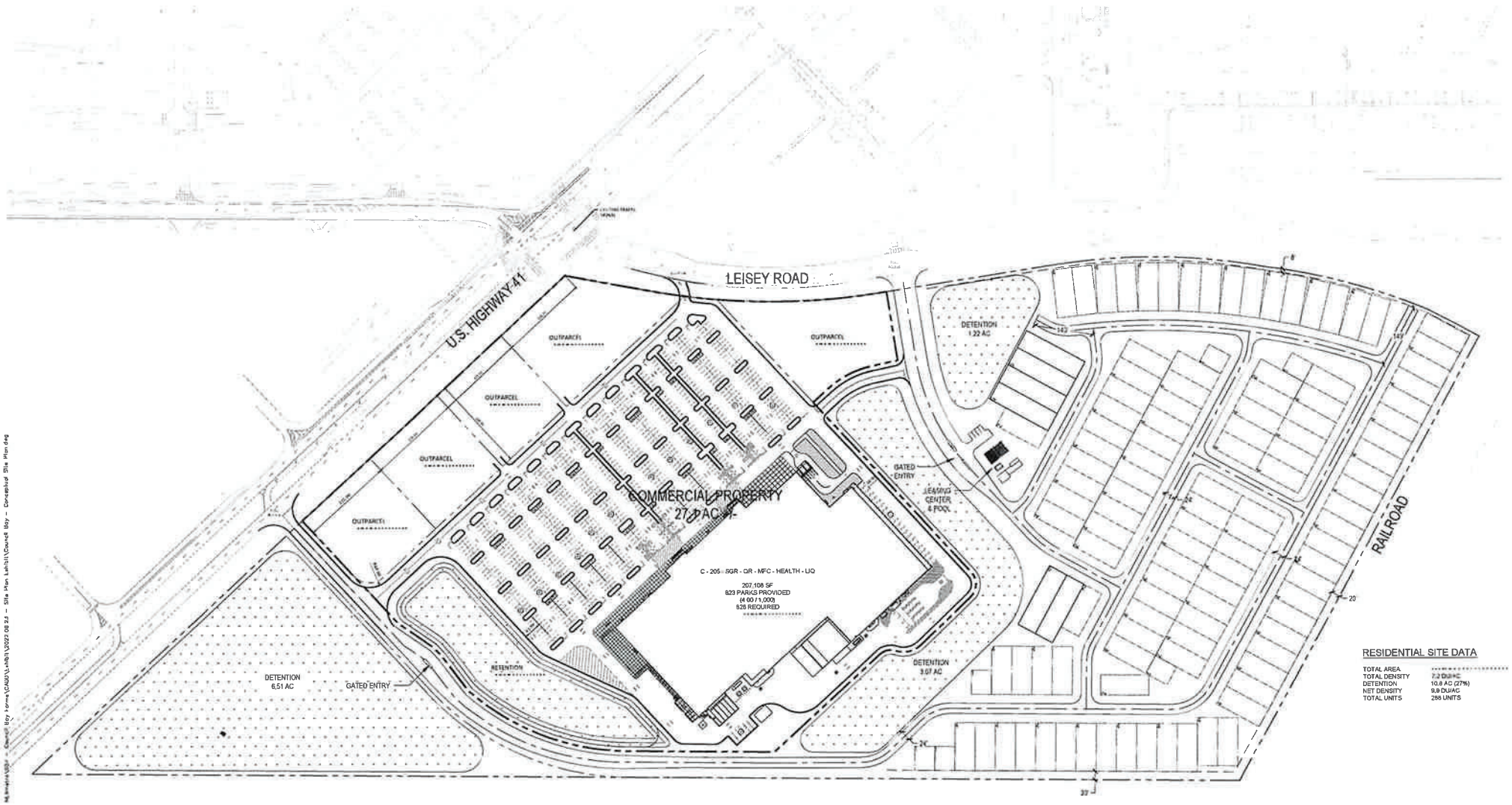

RESIDENTIAL SITE DATA

TOTAL AREA	29.0 AC
TOTAL DENSITY	7.2 DU/AC
DETENTION	10.8 AC (27%)
NET DENSITY	9.9 DU/AC
TOTAL UNITS	288 UNITS

SP-01

COUNCIL BAY FARMS

OVERALL SITE PLAN

06/23/22 - CONTACT ARTIE CINTRON (813) 620-1460

GRAPHIC SCALE IN FEET
0 50 100 200

NORTH

Kimley»Horn

VERBATIM TRANSCRIPT

HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

----------X
IN RE:)
)
ZONE HEARING MASTER)
HEARINGS)
)
----------X

ZONING HEARING MASTER HEARING
TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

BEFORE: SUSAN FINCH
Land Use Hearing Master

DATE: Tuesday, January 17, 2023

TIME: Commencing at 6:04 p.m.
Concluding at 11:35 p.m.

Reported via Cisco Webex Videoconference by:
Diane DeMarsh, CER No. 1654

MR. GRADY: The next item is Agenda Item D.5 major mod application 22-1228. The applicant is Council Bay Farms, LTD. The request is for a major modification existing plan development. Sam Ball will provide staff recognition after presentation by the applicant.

HEARING MASTER: Good evening.

MS. BATSEL: Good evening.

HEARING MASTER: Ms. Batsel, if you need assistance, we have county staff here that can help you with that. It doesn't look like you do.

(Simultaneous conversation.)

MS. BATSEL: Presenter mode. Presenter mode, so it shows notes and all that kind of stuff. See if we can figure this out between us. Okay. Let's go back for a second. It worked for Kami. Okay. No worries. We'll with this.

Good evening, Madam Hearing Officer. So nice to be back. We do miss our seats in the back, but otherwise, it's wonderful to be back here.

HEARING MASTER: I wondered what happened to that.

MS. BATSEL: This is a major modification 22-1228. Elise Batsel, 401 East Jackson Street on behalf of the applicant. This property is generally located in Apollo Beach. It's located near U.S. 41 south of Leisey Road. It contains 71.1 acres and it is within urban service area and the Apollo Beach and the South Shore Area Community Wide Plan.

1 The current Future Land Use designation is split.
2 There are 11.72 acres of OC 20 and 54.75 acres of FSMU-6.
3 There's a little sliver of remaining acreage that's actually
4 designated as a future right of way. We'll talk about that in a
5 bit.
6 So just to give you an orientation of where this
7 property is located. The -- the entire property is zoned PD,
8 but you can see that the neighboring uses to the north, this is
9 being developed now as a townhome development. To the west an
10 existing commercial activity center. To the south, is a
11 single-family subdivision with open storage. And to the east is
12 the CSX railway -- road and a little further is water set.
13 So this project is not a clean slate and that's really
14 important. This is a major modifications to an existing PD.
15 The current approvals are separated into two development
16 pockets. The first pocket, which is A, which is red on your
17 screen, is along U.S. 41. It's approved with 300,000 square
18 feet of development. I'll talk about a little bit more in
19 detail and pocket B which you can see is set back from U.S. 41
20 it's approved for 335,000 square feet of development today.
21 That's development that can be built and permitted without any
22 further approvals.
23 With -- with specificity in pocket A, this is approved
24 for 300,000 square feet of commercial intensive uses. So today
25 they could develop retail, Big Box and other heavy commercial

1 intensive uses. It also -- this approval relies on a flex for
2 additional square footage for purposes of those and the audience
3 of flex is similar to a bonus. The approval for pocket B is
4 335,000 square feet of the following uses, office, personal
5 service, minor industry, research, corporate park, warehousing
6 and open storage.
7 Now before I present the project and the reduction
8 entitlements that we're proposing tonight, I did want to
9 mentioned that this is on the corridor preservation plan. So
10 Leisey Road is preserved and planned for four -- for four lanes
11 and we have reserved some additional right of away for that
12 purpose. The point being that Leisey Road in this area, it's in
13 these commercial nodes that commercial development is supposed
14 to take place under a comprehensive plan.
15 So what are we requesting here tonight? We are
16 requesting in pocket A to reduce the commercial attentive uses
17 from 300,000 square feet to 230,000 square feet. That's
18 actually a 23% reduction in commercial entitlements in that
19 pocket. The second change is we are eliminating and replacing
20 all of the commercial uses in pocket B. That's eliminating
21 335,000 square feet of commercial uses. And we're replacing
22 that with 303 multi-family dwelling units. Now, these are
23 single-family for rent, but under your code and how you define
24 lots that are not platted and subdivided, it is considered
25 multi-family for zoning purposes.

1 We are also requesting to remove the request -- excuse
2 me, remove the flex of the future land use category because of
3 the reduction entitlements, no flex is required at this point in
4 time. As you can see, we've modify the boundaries between
5 pocket A and pocket B to really make the storm water retention
6 and the buffer be more practical and also provide more boundary
7 and more buffer and screening to the adjacent developments.
8 Again, this is just a visual and title of comparison
9 showing the reductions between the existing by right development
10 and what is proposed.
11 So what pocket A access is both Leisey Road and U.S.
12 41. You can see the two arrows. Specifically, we have added
13 buffers between pocket A and pocket B so that those uses are
14 buffered between one another. We've also provided a lot of
15 buffer to the south by pocket A. Pocket A wraps underneath
16 pocket B, which just provides for -- additional buffering and
17 screening to the adjacent development. It pocket B, it's 303
18 units of multi-family. This is is a community with amenities.
19 They also have access to 41 and you'll see the cross connection
20 between uses so that they also access Leisey Road.
21 Is it is buffered from pocket A. And -- and really
22 important to note about pocket B is, right now the existing
23 zoning allows 50 feet in height for these commercial
24 developments. We are reducing this to 35 feet in height because
25 the product that's going to be delivered in the multi-family is

1 a one-story single-family for rent component. So a reduction in
2 height.
3 So there was -- we reviewed a lot of emails up until
4 last Thursday of last week and there were a couple of things
5 that neighbors were concerned about. And so we felt that there
6 was a lot of misinformation about this project. So we set up a
7 Zoom informational meeting to address really two main buckets of
8 concerns. The first bucket is that a lot of people emailing
9 said, we do not need a Walmart in a -- in this location. And I
10 want to be 100% clear for the record, there is no deal with
11 Walmart, there is no deal with Lowe's, there's no deal with
12 Target today. There's no deal with Homegoods or PetSmart. It
13 can be all kinds of things. There is no end user confirmed on
14 the -- on the commercial development in the initial pocket A.
15 That's going to come over time, but we don't have that yet. So
16 I did want to put that on the record.
17 The second thing is that those emailing -- I didn't
18 think, really understood that this was already approved for much
19 more intense commercial development. To facilitate this
20 meeting, an email was sent out to all of the people who had
21 filed an email objection by Wednesday the 11th. We did hold the
22 informational meeting and we had 25 attendees. Hopefully, we
23 answer a lot of questions. Another thing that's really
24 important to note is if you look at the geographical location of
25 where people live that filed letters of objections, 99% of the

1 those people were outside the notice area. Some of them were
2 six and seven miles away. Some of them were in the Apollo Beach
3 community, but some of them were very far away. So just for
4 reference and the way of how you look at that evidence.
5 Now, we also had a second meeting and this is for the
6 neighborhood directly to the south. We met with the
7 neighborhood isles HOA committee, as well as their legal
8 counsel. Their legal counsel will be here to support this
9 project. And you'll hear from her later -- later this evening.
10 We discussed the exit -- existing buffer and we agreed to an
11 additional buffer. But you have that on your screen. But let
12 me paraphrase what we agreed to. If you look at the aerial
13 you -- you see, and we'll go to that eventually, there's a
14 cul-de-sac and a big open storage yard. And it runs for about
15 780 feet. The developer has agreed that in that tight 20 buffer
16 area, in lieu of a fence, we're going to put a masonry wall for
17 noise, for you know, for security for yard and for security for
18 the residential development to the south.
19 At this point in time, I'd like to turn it over
20 briefly to David Smith to talk about compatibility and
21 consistency with the comprehensive plan.
22 MR. SMITH: Thank you. David Smith, 401 East Jackson
23 Street. Director of development and zoning for Stearns, Weaver,
24 Miller. And I have approximately 48 years of experience in
25 Hillsborough County Zoning Planning Development and Permitting.

1 You see before you on the screen, we're talking about the
2 compatibility of this particular development. And it should be
3 noted that a more intensive development's already found to be
4 consistent and compatible with those surrounding areas. But
5 this development has gone through a more -- a metamorphosis so
6 to speak. And part of that has been to pull in the commercial
7 core to a more tighter fit. Before there was commercial along
8 the frontage of 41. We have a shared driveway coming off of 41
9 that comes into both pocket A and pocket B. Pocket B actually
10 has all the property along the southern end of the -- the -- the
11 property bounding the single-family residential development to
12 our south.
13 So pocket A is more compatible. It pulls the building
14 envelopes further away from the single-family to our south. The
15 pocket B buffer is also -- there's a buffer between residential
16 internal to the project. So we've kind of put the commercial
17 component in the -- of the buffer and then we've also had a
18 buffer at the perimeter of the property, which we'll discuss a
19 little bit more. So increased compatibility is also when we
20 look at parcel B. Parcel B used to be a very intense 335,000
21 square foot commercial warehouse, storage. It could be very
22 intense and it was also 50-foot in height. The multi-family
23 component's already indicated by at least is reduced to 35 feet
24 in -- in height. They're really single story, you know,
25 single-family homes per say, but they're just for rent.

1 Additionally, when we look at the increase
2 compatibility, it was referenced to earlier, but on their
3 southern side, there is a platted track that is RB storage --
4 storage. That's particular to and -- and solely used by the
5 community to the south. This is the area that we're seeing
6 described in just a second. Where (inaudible) come to to put a
7 little bit more screen in place through the wall. So in this
8 development, there's several types of operations. So on the
9 southern property boundary, we have a 20B. Then where the red
10 line is the area where the eight foot wall -- excuse me, six
11 foot wall has been discussed and -- and committed to where it
12 abuts the cul-de-sac for the community to the south, as well as
13 the RV storage that's platted on the southern property line.
14 As we move further research, type (inaudible) a buffer
15 because we're up against environmental and residential
16 essentially 303 units of residential development.
17 Also internal to the project, you can see the buffers
18 that were -- are also proposed, which we had a ten foot buffer
19 that wraps the commercial core and also on the backside where we
20 wrapped it in ponds. It also provides some screening and
21 separation from the commercial component to development to the
22 south.
23 This project has been previously reviewed in a more
24 intensive development compatible and consistent. But some of
25 the comprehensive plan consistency policies and objectives role

1 we can add as a we're in the urban service area. The -- the
2 proposed intensity and development is comparable scale of
3 non-residential development incurring at the segment of 41.
4 It's consistent with the OC 20 and SMU-6 standards. It blends
5 density across the property and also comports some compatibility
6 with multi-family closer to the single-family and adjacent
7 residential uses. And it's also consistent with Apollo Beach
8 and the South Shore Community Plans.
9 With that, I'll turn it over to --
10 MR. HENRY: Good evening. Steven Henry, Links and
11 Associates, 5023 West Laurel Tampa, 33607. We had conducted the
12 traffic analysis for the project. The graphic that is up for
13 you right now is a trip generation comparison of the approved
14 trips within the approved PD versus what we're proposing. As
15 you can see under the approved PD it'd be about 23,000 trips --
16 daily trips versus about 17,000 for the proposed project.
17 That's a reduction of about 5,900 trips. Now one of the things
18 you will notice in the Staff Report, they also did a comparison,
19 slightly different numbers. Part of it is that they used office
20 part where we used office. We were a little more conservative
21 in our numbers. Theirs is a little higher.
22 Two, these are based on -- these are new trips on the
23 road. They did total trips. So again, a little different, but
24 this is actually the -- the new trips that we put on the road
25 for the for comparison. So just so you know that, that's the

1 difference between the, you see a difference. And then this
2 graphic shows the a.m. and p.m. peak hour trip (inaudible) or
3 difference. So in the a.m., which is the -- the green is the
4 approved, blue is the proposed. There's a reduction of about
5 480 -- 478 trips. And then the p.m. peak hour, there's a
6 reduction of over 665 trips versus what is approved versus what
7 we're proposing today. Then this graphic provides, we
8 calculated based on what we estimate the land uses to be for the
9 project in the commercial we'd generated about 4.8 -- 4.4
10 million square -- dollars of mobility fees and residential would
11 be about $2 million.
12 And then in addition to that, what the developer is
13 doing fairly significant improvements to the transportation
14 network to accommodate the project. And this provides a list
15 of -- of those improvements. One is that we're adding a second
16 westbound to southbound left turn lane on Leisey Road onto U.S.
17 41. We're actually adding a separator to separate the -- we're
18 adding an eastbound to southbound right turn lane on Leisey Road
19 onto the project. An eastbound to southbound right turn lane on
20 Leisey Road at the project. And then we're constructing on U.S.
21 41 at the intersection of Leisey and 41, we're actually adding
22 both northbound and southbound left turn lanes to allow
23 addition -- additional lanes to allow the u-turns at those
24 intersections.
25 And now I'll turn it back over.

1 MS. BATSEL: Thank you. We won't go over all the
2 transportation improvements. There are quite a number, but
3 they're in our presentation.
4 In addition, I just wanted to follow back up on
5 something that we often forget about and this is more for the
6 Board. The Comprehensive Plan has property rights in Policies
7 1.1, 1.2 and Objective 3. So I just wanted to revisit this is
8 an existing commercial and titled property. Quickly, I have
9 four seconds. The major modification reduces pod A -- I will
10 save my comments for rebuttal.
11 HEARING MASTER: I have one question.
12 MS. BATSEL: Yes.
13 HEARING MASTER: I note in the Staff Report and the
14 description that there is a request to reduce the number of
15 parking spaces for a discount superstore.
16 MS. BATSEL: Yeah. It's actually for Big Box. There
17 is -- is no discount superstore. Is that an origination issue?
18 MR. HENRY: Yes. Steven Henry again. So yes, so what
19 we're looking at was the large retail box and so we use the ITE
20 generation -- generation and so that has a lower generation rate
21 than the typical retail for -- in the land development.
22 HEARING MASTER: So what is the ITE code that you
23 used? What is that? Is it Big Box? What is that?
24 MR. HENRY: I'll get that.
25 HEARING MASTER: Okay. I just had a question and it

goes to while we're looking this, and we can come back and revisit this once the staff goes through, but it goes to justification for it from five to four spaces, why is that needed?

MR. HENRY: I'll get there.

HEARING MASTER: That's fine. We'll get with -- I presume that's Mr. Steady as well. So I can talk to him. So thank you very much. Appreciate it. Development Services. Good evening.

MR. BALL: Good evening. Sam Ball with Development Services. The original plan development for this project was PD 06-1035 was approved in 2007. Filled out approximately 71 acres at the southeast corner of U.S. Highway 41 and the Leisey Road to be developed 300,000 square feet of commercial intensive uses, 335,000 square feet of business professional office, flex space, personal services, minor industrial research corporate park, warehousing and other storage uses. The applicant is requesting a modification to reduce its entitlements from 300,000 square -- 300,000 square feet of commercial intensive uses 230,000 square feet of commercial intensive uses. And to eliminate the 335,000 square feet of business professional office warehouse storage, corporate park, commercial services are in place of a 303 multi-family dwellings. The applications also includes modifying the boundaries between pods A and B.

The area being modified covers approximately 67 acres.

It's located next to U.S. 41 to the west, so railroad right of way to the east. Leisey Road right of way easement to the north and two plain developments to the south that are developed for single-family and a vacant property that's approved for a mix of commercial uses and multi-family. Uses the immediate vicinity, it includes a single-family residential, auto repair, a shopping center, a bridge and vacant lands. The applicant is requesting a variation from Section 6.05.02. Parking and loading standards, which would produce the minimum parking ratio five to four spaces per thousand square feet of (inaudible) for the large scale retail space.

Based on the adjacent zonings, development patterns outlines the proposed modification and is compatible with the existing zoning districts and development area. Additionally, Staff finds as a result of the variations, reduce parking spaces from five per thousand to four per thousand square feet for the 208,000 square foot discount superstore where it reduces the total spaces from 1,040 to 832 spaces and would be in harmony with the purpose and intent of the Land Development Code.

Staff would recommend approval and requests subject conditions. And (inaudible) report. Also, I do have a -- a revised Staff Report for the (inaudible) comments after the following deadline so we could turn those in.

HEARING MASTER: All right. You could submit those to the Clerk when you're done, but that -- that -- the last part of

1 your testimony is what triggered my whole question in -- in that
2 your Staff Report says that that reduction from five spaces to
3 four spaces per thousand is in harmony with a purpose -- with
4 the purpose and intent of the Land Development Code.
5 So maybe it's not you. Maybe it's Mr. Steady to talk
6 to about that study that Mr. Henry did and -- and evaluation.
7 And I understand that the County Staff supports it. Would that
8 be -- talk to you about it?
9 MR. HENRY: Right. Any any technical questions would
10 be for Mr. Steady.
11 HEARING MASTER: Okay. Well -- all right. Well,
12 let's -- let's let Mr. Steady and then we'll get back to you,
13 Mr. Henry. So does that conclude your presentation?
14 MR. HENRY: Yes, ma'am.
15 HEARING MASTER: All right. Thank you so much.
16 Mr. Steady, are you available?
17 MR. RATLIFF: Hi. Good evening, Madam Hearing
18 Officer. This is James Ratliff.
19 HEARING MASTER: Good evening, Mr. Ratliff.
20 MR. RATLIFF: Hi there. So yeah, I'd be happy to
21 answer any questions you have. We did review the applicant's
22 request and they did provide technical justification to support
23 their requests from the Institute of Transportation Engineers
24 Parking Generation Manual. And it provides data for the use
25 that they call freestanding discount superstore, which is their

1 code 813. So it's a little bit different than the language from
2 our Land Development Code, but it is the comparable type of use.
3 And so that -- the data from that did support the -- the
4 production that they were asking for. We did write in our
5 proposed zoning condition because the Land Development Code does
6 include a mechanism for asking for five percent release for the
7 provision of bicycle parking. So we made sure the condition was
8 written such that they will be providing an equivalent number,
9 essentially taking advantage of that discount first.
10 And you know, that bicycle parking will, you know, be
11 good for the staff people and help offset some of that need.
12 Just anecdotally, I also did the visual survey of kind of
13 Big Box retailers in the county in looking at various aerial
14 photography and not necessarily as scientific as the ITE parking
15 data that is in the record. But again, I want to look at
16 aerials to see overall kind of over time and utilization at our
17 existing Big Box sites in the county, as we go fairly
18 (inaudible) that has not been updated comprehensively in a
19 while. I wanted to see what kind of parking utilization on the
20 aerials that looked like and it did look like all the types that
21 I looked at, generally speaking, were you know, have sufficient
22 parking and had additional parking if they did lose some.
23 So again, I know sometimes in December things get a
24 little crazy, but generally speaking, a the County, we plan to
25 the highest date or the highest month, you know, of shopping

1 that occurs. And so it might be a little tight during the
2 Christmas, you know, or Black Friday shopping rushes or
3 something like that. But generally speaking, we believe that
4 this will provide adequate parking for the facility.
5 HEARING MASTER: So Mr. Ratliff, just to summarize.
6 So the County's support is based on the ITE parking manual and
7 I've forgotten the addition you cited, but the -- the code or
8 the term is freestanding discount superstore is at four per
9 thousand, is that correct?
10 MR. RATLIFF: Correct. They -- that -- that is the
11 rate that they're requesting at four per thousand. And then
12 again, we included a component requiring a bicycle parking for
13 that first five percent of the spaces as if it had been
14 calculated based on the five per thousand rate.
15 HEARING MASTER: So instead of a -- I think I read
16 instead of a 20% reduction it's actually 15, I believe, because
17 you've accounted with that bicycle parking.
18 MR. RATLIFF: Correct.
19 HEARING MASTER: Okay. All right. Thank you for your
20 testimony. Excuse me. I'm sorry.
21 MS. BATSEL: Madam Chair, may I make a point of
22 clarification on that?
23 HEARING MASTER: If you could just give your name for
24 the record.
25 MS. BATSEL: Yes. Elise Batsel, 401 East Jackson.

1 The parking variation is only if it's related to Big Box. So if
2 you read the conditions it is limited to Big Box, which is why
3 that is tied to the Big Box.
4 HEARING MASTER: Understood. Thank you for that. I
5 appreciate it. All right. So with County Staff completed, then
6 we'll go to the Planning Commission.
7 MS. MASSEY: This is Jillian Massey with Planning
8 Commission Staff. The subject site is located in the office
9 commercial 20 and suburban mixed use six Future Land Use
10 Category. It's in the urban service area and located within the
11 limits of the Apollo Beach and South Shore Area Wide Systems
12 Community Plans. The surrounding Future Land Use Category
13 designations includes suburban mixed use-six to the north,
14 northeast, east, northwest, southwest -- southeast, in a small
15 pocket to the southwest. To the west is a Residential-6 Future
16 Land Use Category.
17 The applicant is proposing to -- to utilize the Future
18 Land Use Element Policy 8.8 by blending densities and
19 intensities between multiple Future Land Use Categories. The
20 intersection of U.S. Highway 41 and Leisey Road is identified on
21 the 20 40 highway cost affordable map. Per Future Land Use
22 Element Policy 22.10, commercial locational criteria does not
23 apply to the subject property as it is considered a mixed use
24 project and located within the office commercial 20 Future Land
25 Use Category. The general area is solely transitioning from a

1 rural character to a suburban character. This is evident
2 through the increase in residential development in the area in
3 the integration of non-residential uses.
4 The proposed intensity of the development would be
5 comparable to the scale of non-residential development occurring
6 in this segment of U.S. Highway 41. The other quadrants of the
7 intersection of U.S. Highway 41 and Leisey Road are zoned for
8 several larger scale commercial and office projects. The
9 proposed land development would not be out of character with
10 what is occurring at this intersection. The reoning is
11 consistent with Future Land Use Element Objective 16 and is
12 accompanying policies, which emphasize side the need to protect
13 existing neighborhoods and communities and those that will
14 emerge in the future.
15 The request does protect existing neighborhoods by
16 concentrating the commercial uses closer to U.S. Highway 41 and
17 Leisey Road. The request is consistent with Objective 6 in the
18 Future Land Use Element and the goals found in the Apollo Beach
19 and South Shore Community Plans. The South Shore Area Wide
20 Systems Plan transportation objective indicates a need to
21 alleviate traffic congestion by extending Leisey Road.
22 And based upon these considerations, Planning
23 Commission Staff finds the proposed major modification
24 consistent with the Unincorporated Hillsborough County
25 Comprehensive Plan subject to the conditions proposed by the

1 Hillsborough County Development Services Department. Thank you.
2 HEARING MASTER: Thank you. I appreciate it. Is
3 there anyone in the room or online that would like to speak in
4 support? Anyone in favor of this application?
5 MR. ALI: One person.
6 MR. GRADY: One person in support.
7 MR. ALI: Yes.
8 HEARING MASTER: Okay.
9 MS. RUSSO: Katie Russo.
10 HEARING MASTER: All right. Go ahead.
11 MS. RUSSO: Can you hear me?
12 HEARING MASTER: I can.
13 MS. RUSSO: Okay. So my name is Katie Russo. I am an
14 attorney at Glausier Knight Jones. We're at 400 North Ashley
15 Drive, Suite 2020, Tampa, Florida 33602. So we're counsel for
16 Harbor Isles Home -- Homeowners Association. It's about a 500
17 home -- about 500 homeowners just south of this parcel of land.
18 We have been working with a lease and we have done a lot of
19 research. I do a lot of our own due diligence as there was a
20 lot of misinformation out there about what exactly was going to
21 be up for rezoning tonight. And so we are here to reach support
22 for those rezoning application for a couple of reasons. Mostly
23 because we believe that this rezoning by reducing the commercial
24 intensive portion of that, will be the best case scenario for
25 the surrounding community session for our clients.

1 And secondly, the owners and the developers and their
2 attorneys have been very open and going to listen to my client's
3 concerns. They were very helpful in scheduling meetings with us
4 to sit us down and really walk us through what they basically
5 just presented to you as well. So they've been very, very
6 welcoming open to listening to our clients and they even agreed
7 to write in the formal condition to the rezoning plans to
8 address our concerns which will talk about so they will go over
9 that. But we've just been very happy with how willing they are
10 to work with us with such short notice. And we're looking to
11 form, you know, a relationship with their future neighbors. So
12 for those reasons, I did get authority from the HOA Board to
13 show and show our support for this rezoning.
14 HEARING MASTER: Thank you for your testimony. I
15 appreciate it.
16 MS. RUSSO: Thank you.
17 HEARING MASTER: All right. I see no one else to
18 speak in support. Is there anyone that would like to testify in
19 opposition? All right. How many hands do we have in the room?
20 I see three, right? And do we have any online that would like
21 to speak in opposition.
22 MR. ALI: Yes.
23 HEARING MASTER: One person online.
24 MR. ALI: One person. Yeah.
25 HEARING MASTER: All right. And did I hear four --

1 four in the room. So we have five total. So that's three
2 minutes a piece, Michael if you could please start. Do any of
3 you have preference as to the online person or the person in the
4 room going first? Do you have any kind of order to this?
5 All right. So let's start in the room if you -- since
6 you're already up if you want to come forward and give us your
7 name and address please.
8 MS. SOUTHWELL: Sherri Southwell, 552 Frander Place,
9 Apollo Beach, Florida 33572. I come before you tonight as a
10 very concerned resident of Apollo Beach. The -- I'm just going
11 to go by the Apollo Beach Community Plan. So it states it
12 consists of nine rules and strategies that are generally
13 intended to enhance community character, promote the development
14 of a town center, promote economic development, establish design
15 standards, protect and enhance the canal system, enhance the
16 transportation system and develop trail and sidewalk
17 connectivity.
18 I feel that this development overall, I'm kind of
19 going back in history because I -- I know that part of this has
20 already been approved. I feel it was done in bad faith, that's
21 my opinion. I feel that this project as a whole violates Goal
22 one, which is enhanced community character, which was one of the
23 top priorities of the group. Two, to ensure quality and land
24 use and design. I feel that there are better uses for this
25 property rather than what is being planned now. Something more

1 community focused with event spaces and things like that,
2 something that the community as a whole would benefit from.
3 I also feel that Goal 4 of improving transportation
4 will not happen to this. And I have to ask the applicant, do
5 the trip generation studies take into account that Mainrove
6 Point (phonetically) meaning the townhomes and the single-family
7 homes are not built yet. We don't know what that traffic's
8 going to like. And I believe there are units going in behind
9 the Winn-Dixie across the road. So that small corridor, the
10 traffic will be chaotic. I don't care how many traffic studies
11 you show, I drive this path. I know what it looks like and I
12 can tell you with certainty that the traffic is going to be a
13 chaotic mess. So I would like to have more information on that.
14 And I'm going to also like to ask the applicant
15 because the -- they've insisted that they don't -- they haven't
16 committed to one particular store, I'd like to note who they're
17 negotiating with, so we have an idea who this person or this
18 business might be.
19 HEARING MASTER: You have a little less than a minute
20 left.
21 MS. SOUTHWELL: Okay. Well, I'm -- I'm pretty much
22 done with what I have to say. But I do feel the overall
23 project, because infrastructure is lacking in South County and
24 it has been for years, the fact that we don't have enough fire
25 stations is proof of that, but our runways need to be widened.

1 Our roads need to be fixed. That's it. Thank you.
2 HEARING MASTER: Thank you for coming down. Please
3 sign in. Next please.
4 MS. LUSSIER: My name is Jeanine Lussier, 477 Flamingo
5 Drive, Apollo Beach. And I'd like to kind of tag onto some of
6 the comments that Sherri has made. Apollo Beach is changing
7 dramatically, you know. It's population has risen by 48% over
8 the last four -- four years or so. Within a ten-minute drive
9 from the front of Apollo Beach Boulevard and Highway 41,
10 population is now up to 51,000. The average household income is
11 $99,000 and the median age is 38.
12 Customer trends of people entering the Apollo Beach
13 area 48,900 unique customers averaging a 110,000 visits with an
14 average length of stay for 65 minutes. I think my point to this
15 is that I -- I too --
16 HEARING MASTER: Ma'am, if you could -- if you could
17 address me.
18 MS. LUSSIER: I love -- yeah. Okay. I love the idea
19 of progress, but I think we're being very short sided by putting
20 any single use Big Box in there. It really does go against the
21 idea of community. There's been so many examples, including up
22 in Tampa, like Sparkman Wharf, the Grove, Midtown Tampa, places
23 where you can have mixed use commercial and residential where it
24 also allows for communities. There's a significant amount of
25 expend -- expendable income that is leaving our area to go to

these areas. And I think putting any kind of a box store is very short sighted. We're losing money to our neighbors who have to go to Tampa to get this variety and this community based experience that you get in places like Sparkman Wharf, the Grove, you know, places like that and other examples all across the country. That is the future. The future is not another strip mall, not another Walmart, not another Big Box store in a neighborhood that has been so well known for its cohesiveness in community.

I -- what I'm proposing today is that the owner and developer just come to a series of townhome -- townhome meetings at our major HOAs at Waterset, at Mira Bay. And if the Apollo Beach Community Center, maybe three town hall meetings and really hear from the residents in the area. The significant -- I think they're -- they're really looking short sighted. You have a mixed use space that, for example, includes like think of a typical parking lot, right, with a covered space. And now you can have events such as job fairs, health fairs, arts and craft festivals, car shows for the community. Think of shared space where you could have yoga studios, taekwondo which is huge in our area. Indoor/outdoor restaurants surrounding a courtyard with grass that you can, you know, maybe have film festivals in. You could bring your own lawn chair, you know, truly something that's more cohesive to the community that we are.

And I am asking please to allow us, I think it would

be awfully tight to have it done by March, but postpone it for one month. Please, come to the community meetings and, you know, I --

HEARING MASTER: Ma'am, if you could wrap it up.

MS. LUSSIER: Okay.

HEARING MASTER: You're out of time.

MS. LUSSIER: Yeah. Okay. Sorry. But thank you. I mean, I'm all for profit and I know there's a profit, but I think there's missed opportunities here for even greater profit if they kind of just rethink it a little bit and I'd like to please invite them to come to some community town meetings and just rethink if that is what's appropriate for our community.

HEARING MASTER: Thank you so much.

MS. LUSSIER: Thank you.

HEARING MASTER: If you could please sign in with the Clerk's office. And the next person. Good evening.

MR. FINLEY: Good evening, late evening. Steven Finely, 815 Isle Bay Drive, Apollo Beach, Florida 33572. I'm a third generation Tampa resident. I'm here tonight to speak on behalf of 1400 plus Mira Bay residents and the non-profit organization Save Our Bay, which I am the current president. The burden of proof and work is on the local county and state agencies to ensure that all actions and measures are reviewed, researched, assessed and deliberated with due diligence and cross communicate with all regulatory agencies.

1 Unfortunately, this rezoning project is not compliance
2 with the health, welfare and safety of our current and future
3 Apollo Beach residents and it's wildlife and habitants.
4 Questions for the record, as the Florida Wildlife
5 Commission and Save the Manatee Organization that included in
6 this proposal was impact the manatee fresh water drinking
7 sources. Did you know that there were only two direct fresh
8 water sources for manatees residing in and around Teco Power
9 Plant? One source is the Newman Creek flowing into the actual
10 manatee viewing area and the other is Wolf Creek Watershed
11 flowing into the Biscayne Canal. The County Commissioner and
12 the State Officials know that manatees (inaudible) two fresh
13 water runoff areas for a drinking source. Are you aware that
14 over 1,300 houses are current under development within Wolf
15 Creek Watershed Creek and source at present.
16 And additionally, a future proposed high density
17 partial development, which we're talking tonight. Are you aware
18 that polluted storm water management in this area already
19 exceeds capacity for the Biscayne Canal and the Mira Bay Lagoon
20 directly flowing into Tampa Bay due to the (inaudible) from
21 current residential and commercial developments not withstanding
22 this future development proposal? A thorough environmental
23 impact assessment must be judiciously executed to counteract any
24 unknown current or future issues.
25 The state and county must demonstrate that this major

1 modification produces no additional major polluted storm water
2 runoff or produce highly concentrated polluted in Tampa Bay only
3 one waterway artery, Biscayne and it's Wolf Creek Watershed.
4 The problem, our -- our county commissioner should do
5 no harm to the community to legitimate rezoning decisions. So
6 the burden of work is on the local county and state agencies to
7 ensure with complete confidence that all actions and measures
8 are reviewed, researched, assessed and deliberate with due
9 diligence and cross communicated with all official regulatory
10 agencies. To construct the Mira Bay community, extensive
11 regulatory requirements were initiated and conducted for
12 wetlands and manatee protection.
13 As a Florida resident and all residents, we expect the
14 same judicious regulations applies to this major modification
15 proposal.
16 In conclusion, who wins with this big loss proposal?
17 Name me one (inaudible) in the United States. There has not
18 been one. The runoff flow already go in to the Mira Bay Lagoon.
19 It's already causing major fish kill. Thank you very much.
20 HEARING MASTER: Thank you for your time, sir. Please
21 sign in. All right. Does that conclude -- do we have one more?
22 One more, yes. Yes, ma'am.
23 MS. PLANT: Hello. My name's Kim Plant. I live at
24 1029 Apollo Beach Boulevard in Apollo Beach. And I don't think
25 I can speak any better than some of the things I've heard

against this project tonight. Other than I want the -- the council to consider several things about Apollo Beach.

One thing is our name. It's a Apollo Beach. And I want you to concern yourselves for the conservation things that we should be in our communities now. Apollo Beach used to have a beach. That was before it's approved for these millionaires to come in and build andalusia and houses along the beach, which built 100 of yard jetties out to Tampa Bay which changed the currents, which destroyed our beach. The only thing we have left is the Apollo Beach Nature Preserve, which is right across the Teco Power Plant, which was there long before I moved there.

But I've lived in Hillsborough County since I was 13 years old. I've seen what they did to my hometown at Brandon. That's not progress to me. That's -- that -- we don't want Apollo Beach to be Brandon. We don't want to do Riverview. We don't want it to be some city. We want it to be Apollo Beach. We would like to see that area, but to a much better use than a Big Box. It brings nothing to the character of our community, which is very much centered on the water recreational sports and -- and that kind of thing. We're a small sleepy bedroom community and we always have been. You know, we have a much more vibrant base now, more younger families moving in the area. We have our elderly. My mother is 84 years old. Lives right -- right down the street from the nature preserve. She's been there 35 years and watched that area change and grow.

1 But, you know, we need to look at Apollo Beach and
2 make it something to look up to. Not to look back at and say
3 "duh, I wish." If we had had that Walmart there, that -- that
4 Target, that Lowe's, that Home Depot. That does nothing for my
5 community. You now what we need, we need restaurants. We need
6 specialty retail. We want to be a destination. We want to be a
7 journey. We don't want to be the end result of that.
8 (Simultaneous conversation.)
9 MS. PLANT: I don't think it has anything to do with
10 plan. And if it is, you need to rethink it. I want to thank
11 the County Commissioners that were here tonight. I don't know,
12 are there any missing tonight?
13 UNIDENTIFIED SPEAKER: (Inaudible).
14 (Simultaneous conversation.)
15 HEARING MASTER: If you could just complete and not --
16 MS. PLANT: I am --
17 HEARING MASTER: -- participate from the audience, I'd
18 appreciate it.
19 MS. PLANT: I'm looking directly at you because you're
20 the chair of this committee. I want everyone here to consider
21 what Apollo mean -- means to us. I moved from Brandon to be in
22 Apollo Beach to be in that community. We are (inaudible). We
23 don't want to be a Walmart or any Big Box stores. There are
24 other uses for that land and I'm not against progress. I want
25 to put that on the record. Thank you very much.

HEARING MASTER: Thank you for your time and testimony. If you could please sign in. We have one more person who's online to speak in opposition.

MR. ALI: Nicole, it looks like you're muted. Go ahead and try. We're still not hearing you.

MS. SHEPHERD: Can you hear me now?

HEARING MASTER: Yes.

MS. SHEPHERD: Hello.

HEARING MASTER: Yes, I hear you. Go ahead. Give us your name and address please.

MR. ALI: And this is -- that's Laura Shepherd. I think we're looking for Nicole.

MS. SHEPHERD: Yes. I was on and I got disconnected, so I'm -- I'm using my phone now instead of my computer.

HEARING MASTER: Ms. Shepherd, are you testifying in opposition?

MS. SHEPHERD: Yes, I am.

HEARING MASTER: Okay. All right. Then go ahead. Give us your name and address.

MS. SHEPHERD: Thank you. Laura Shepherd of 5218 Point Harbor Lane, Apollo Beach at the southmost tip in Mira Bay. And I do appreciate that Swiftwood has talked some about how the Florida Department of Transportation, in their non-conforming approval of this project from agricultural to commercial is being looked at. So I really do appreciate that

1 you're doing that since last Thursday.
2 I also want to talk about water availability. There
3 was a study done in 2021 showing that our South Shore area
4 had -- did not have enough water availability and there were
5 three projects introduced in 2022. The first one increased the
6 pressures from north Tampa to south Tampa, but that could not be
7 sustained because of pressure problems in the north. Two more
8 projects were done. I can't speak to those directly, but the
9 project recommendation in public record says that no further
10 development, no -- no further connection should be made until
11 there's proof that during our dry season, especially in the
12 morning hours, we have to have evaluation and as far as I know,
13 that has not been done. Also --
14 HEARING MASTER: Ms. Shepherd, you have about a
15 minute --
16 (Simultaneous conversation.)
17 HEARING MASTER: -- Ms. Shepherd -- Ms. Shepherd, I
18 apologize for interrupting you. You have about a minute left in
19 your time.
20 MS. SHEPHERD: Okay. I just implore that -- that
21 (inaudible) talks to Mira Bay like they did with Harbor Isle
22 because there's all kinds of issues to be discussed here. So
23 we -- we appreciate the saying (inaudible) and our lawyer for --
24 our Mira Bay lawyer would be available for that.
25 HEARING MASTER: All right. Thank you for your

1 testimony. I appreciated it. Was there someone else that
2 wanted to speak in opposition online virtually?
3 MR. ALI: I have a Nicole Cameron that signed up. It
4 looks like she's having audio issues though. She may have to
5 call in. Let me -- let me see if I can do that for her also.
6 HEARING MASTER: Thank you.
7 MS. SHEPHERD: Can I use some of her time until she's
8 connected? Also, the public water safety issues that Steven and
9 me was talking about is a major concern because we had a breach
10 in the berm between Delva and Mangrove Manor. And because of
11 that breach, we now have water flow from that area into the
12 Biscayne Canal. So this needs to really be looked at before
13 anything else is done. We're talking about a public safety
14 water issues here. We're talking about availability of water.
15 We're wanting to look at how you derived your reduction in
16 parking by including bike -- bike parking spaces.
17 HEARING MASTER: Ms. Shepherd, if you --
18 MS. SHEPHERD: -- evaluation --
19 HEARING MASTER: -- if you could wrap it up. You had
20 more time and the other person is now --
21 MS. SHEPHERD: Okay.
22 HEARING MASTER: -- available.
23 MS. SHEPHERD: Okay.
24 HEARING MASTER: But I appreciate your testimony.
25 Thank you.

MS. SHEPHERD: Thank you.

HEARING MASTER: Go ahead.

MS. CAMERON: Good good evening, Haring Master. Can you hear me?

HEARING MASTER: I can.

MS. CAMERON: Okay. Thank you. My name is Nicole Cameron. My address is 5414 Conch Shell Place, Apollo Beach.

I am one of the home that is immediately below the lot and right at the cul-de-sac that was spoke about earlier where the wall was going to be (inaudible). I was in opposition. I'm kind of in the middle now based on testimony today and based on information hearing last week. I would ask that the developer consider extending the lawn out to where the pond begins as opposed to where the cul-de-sac begins, that would then protect my home directly from more noise and light, so I would ask for that. I would also ask everyone, including the developer, to consider all the testimony today as far as what would be -- like to be put into the Big Box area as opposed to the Big Box.

I would ask that they consider not allowing any 24 hour business to be put in there as that noise and light could interfere with my -- property rights. I don't have a problem with parcel B being rezoned to the single-family home based on what they discussed at the information and I want to thank them for having that.

1 So those are my basically two things are to consider
2 not having a 24-hour business and then to extend that wall out
3 to completely encompass my property and my neighbor's property
4 to allow more buffer on that. Thank you.
5 HEARING MASTER: Thank you for your testimony. I
6 appreciate it. All right. At that point, we'll close
7 opposition testimony and we'll go back to Development Services.
8 Mr. Grady, anything else.
9 MR. GRADY: Nothing further.
10 HEARING MASTER: All right. We'll go back to the
11 applicant, Ms. Batsel. Five minutes typically for rebuttal, but
12 because we extended opposition a little bit, I will -- am
13 willing to give you extra time.
14 MS. BATSEL: Before we start, there was one
15 housekeeping matter that Sam and I spoke about and it related to
16 condition number 15. Brian, you might need to weigh in on this.
17 I'm not sure if Sam is still here. But that's a -- an old
18 condition that dealt with the water pressure issue. We
19 understand that the capital improvement project has already been
20 completed and so that condition is no longer necessary.
21 Could you just check that Brian before we get started?
22 HEARING MASTER: So you're proposing to delete 15?
23 MR. GRADY: Well yeah, the -- the two water conditions
24 that are referenced in that condition hasn't been completed, so
25 the ultimate effect to that is that you know, that condition was

from the water department, so I can't speak for them at this point, but I can basically say that we need the -- the fact of the completion of those two projects are that -- are that -- that conditions so that you could get building permits until two projects are completed. We'll they're completed, so.

HEARING MASTER: I see.

MR. GRADY: Yeah.

MS. BATSEL: We're comfortable as long as that's on the record.

MR. GRADY: Yeah.

HEARING MASTER: Okay.

MS. BATSEL: Thank you. Again, Elise Batsel, Stearns, Weaver and Miller. I'm going to try to go through these comments quickly one by one.

One of the questions related to this traffic study and whether Maingrove Point, any other developments that are under construction now were included. I did speak with Steven Henry and yes, they are required to be included in the background traffic. So those were included. With respect to the end users. I've spoken to the commercial developers on numerous occasions and they continue to talk to a number of people. What I think is important in relation to the comments is this could be one big box. This could be many small boxes like a Sparkman Wharf. It's going to depend on the developer and the market and who ultimately wants to come into this commercial

1 development. The only thing that we're approving here today is
2 that -- the maximum of 230,000 square feet. And so the end user
3 is not part of a zoning, that'll be determined at alater time.
4 I also want to talk specifically with some of the
5 comments that the gentleman from Mira Bay said, we have to
6 comply with a local state and federal -- federal regulations,
7 including Swift Mud, including EPC and everything else. So we
8 will comply with all of those. With respect to storm water, we
9 have to meet or exceed all county storm water standards, which
10 require that we hold and attenuate all storm water onsite,
11 either keeping it the same or making it better than was it was
12 prior to the development.
13 Ms. Southwell also talked about some provisions, I
14 think from the Apollo Beach and South Shore Area Wide Plan.
15 There's others that I think are important to put in the record.
16 One of those from the South Shore Plan is that development
17 supports strategic -- development should support strategically
18 placed activity center connected by efficient public transit
19 system and design to ultimately connect to rapid transit. This
20 is directly on an area designated for a four lane road. If CSX
21 is ever gone, that potentially could be light rail. And one of
22 our conditions is that we are providing a bus stop there on our
23 site in accordance with hart requirements. So we need that
24 policy.
25 There's also a policy that that encourages the

1 incorporation of a range of housing choices, including
2 multi-family and live/work units in and around town centers.
3 That's exactly what we're doing with this development. By
4 converting pocket B to multi-family in an area in close
5 proximity to commercial, we are furthering that goal and
6 objective from the Apollo Beach Plan.
7 It also supports multi-mass transit opportunity,
8 including buses, light rail and water shuttles. So we're not on
9 the water, but we are providing bus service. And it also
10 requires connectivity with a new developments and having new
11 developments connect to one another. So this provides
12 transportation connectivity, pedestrian connectivity, there's
13 pedestrian connections between uses. There's sidewalk and
14 transportation improvements all around this development.
15 Finally, I just want to remind everyone that we've
16 done a number of things here. We are not increasing
17 development. We are reducing development. We are eliminating
18 that more intense development in favor of less intense uses on
19 pocket B and reducing the amount of commercial intents on pocket
20 A. That includes a reduction in height, which is more
21 compatible with the surrounding development in pocket B from 50
22 to 35 feet. We've increased the buffer throughout the site and
23 we've added the additional buffering on the south side to
24 enhance the buffer between the local neighborhood, which -- and
25 that is in the form of a stucco or a masonry wall to buffer

1 those properties.
2 From a transportation perspective, this new use is --
3 reduces traffic. It adds $5.5 million to the county fund for
4 transportation improvements that they can use in this area. And
5 we're also are making 12 different transportation --
6 transportation improvements, including numerous turn lanes.
7 That's really going to increase the efficiency of how this area
8 develops.
9 With that -- yes. Oh, yes. We also have
10 documentation to submit into the record.
11 HEARING MASTER: Okay.
12 MS. BATSEL: If it's okay with you. Thank you very
13 much.
14 HEARING MASTER: Yes. Absolutely.
15 MS. BATSEL: We respectfully request your approval of
16 this project. And the developer really has felt long and hard
17 about how to move forward with this. If you have questions for
18 the seller, he's actually here, Mr. Polk. He looked at a number
19 of different options. And to the extent that you have questions
20 about what he has done, it might be beneficial to you to hear
21 testimony from him, but I'll leave that up to you.
22 HEARING MASTER: I don't have specific questions on
23 that point. So I appreciate the offer though.
24 MS. BATSEL: Okay.
25 HEARING MASTER: Does that complete your rebuttal

1 testimony?
2 MS. BATSEL: It does. Thank you for your time.
3 HEARING MASTER: All right. Then with that we'll
4 close major modification 22-1228 and go to the next case.
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HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

----------X
IN RE:)
)
ZONE HEARING)
MASTER HEARINGS)
)
----------X

ZONING MASTER HEARING
TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

BEFORE: PAMELA JO HATLEY
Land Use Hearing Master

DATE: Monday, December 12, 2022

TIME: Commencing at 6:04 p.m.
Concluding at 9:15 p.m.

Reported via Cisco Webex Videoconference by:
Vicki Parent, CER No. 1255

1 application is out of order to be heard and is being continued
2 to the January 17, 2023 Zoning Hearing Master Hearing.
3 Item A.17, Major Mod application 22-1126. This
4 application is -- is being continued by the applicant to the
5 January 17, 2023 Zoning Hearing Master Hearing.
6 Item A.18, Rezoning Standard 22-1221. This
7 application is out of order to be heard and is being continued
8 to the January 17, 2023 Zoning Hearing Master Hearing.
9 Item A.19, Rezoning PD 22-1226. This application is
10 being continued by the applicant to the January 17, 2023 Zoning
11 Hearing Master Hearing.
12 Item A.20, Major Mod application 22-1228. This
13 application is out of order to be heard and is being continued
14 to the January 17, 2023 Zone Hearing Master Hearing.
15 Item A.21, Rezoning PD 22-1229. This application is
16 out of order to be heard and is being continued to the
17 January 17, 2023 Zoning Hearing Master Hearing.
18 Item A.22, Major Mod application 22-1236. This
19 application to be continued by the applicant to the
20 January 17, 2023 Zoning Hearing Master Hearing.
21 Item A.23 Major Mod application 22-1239. This
22 application is out of -- is out of order to be heard and is
23 being continued to the January 17, 2023 Zoning Hearing Master
24 Hearing.
25 Item A.24, Rezoning PD 22-1257. This application is

HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

----------X
IN RE:)
ZONE HEARING MASTER)
HEARINGS)
----------X

ZONING HEARING MASTER HEARING
TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

BEFORE: Susan Finch, Zoning Hearing Master
Land Use Hearing Master

DATE: Monday, November 14, 2022

TIME: Commencing at 6:00 p.m.
Concluding at 10:13 p.m.

Reported via Cisco Webex Videoconference by:
LaJon Irving, CER No. 1256

is -- this application is -- is being withdrawn from the zoning hearing master process.

Item A.23 Rezoning PD 22-1195. This application is being continued by the applicant to the December 12, 2022 zoning hearing master hearing.

Item A.24 Rezoning PD 22-1204. This application is -- is being continued by the applicant to the February 20, 2023 zoning hearing master hearing.

Item A.25 Rezoning PD 22-1225. This applicant -- this application is being withdrawn from the zoning hearing master process.

Item A.26 Rezoning PD 22-1226. This application is being continued by staff to the December 12, 2022 zoning hearing master hearing.

Item A.27 major mod application 22-1228. This application is being continued by the applicant to the December 12, 2022 zoning hearing master hearing.

Item A.28 Rezoning PD 22-1229. This application is being continued by the applicant to the December 12, 2022 zoning hearing master hearing.

Item A.29 major mod application 22-1236. This application is being continued by the applicant to the December 12, 2022 zoning hearing master hearing.

Item A.30 major mod application 22-1239. This application is out of order to be heard and is being continued

HILLSBOROUGH COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

----------X
IN RE:)
LAND USE HEARING OFFICER)
HEARINGS)
----------X

LAND USE HEARING OFFICER HEARING
TRANSCRIPT OF TESTIMONY AND PROCEEDINGS

BEFORE: PAMELA JO HATLEY
Land Use Hearing Master

DATE: Monday, October 17, 2022

TIME: Commencing at 6:00 p.m.
Concluding at 9:10 p.m.

PLACE: Robert W. Saunders, Sr. Public Library
Ada T. Payne Community Room
1505 N. Nebraska Avenue
Tampa, Florida 33602

Reported via Zoom Videoconference by:

Julie Desmond, Court Reporter
U.S. Legal Support

1 the November 14, 2022, Zoning Hearing Master
2 Hearing.
3 Item A.28, Specialist General 22-1222. This
4 application is not awarded. The hearing is being
5 continued to the November 14, 2022, Zoning Hearing
6 Master Hearing.
7 Item A.29, Rezoning PD 22-1223. This
8 application is being continued by the applicant to
9 the November 14, 2022, Zoning Hearing Master
10 Hearing.
11 Item A.30, Rezoning PD 22-1224. This
12 application is being continued by the applicant to
13 the November 14, 2022, Zoning Hearing Master
14 Hearing.
15 Item A.31, Rezoning PD 22-1225. This
16 application not awarded. The hearing is being
17 continued to the November 14, 2022, Zoning Hearing
18 Master Hearing.
19 Item A.32, Rezoning PD 22-1226. This
20 application is being continued by the applicant to
21 the November 14, 2022, Zoning Hearing Master
22 Hearing.
23 Item A.33, Major Mod Application 22-1228.
24 This application is being continued by the
25 applicant to the November 14, 2022, Zoning Hearing

Master Hearing.

Item A.34, Rezoning PD 22-1229. This application is being continued by the applicant to the November 14, 2022, Zoning Hearing Master Hearing.

Item A.35, Major Mod Application 22-1301. This application is being continued by the applicant to the November 14, 2022, Zoning Hearing Master Hearing.

Item A.36, Rezoning Standard 22-1303. This application is not awarded to be heard. It's being continued to the November 14, 2022, Zoning Hearing Master Hearing.

Item A.37, Major Mod Application 22-1392. This application is being continued by the applicant to the November 14, 2022, Zoning Hearing Master Hearing.

That concludes all the withdrawals and continuances.

HEARING MASTER HATLEY: All right. Thank you, Mr. Grady. All right. The agenda tonight consists of items that require a public hearing by Hearing Master before going to the Board of County Commissioners for a final decision.

I will conduct a hearing on each item today

EXHIBITS SUBMITTED

DURING THE ZHM HEARING

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION # 22-0075	PLEASE PRINT NAME Kamala Corbett MAILING ADDRESS 101 E Kennedy Blvd, Ste 3700 CITY TAMPA STATE FL ZIP 33602 PHONE 813 [redacted] 227-8421
APPLICATION # 22-0075	PLEASE PRINT NAME James Anderson MAILING ADDRESS 10514 Sedgebrook Drive CITY Riverview STATE FL ZIP 33569 PHONE 727 430-3494
APPLICATION # 22-0075	PLEASE PRINT NAME Jane Graham MAILING ADDRESS 737 Main Street Suite 100 CITY Safety Harbor STATE FL ZIP 34695 PHONE 727 291 9526
APPLICATION # 22-0075 VS	PLEASE PRINT NAME Ethel Hammer MAILING ADDRESS 19825 Angel Lane CITY Odessa STATE FL ZIP 33556 PHONE
APPLICATION # 22-0075	PLEASE PRINT NAME Gary A. Gibbons MAILING ADDRESS 800 29th Ave N, CITY St. Petersburg STATE FL ZIP 33704 PHONE 813-785-2028
APPLICATION # 22-0075	PLEASE PRINT NAME Ryan Brooks MAILING ADDRESS 12714 Shadowcrest Ct CITY Riverview STATE FL ZIP 33655 PHONE 8132157991

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT
22-0075 VS	NAME Sabine Prather MAILING ADDRESS 1661 Bentwood Drive CITY Sun City Center STATE FL ZIP 33573 PHONE
22-0075 VS	NAME Jennifer Miller MAILING ADDRESS 13317 Waterford Run Drive CITY Riverview STATE FL ZIP 33569 PHONE
22-0075	NAME STEVE HENRY MAILING ADDRESS 5023 W. LAUREL ST CITY TPA STATE FL ZIP 33607 PHONE 813-289 0039
22-0075	NAME Abbey Naylor MAILING ADDRESS 14206 Tudor Chase Dr. CITY Tampa STATE FL ZIP 33626 PHONE 727-207-5525
22.0075	NAME TRENT STEPHENSON MAILING ADDRESS 505 E Jackson St #200 CITY Tampa STATE FL ZIP 33602 PHONE 813 375.0616
22-1591	NAME Todd Pressman MAILING ADDRESS 200 2nd Ave S #451 CITY St. Pete STATE FL ZIP 33701 PHONE 727-804-1760

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT
22-1642	NAME Jeff Cathey MAILING ADDRESS 1142 Water Tower Rd. CITY Lake Park STATE FL ZIP 33403 PHONE 561-244-0368
22-0719	NAME SUNNY SIA MAILING ADDRESS 9903 Maple St. CITY Gibsonton STATE FL ZIP 33534 PHONE 8132055727
22-0719	NAME Grace McComas MAILING ADDRESS 805 Old Darby St CITY Seffner STATE FL ZIP 33584 PHONE 813 240 3907
22-0719	NAME Elizabeth Belcher MAILING ADDRESS Exempt CITY Email Eibelcher@Att.Net STATE ZIP PHONE (813) 468-7902
22-0857	NAME Roger GRUNKE MAILING ADDRESS 2708 N Elmore Ave CITY Tpa STATE FL ZIP 33602 PHONE 8136792945
22-0857	NAME Marla Frazer MAILING ADDRESS 11215 Davis Rd CITY Tpa STATE FL ZIP 33637 PHONE 813 777-9931

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT
22-0857	NAME FLORENCE BARBER-HANCOCK MAILING ADDRESS 21004 NEGRIL CT. CITY LUTZ STATE FL ZIP 33558 PHONE 813 948-7597
22-0857	NAME Theresa L Maida MAILING ADDRESS 11107 Davis Rd CITY Tampa STATE FL ZIP 33637 PHONE 813-985-6190
22-0866	NAME Kamala Corbett MAILING ADDRESS 101 E Kennedy Bld Ste 3700 CITY TAMPA STATE FL ZIP 33602 PHONE 813-227-8421
22-1226	NAME Kamala Corbett MAILING ADDRESS 101 E Kennedy Blvd Ste 3700 CITY TAMPA STATE FL ZIP 33602 PHONE 813-227-8421
22-1226	NAME STEVE HENRY MAILING ADDRESS 503 W. LINEL ST CITY TPA STATE FL ZIP 33607 PHONE 813-789-0039
22-1228	NAME Elise Betsel MAILING ADDRESS 401 E. Jackson St. Tampa CITY T STATE FL ZIP 06 PHONE 813-222-5057

SIGN-IN SHEET: RFR, ZHM PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT NAME / MAILING ADDRESS / CITY / STATE / ZIP / PHONE
22-1228	NAME: David M. Smith MAILING ADDRESS: 401 E. Jackson Street Suite 2100 CITY: Tampa STATE: FL ZIP: 33601 PHONE: 813 222-5010
22-1228	NAME: STEVE HENDRY MAILING ADDRESS: 5023 W. LAUREL ST CITY: TPA STATE: FL ZIP: 33607 PHONE: 813-289 6039
22-1228 VS	NAME: Katie Russo MAILING ADDRESS: 400 N. Ashley Drive #2020 CITY: Tampa STATE: FL ZIP: 33602 PHONE:
22-1228	NAME: SHERRI SOUTHWELL MAILING ADDRESS: 552 FRANDER PL CITY: Apollo Bch STATE: FL ZIP: 33572 PHONE: 8134107027
22-1228	NAME: Jeanine Lussier MAILING ADDRESS: 477 Flamingo Drive CITY: Apollo Beach STATE: FL ZIP: 33572 PHONE: 813-992-7023
22-1228	NAME: Steve Finley MAILING ADDRESS: 815 Isleboy Dr CITY: Apollo Beach STATE: FL ZIP: 33572 PHONE: 813-449-3980

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT NAME / MAILING ADDRESS / CITY / STATE / ZIP / PHONE
22-1228	NAME: Kim Plant MAILING ADDRESS: 1029 Apollo Beach Blvd Apt 4 CITY: Apollo Beach STATE: FL ZIP: 33572 PHONE: 813-394-2041
22-1228 VS	NAME: Laura Shepherd MAILING ADDRESS: 5218 Point Harbor Lane CITY: Apollo Beach STATE: FL ZIP: 33572 PHONE:
22-1228 VS	NAME: Nicole Cameron MAILING ADDRESS: 5414 Conch Shell Place CITY: Apollo Beach STATE: FL ZIP: 33572 PHONE:
22-1229	NAME: Kamala Corbett MAILING ADDRESS: 101 E Kennedy Blvd Ste 100 CITY: Tampa STATE: FL ZIP: 33602 PHONE: 813-227-8121
22-1229	NAME: Stephen Sposato MAILING ADDRESS: 505 E Jackson St CITY: Tampa STATE: FL ZIP: 33602 PHONE: 813-375-0516
22-1229	NAME: STEVE HENRY MAILING ADDRESS: 5023 W. LAMBEL ST CITY: TPA STATE: FL ZIP: 33607 PHONE: 813-289-0029

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: 1/17/23 HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT NAME / MAILING ADDRESS / CITY / STATE / ZIP / PHONE
22-1229	NAME: Alan Daoud MAILING ADDRESS: 3007 Drake Landing Ct CITY: Valrico STATE: FL ZIP: 33596 PHONE: 813-789-2707
22-1229	NAME: Todd Pressman MAILING ADDRESS: 200 2nd Ave S. #451 CITY: St. Petersburg STATE: FL ZIP: 33701 PHONE: 727-304-1760
22-1229	NAME: Wendy Olivero MAILING ADDRESS: 717 Bryan Rd CITY: Brandon STATE: FL ZIP: 33511 PHONE: 813-695-2482
22-1229	NAME: Dina Cagnina MAILING ADDRESS: 713 Coulter Place CITY: Brandon STATE: FL ZIP: 33511 PHONE: 813.546.5433
22-1229	NAME: Lisa Dersmore MAILING ADDRESS: 703 Coulter Place CITY: Brandon STATE: FL ZIP: 33511 PHONE: 813-601-2782
22-1229	NAME: Lisa Knox MAILING ADDRESS: 508 S. Bryan Cir CITY: Brandon STATE: FL ZIP: 33511 PHONE: 352.339-3140

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

PAGE 8 OF 9

DATE/TIME: 1/17/23

HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**, THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT NAME / MAILING ADDRESS / CITY / STATE / ZIP / PHONE
22-1338	NAME: Elise Batsel MAILING ADDRESS: 401 E Jackson St. CITY: Tampa STATE: ZIP: 33602 PHONE: 813 222 5057
22-1338	NAME: David M. Smith MAILING ADDRESS: 401 E. Jackson Street Suite 2100 CITY: Tampa STATE: Fl ZIP: 33601 PHONE: 813 222 5010
22-1338	NAME: PAT KILKER MAILING ADDRESS: 7025 DOREN ST CITY: TAMPA STATE: FL ZIP: 33617 PHONE: 407 316-5331
22-1338	NAME: Claude-Perrette Conzé MAILING ADDRESS: 4512 Porpoise Drive CITY: Tampa STATE: FL ZIP: 33617 PHONE: 8139561751
22-1338	NAME: TIM MCMURRY MAILING ADDRESS: 8019 PAULSON LN CITY: TAMPA STATE: FL ZIP: 33617 PHONE: 813 968 8762
22-1338	NAME: SARA MCMURRY MAILING ADDRESS: 8019 PAULSON LANE CITY: TAMPA STATE: FL ZIP: 33617 PHONE: 813-263-7279

SIGN-IN SHEET: RFR, ZHM, PHM, LUHO

DATE/TIME: _____ HEARING MASTER: Susan Finch

PLEASE **PRINT CLEARLY**. THIS INFORMATION WILL BE USED FOR MAILING

APPLICATION #	PLEASE PRINT NAME / MAILING ADDRESS / CITY / STATE / ZIP / PHONE
22-1378	NAME: Jeremy Couch MAILING ADDRESS: 17937 Hunting Bow Circle CITY: Lutz STATE: FL ZIP: 33558 PHONE: 813 920 2005
22-1387	NAME: Kamala Corbett MAILING ADDRESS: 101 a Kennedy BW CITY: Tampa STATE: FL ZIP: 33602 PHONE: 813-227-8421
22-1387 VS	NAME: Michael Ball MAILING ADDRESS: 16545 South US Highway 301 CITY: Wimauma STATE: FL ZIP: 33598 PHONE:
22-1387	NAME: STEVE HENRY MAILING ADDRESS: 5023 W. LAUREL ST CITY: TPA STATE: FL ZIP: 33607 PHONE: 813-289 0039.
22-1499	NAME: Addie Clark MAILING ADDRESS: 400 N. Ashley Dr. CITY: Tampa STATE: FL ZIP: 33603 PHONE: 561-319-9759
	NAME: MAILING ADDRESS: CITY: STATE: ZIP: PHONE:

HEARING TYPE: ZHM, PHM, VRH, LUHO **DATE: January 17, 2022**

HEARING MASTER: **Susan Finch** **PAGE: _1_ OF 1**

APPLICATION #	SUBMITTED BY	EXHIBITS SUBMITTED	HRG. MASTER YES OR NO
RZ 22-0075	James Anderson	1. Opposition Presentation Packet	No
RZ 22-0075	Ethel Hammer	2. Opposition Presentation Packet	No
RZ 22-0075	Gary Gibbons	3. Opposition Presentation Packet	No
RZ 22-0075	Ryan Brooks	4. Opposition Presentation Packet	No
RZ 22-0075	Jennifer Miller	5. Opposition Presentation Packet	No
RZ 22-0075	Kami Corbett	6. Applicant Presentation Packet	No
RZ 22-0075	Steve Henry	7. Applicant Presentation Packet	No
RZ 22-1591	Todd Pressman	1. Applicant Presentation Packet	No
RZ 22-0719	Grace McComas	1. Opposition Presentation Packet	No
RZ 22-0719	Sunny Sia	2. Applicant Presentation Packet	No
RZ 22-0866	Kami Corbett	1. Applicant Presentation Packet	No
RZ 22-1226	Brian Grady	1. Staff Report	Yes (copy)
RZ 22-1226	Kami Corbett	2. Applicant Presentation Packet	No
MM 22-1228	Brian Grady	1. Staff Report	No
MM 22-1228	Sherri Southwell	2. Opposition Presentation Packet	No
MM 22-1228	David Smith	3. Applicant Presentation Packet	No
RZ 22-1229	Stephen Sposato	1. Applicant Presentation Packet	No
RZ 22-1229	Steve Henry	2. Applicant Presentation Packet	No
RZ 22-1229	Todd Pressman	3. Opposition Presentation Packet	No
RZ 22-1229	Wendy Oliverio	4. Opposition Presentation Packet	No
RZ 22-1229	Lisa Knox	5. Opposition Presentation Packet	No
RZ 22-1229	Kami Corbett	6. Applicant Presentation Packet	No
RZ 22-1338	Elise Batsel	1. Applicant Presentation Packet	No
RZ 22-1338	Brian Grady	2. Staff Report	No
RZ 22-1387	Kami Corbett	1. Applicant Presentation Packet	No
RZ 22-1387	Brian Grady	2. Staff Report	No
RZ 22-1387	Steve Henry	3. Applicant Presentation Packet	No
RZ 22-1499	Brian Grady	1. Staff Report	No

JANUARY 17, 2023 - ZONING HEARING MASTER

The Zoning Hearing Master (ZHM), Hillsborough County, Florida, met in Regular Meeting, scheduled for Tuesday, January 17, 2023, at 6:00 p.m., in the Boardroom, Frederick B. Karl County Center, Tampa, Florida, and held virtually.

Susan Finch, ZHM, calls the meeting to order, leads in the pledge of allegiance to the flag, and introduces Development Services.

A. WITHDRAWALS AND CONTINUANCES

Brian Grady, Development Services, introduces staff and reviews changes/withdrawals/continuances.

Susan Finch, ZHM, overview of ZHM process.

Cameron Clark, Senior Assistant County Attorney, overview of oral argument/ZHM process.

Susan Finch, ZHM, Oath.

B. REMANDS

B.1. RZ 22-0075

Brian Grady, Development Services, calls RZ 22-0075.

Cameron Clark, Senior Assistant County Attorney, statement for record.

Kami Corbett, applicant rep, presents testimony.

Israel Monsanto, Development Services, staff report.

Jillian Massey, Planning Commission, staff report.

Susan Finch, ZHM, calls proponents/opponents

Jane Graham, opponent, presents testimony.

James Anderson, opponent, presents testimony.

Ethel Hammer, opponent, presents testimony.

Gary Gibbons, opponent, presents testimony.

Ryan Brooks, opponent, presents testimony.

- Sabine Prather, opponent, technical difficulties.
- Jennifer Miller, opponent, presents testimony.
- Susan Finch, ZHM, questions to opponent and County Attorney.
- Cameron Clark, Senior Assistant County Attorney, answers ZHM questions.
- Sabine Prather, opponent, technical difficulties.
- Jane Graham, opponent, questions to County Attorney.
- Cameron Clark, Senior Assistant County Attorney, answers opponent questions.
- Jane Graham, opponent, questions to ZHM.
- Susan Finch, ZHM, answers opponent questions.
- Sabine Prather, opponent, presents testimony.
- Susan Finch, ZHM, calls Development Services/applicant rep.
- Kami Corbett, applicant rep, provides rebuttal
- Steve Henry, applicant rep, provides rebuttal.
- Abbey Naylor, applicant rep, provides rebuttal.
- Trent Stephenson, applicant rep, provides rebuttal.
- Kami Corbett, applicant rep, continues rebuttal.
- Susan Finch, ZHM, closes RZ 22-0075.

C. REZONING STANDARD (RZ-STD):

C.1. RZ 22-1591

- Brian Grady, Development Services, calls RZ 22-1591.
- Todd Pressman, applicant rep, presents testimony.
- Susan Finch, ZHM, questions to applicant rep and Development Services.

TUESDAY, JANUARY 17, 2023

- Brian Grady, Development Services, answers ZHM questions.
- Todd Pressman, applicant rep, answers ZHM questions and continues testimony.
- Susan Finch, ZHM, questions to applicant rep.
- Todd Pressman, applicant rep, answers ZHM questions.
- Isis Brown, Development Services, staff report.
- Susan Finch, ZHM, questions to Development Services.
- Isis Brown, Development Services, answers ZHM questions.
- Brian Grady, Development Services, statement for record.
- Jillian Massey, Planning Commission, statement for record.
- Susan Finch, ZHM, questions to Planning Commission.
- Jillian Massey, Planning Commission, answers ZHM questions and staff report.
- Susan Finch, ZHM, calls proponents/opponents.
- Susan Finch, ZHM, questions to Development Services.
- Brian Grady, Development Services, answers ZHM questions.
- Susan Finch, ZHM, questions to applicant rep.
- Todd Pressman, applicant rep, answers ZHM questions and provides rebuttal.
- Susan Finch, ZHM, closes RZ 22-1591.

C.2. RZ 22-1642

- Brian Grady, Development Services, calls RZ 22-1642.
- Jeff Cathey, applicant rep, presents testimony.
- Isis Brown, Development Services, staff report.

- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents/opponents/Development Services/applicant rep/closes RZ 22-1642.

D. REZONING-PLANNED DEVELOPMENT (RZ-PD) & MAJOR MODIFICATION (MM):

D.1. RZ 22-0719

- Brian Grady, Development Services, calls RZ 22-0719.
- Sunny Sia, applicant rep, presents testimony.
- Tim Lampkin, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents/opponents.
- Grace McComas, opponent, presents testimony.
- Elizabeth Belcher, opponent, presents testimony.
- Susan Finch, ZHM, calls Development Services/applicant rep.
- Sunny Sia, applicant rep, provides rebuttal.
- Susan Finch, ZHM, closes RZ 22-0719.

D.2. RZ 22-0857

- Brian Grady, Development Services, calls RZ 22-0857.
- Marla Frazer, applicant rep, presents testimony.
- Roger Grunke, applicant rep, presents testimony.
- Michelle Heinrich, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents.
- Florence Hancock, proponent, presents testimony.

- Susan Finch, ZHM, calls opponents.
- Theresa Maida, opponent, presents testimony.
- Susan Finch, ZHM, questions to opponent.
- Theresa Maida, opponent, answers ZHM questions and continues testimony.
- Susan Finch, ZHM, calls Development Services.
- Brian Grady, Development Services, statement for record.
- Susan Finch, ZHM, questions to Development Services.
- Michelle Heinrich, Development Services, answers ZHM questions.
- Susan Finch, ZHM, calls applicant rep.
- Marla Frazer, applicant rep, provides rebuttal.
- Roger Grunke, applicant rep, provides rebuttal.
- Susan Finch, ZHM, closes RZ 22-0857.

D.3. RZ 22-0866

- Brian Grady, Development Services, calls RZ 22-0866.
- Kami Corbett, applicant rep, presents testimony.
- Tim Lampkin, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents/opponents/Development Services /applicant rep/closes RZ 22-0866.

D.4. RZ 22-1226

- Brian Grady, Development Services, calls RZ 22-1226.
- Kami Corbett, applicant rep, presents testimony.
- Susan Finch, ZHM, questions to Development Services.

- Brian Grady, Development Services, answers ZHM.
- Susan Finch, ZHM, requests information to be added to staff report.
- Tania Chapela, Development Services, staff report.
- Susan Finch, ZHM, questions to Development Services.
- Tania Chapela, Development Services, answers ZHM questions.
- Alex Steady, Development Services Transportation, answers ZHM questions.
- Susan Finch, ZHM, requests additional information to be added to staff report.
- Brian Grady, Development Services, statement for record.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents/opponents/Development Services/applicant rep.
- Kami Corbett, applicant rep, provides rebuttal.
- Steve Henry, applicant rep, provides rebuttal.
- Susan Finch, ZHM, closes RZ 22-1226.

D.5. MM 22-1228

- Brian Grady, Development Services, calls MM 22-1228.
- Elise Batsel, applicant rep, presents testimony.
- David Smith, applicant rep, presents testimony.
- Steve Henry, applicant rep, presents testimony.
- Elise Batsel, applicant rep, continues testimony.
- Susan Finch, ZHM, questions to applicant rep.
- Elise Batsel, applicant rep, answers ZHM questions.

TUESDAY, JANUARY 17, 2023

- Steve Henry, applicant rep, answers ZHM questions.
- Sam Ball, Development Services, staff report.
- Susan Finch, ZHM, questions to Development Services.
- James Ratliff, Development Services Transportation, answers ZHM questions.
- Elise Batsel, applicant rep, answers ZHM questions.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents.
- Katie Russo, proponent, presents testimony.
- Susan Finch, ZHM, calls opponents.
- Sherri Southwell, opponent, presents testimony.
- Jeanine Lussier, opponent, presents testimony.
- Steven Finley, opponent, presents testimony.
- Kim Plant, opponent, presents testimony.
- Laura Shepherd, opponent, presents testimony.
- Nicole Cameron, opponent, presents testimony.
- Susan Finch, ZHM, calls Development Services.
- Elise Batsel, applicant rep, questions to Development Services.
- Susan Finch, ZHM, questions to applicant rep.
- Brian Grady, Development Services, answers applicant rep and ZHM questions.
- Elise Batsel, applicant rep, provides rebuttal.
- Susan Finch, ZHM, closes MM 22-1228.

D.6. RZ 22-1229

- Brian Grady, Development Services, calls RZ 22-1229.
- Kami Corbett, applicant rep, presents testimony.
- Steven Sposato, applicant rep, presents testimony.
- Steve Henry, applicant rep, presents testimony.
- Michelle Heinrich, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents.
- Alan Daoud, proponent, presents testimony.
- Susan Finch, ZHM, calls opponents.
- Todd Pressman, opponent, presents testimony.
- Wendy Oliviero, opponent, presents testimony.
- Dina Cagnina, opponent, presents testimony.
- Lisa Dunsmore, opponent, presents testimony.
- Lisa Knox, opponent, presents testimony.
- Susan Finch, ZHM, calls Development Services/applicant rep.
- Steve Henry, applicant rep, provides rebuttal.
- Kami Corbett, applicant rep, provides rebuttal.
- Susan Finch, ZHM, closes RZ 22-1229.

D.7. RZ 22-1338

- Brian Grady, Development Services, calls RZ 22-1338.
- Elise Batsel, applicant rep, presents testimony.
- David Smith, applicant rep, presents testimony.

TUESDAY, JANUARY 17, 2023

- Susan Finch, ZHM, questions to applicant rep.
- David Smith, applicant rep, answers ZHM questions and continues testimony.
- Elise Batsel, applicant rep, continues testimony.
- Michelle Heinrich, Development Services, staff report.
- Susan Finch, ZHM, questions to Development Services.
- Michelle Heinrich, Development Services, answers ZHM questions.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, questions to Planning Commission.
- Jillian Massey, Planning Commission, answers ZHM questions.
- Susan Finch, ZHM, questions to County Attorney.
- Cameron Clark, Senior Assistant County Attorney, answers ZHM questions.
- Jillian Massey, Planning Commission, answers ZHM questions.
- Susan Finch, ZHM, calls proponents/opponents.
- Pat Kilker, opponent, presents testimony.
- Claude-Penrette Conze, opponent, presents testimony.
- Tim McMurry, opponent, presents testimony.
- Sara McMurry, opponent, presents testimony.
- Susan Finch, ZHM, calls Development Services.
- Alex Steady, Development Services Transportation, statement for record.
- Susan Finch, ZHM, calls applicant rep.
- Elise Batsel, applicant rep, provides rebuttal.
- Jeremy Couch, applicant rep, provides rebuttal.

- Elise Batsel, applicant rep, continues rebuttal.
- Susan Finch, ZHM, closes RZ 22-1338.

D.8. RZ 22-1387

- Brian Grady, Development Services, calls RZ 22-1387.
- Kami Corbett, applicant rep, presents testimony.
- Tania Chapela, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.
- Susan Finch, ZHM, calls proponents/opponents.
- Michael Ball, opponent, presents testimony.
- Brian Grady, Development Services, asks opponent to read letter into record.
- Michael Ball, opponent, reads letter into record.
- Susan Finch, ZHM, calls Development Services/applicant rep.
- Steven Henry, applicant rep, provides rebuttal.
- Kami Corbett, applicant rep, provides rebuttal.
- Steve Henry, applicant rep, continues rebuttal.
- Kami Corbett, applicant rep, continues rebuttal.
- Susan Finch, ZHM, closes RZ 22-1387.

D.9. RZ 22-1499

- Brian Grady, Development Services, calls RZ 22-1499.
- Addie Clark, applicant rep, presents testimony.
- Chris Grandlienard, Development Services, staff report.
- Jillian Massey, Planning Commission, staff report.

- Susan Finch, ZHM, calls proponents/opponents/Development Services/applicant rep/closes RZ 22-1499.

ADJOURNMENT

- Susan Finch, ZHM, adjourns meeting.

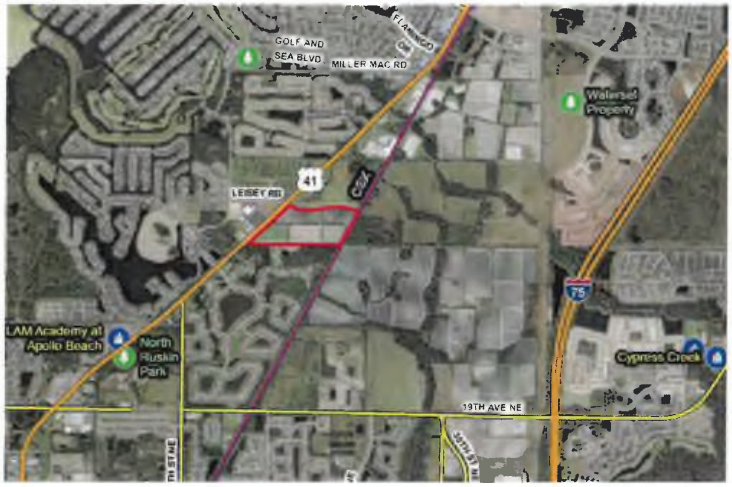
PD Modification Application:	MM 22-1228
Zoning Hearing Master Date:	January 17, 2023
BOCC Land Use Meeting Date:	March 14, 2023

Hillsborough County Florida

Development Services Department

1.0 APPLICATION SUMMARY

Applicant:	Council Bay Farms
FLU Category:	Office Commercial – 20 (OC – 20) Suburban Mixed Use – 6 (SMU – 6)
Service Area:	Urban
Site Acreage:	66.83
Community Plan Area:	Apollo Beach
Overlay:	None



Introduction Summary
PD 06-1035 was approved in 2007 to allow for 71.1 acres located along the east side of N US Highway 41 (N US 41) to the south of Leisey Road to be developed with up to 300,000 square feet (SF) of Commercial Intensive (CI) uses, and 335,000 SF of office (BPO), flexspace uses, personal services, minor industrial, RCP, warehousing, and open storage. The applicant is requesting a modification to: reduce the maximum entitlements on the property from the currently approved Commercial Intensive uses of 300,000 square feet to 230,000 square feet; to eliminate the currently approved 335,000 square feet of BPO, warehouse, open storage, RCP and personal service uses and replace it with 303 multi-family dwelling; and to modify the boundaries between Pods A and B.

Existing Approval(s)	Proposed Modification(s)
Site development to allow up to 300,000 SF of CI uses without open storage within Pocket A.	Site development to allow up to 230,000 SF of CI uses without open storage within Pocket A.
Site development to allow up to 335,000 square feet of BPO with flex space, personal services, minor industry within completely enclosed buildings, RCP, warehousing, and open storage within Pocket B.	Site development to allow up to 303 multi-family dwelling units within Pocket B.

Additional Information	
PD Variation(s)	Section 6.05.02 – Parking and Loading Standards A variation to allow a 4.0 spaces per 1,000 SF where 5.0 spaces per 1,000 square feet is required.
Waiver(s) to the Land Development Code	None

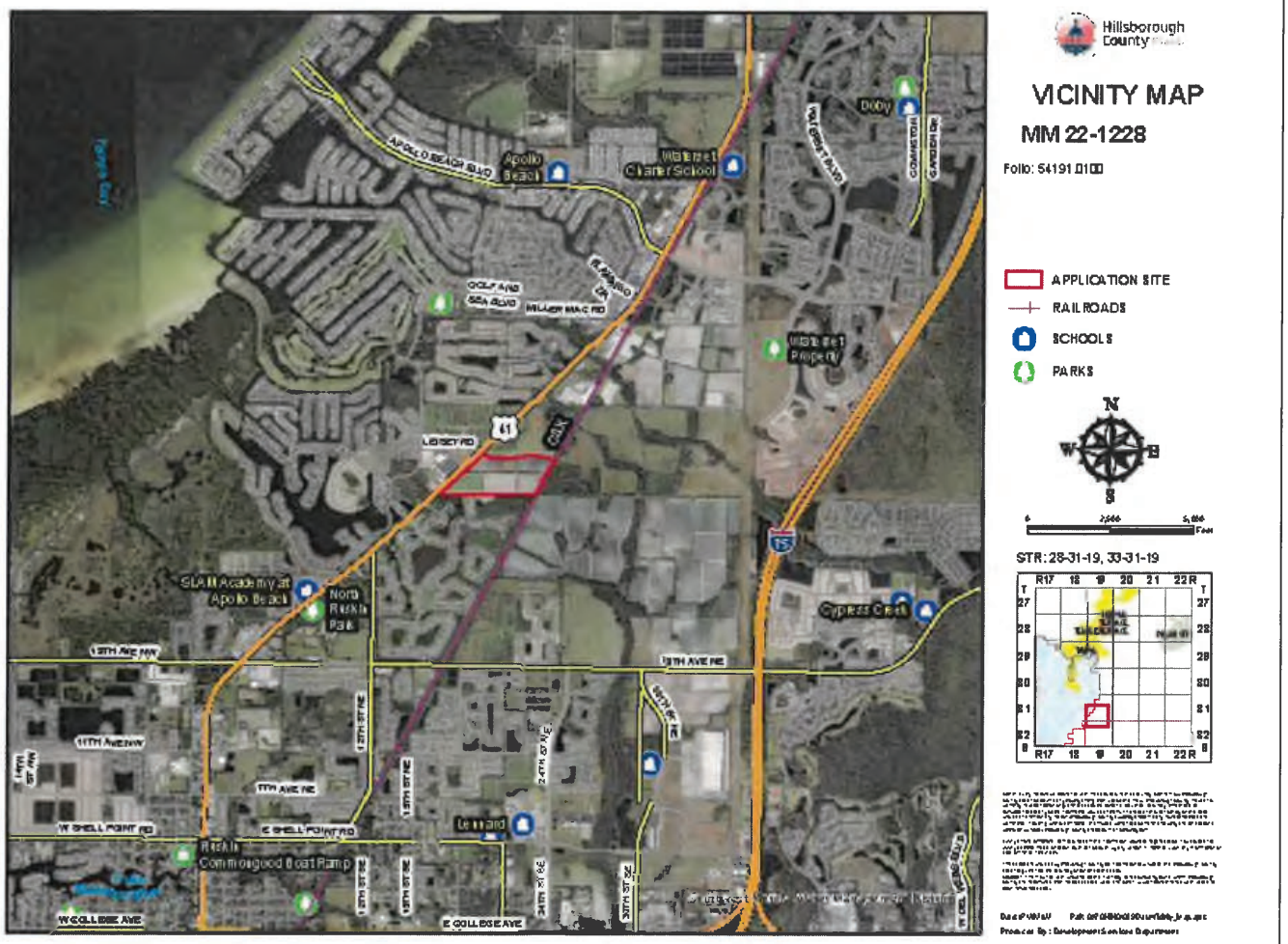
Planning Commission Recommendation	Development Services Recommendation
Consistent	Approvable, subject to proposed conditions

Application No. MM 22-1228
Name: Brian Grady
Entered at Public Hearing: ZHM
Exhibit # 1 Date: 1/17/2023

Created: 8-17-21

2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map



Context of Surrounding Area:

The subject property is located at the southeast corner of the N US 41 intersection and Leisey Road (Brandermill Road). The uses in the immediate vicinity include single-family residential, auto repair, shopping center, railroad right-of-way, acreage, and vacant lands.

The properties to the west are separated by 182-foot of N US 41 right-of-way and are zoned PD 98-1513. The uses to the west include a shopping center, auto repair, vacant residential and vacant commercial land.

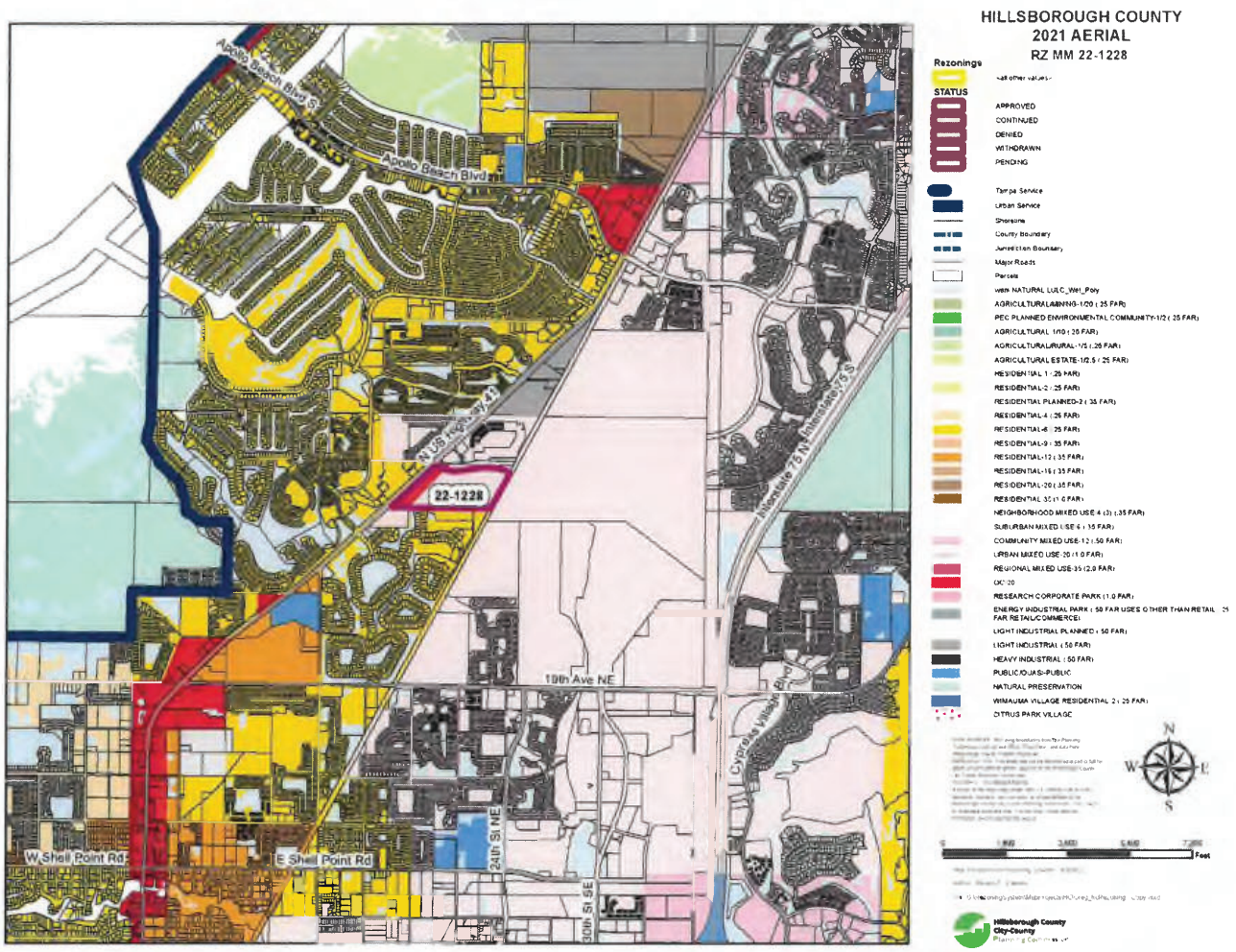
The adjoining properties to the south are zoned PD 00-1167 and PD 05-1951, The PD 00-1167 property abuts the majority of the southern property boundary and is developed for single-family residential use. The remaining southern boundary abuts a planned development (PD 05-1951) that is approved for a mix of commercial uses and multi-family; the site is currently undeveloped.

The properties to the north are vacant lands that are zoned PD 06-0120 which allows for a mix of BPO, GC, and single-family and multi-family residential uses.

The subject property abuts a 100-foot wide railroad right-of-way to the east. The properties located on the opposite side of the railroad right-of-way, to the east, are part of a 1,626 acre planned development that allows for a town center and mixed use the development. The properties within the PD that abut the railroad right-of-way are designated for single-family, villa-duplex, and townhouse development with an allowable density up to six dwellings per acre.

2.0 LAND USE MAP SET AND SUMMARY DATA

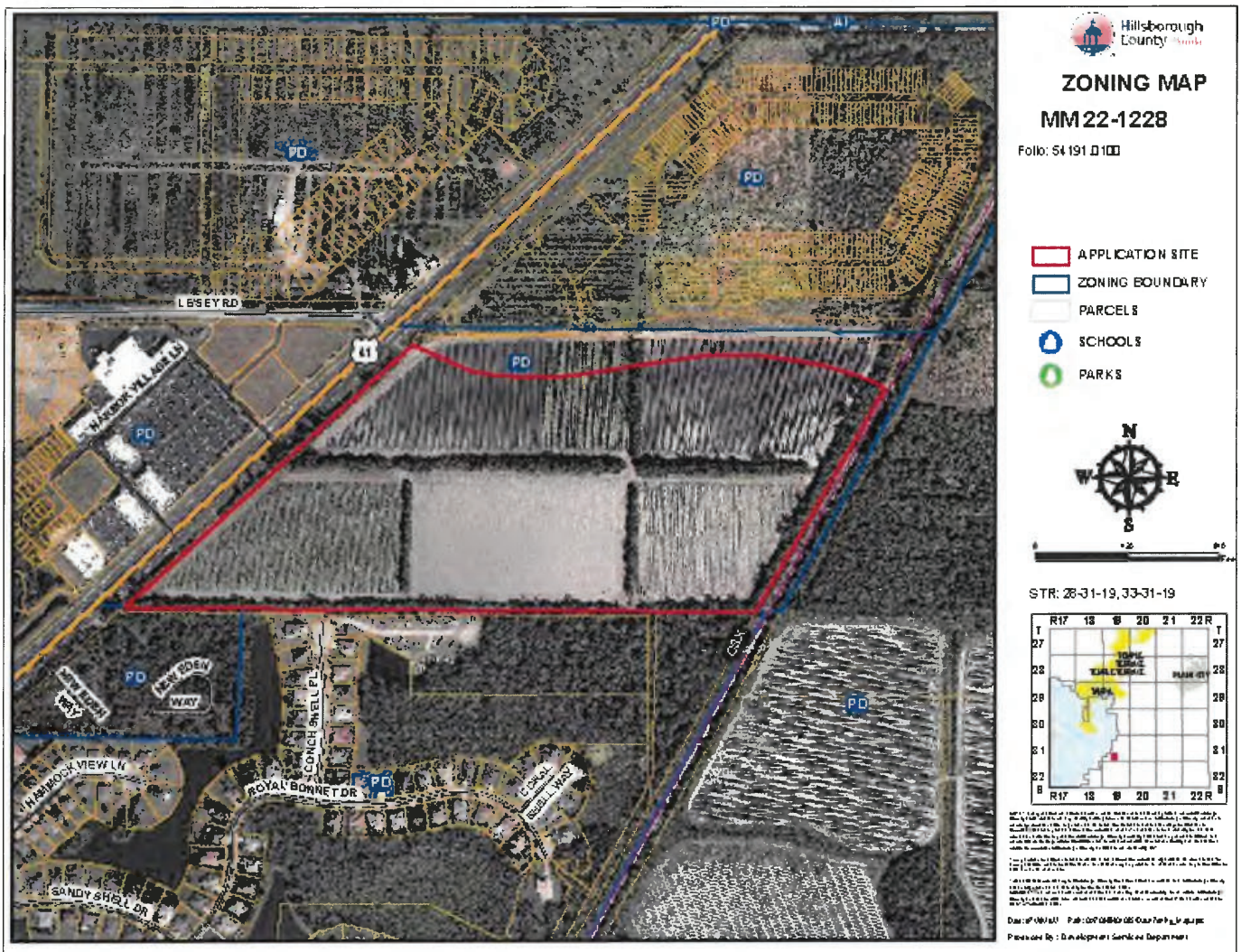
2.2 Future Land Use Map



Subject Site Future Land Use Category	Office Commercial-20 (OC-20) Suburban Mixed Use-6 (SMU-6)
Maximum Density/F.A.R.	Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)
Typical Uses	Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.

2.0 LAND USE MAP SET AND SUMMARY DATA

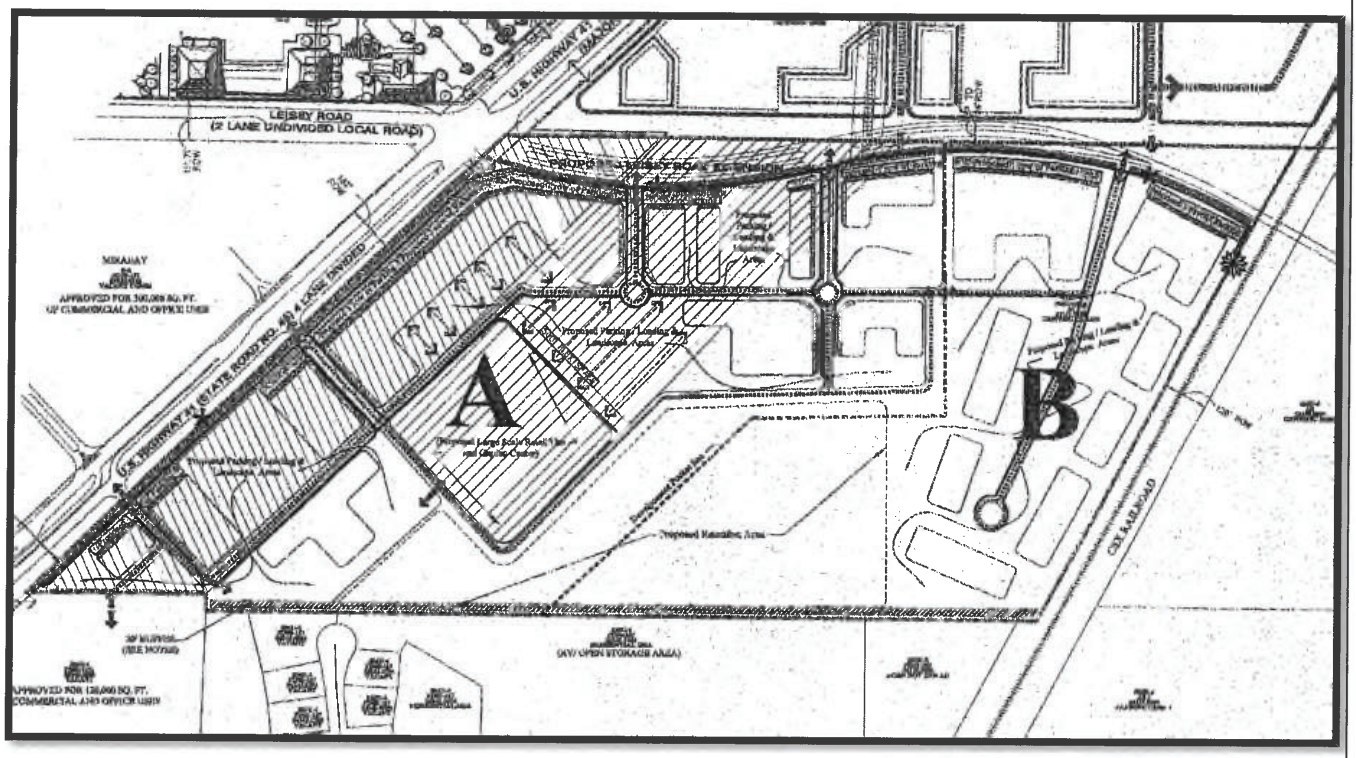
2.3 Immediate Area Map



Adjacent Zonings and Uses				
Location	Zoning	Maximum Density/F.A.R. Permitted by Zoning District	Allowable Use	Existing Use
North	PD 20-0329	3.97 du/1 ga FAR: 0.25	BPO, GC, single-family, multi-family residential	Vacant
South	PD 00-1167	1 du/ga FAR: 0.25	Single-family, multi-family, CG	Single-family, conventional
South	PD 05-1951	4.24 du/ga FAR: 0.30	BPO, GC, multi-family residential	Vacant
East	PD 14-0815	6 du/ga FAR: 0.25	Town center, mixed use commercial and residential	Vacant
West	PD 13-0591	20 du/ga FAR: 0.25	Town center, mixed use commercial, single-family, multi-family residential	Shopping center, automotive repair, vacant

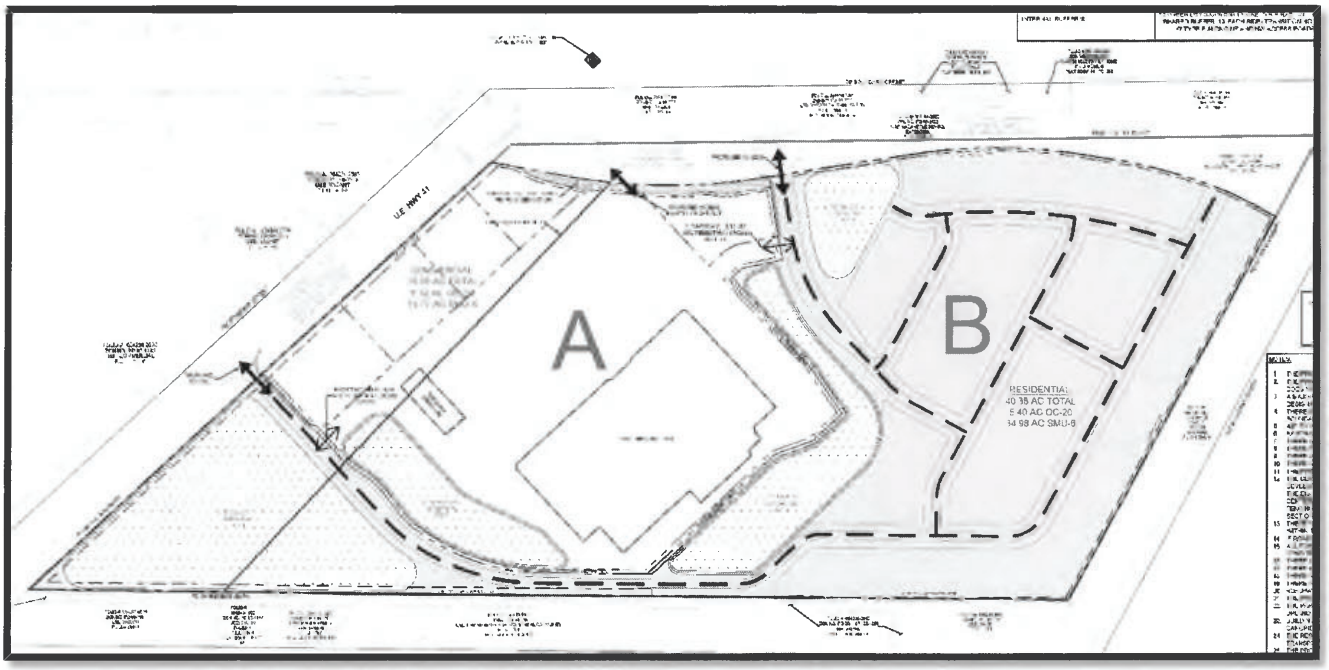
2.0 LAND USE MAP SET AND SUMMARY DATA

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
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	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	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Natural Resources	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ No	
Conservation & Environ. Lands Mgmt.	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ 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**
Transportation ☐ Design Exc./Adm. Variance Requested ☒ Off-site Improvements Provided	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Service Area/ Water & Wastewater ☒Urban ☐ City of Tampa ☐Rural ☐ City of Temple Terrace	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	South County Statement of Record
Hillsborough County School Board Adequate ☒ K-5 ☒6-8 ☐9-12 ☐N/A Inadequate ☐ K-5 ☐6-8 ☒9-12 ☐N/A	☒ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	
Impact/Mobility Fees: Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore				
Discount Superstore (per 1,000 sf) **Mobility: $14,708*230 = $3,382,840** **Fire: $ 313*320 = $ 100,160** **Total: $3,483,000**	**Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story** **Mobility: $6,661 * 303 units = $2,018,283** **Parks: $1,555 * 303 units = $ 471,165** **School: $3,891 * 303 units = $1,178,973** **Fire: $249 * 303 units = $ 75,447** **Total Multi-Family (1-2 story) = $3,743,868**			
Comprehensive Plan:	**Comments Received**	**Findings**	**Conditions Requested**	**Additional Information/Comments**
Planning Commission ☐ Meets Locational Criteria ☒N/A ☐ Locational Criteria Waiver Requested ☐ Minimum Density Met ☒ N/A	☒ Yes ☐ No	☐ Inconsistent ☒ Consistent	☐ Yes ☒ No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

Based on the adjacent zonings and uses identified in the report, staff finds that the proposed reduction in allowable Commercial Intensive entitlements in conjunction with replacing 335,000 SF of BPO, warehouse, open storage, RCP and personal service use entitlements with 303 multi-family dwellings is compatible with the existing zoning districts and development pattern in the area. Additionally, staff finds that the result of the variation to reduce the required parking ratio from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet for the 208,000 square-foot discount superstore would reduce the number required parking spaces from 1,040 spaces to 832 spaces, and would be in harmony with the purpose and intent of the Land Development Code.

5.2 Recommendation

Based on the above considerations, staff recommends approval of the request, subject to conditions.

6.0 PROPOSED CONDITIONS

Prior to PD site plan certification, applicant shall:

1. Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
2. Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
3. Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
4. Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
5. The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
6. The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
7. Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
8. Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
9. Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
10. Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
11. Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
12. Delete the box and information within the box titled "Waiver Under MM-22-1228".

Approval - Recommended zoning conditions are based on site plan received ~~November 7, 2006~~ December 28, 2022.

1. The project shall be permitted the following development options:

   1.1 Pocket A – ~~300,000~~ 230,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box

   1.2 Pocket B – ~~335,000 square feet of the following uses:~~ 303 Multi-family units

~~Business, Professional Offices Uses (Includes Flex Space Uses)~~

~~Personal Services~~

~~Minor Industry (Within completely Enclosed Buildings)~~

~~Research Corporate Park~~

~~Warehousing~~

~~Open Storage~~

2. The project shall be subject to the Apollo Beach Community Plan and Pocket A shall follow the Land Development Code (LDC) Development Standards of the Commercial Intensive (CI) zoning district and, where applicable, LDC Section 6.11.106 – Large Scale Retail Development (Single Tenant Big Box), unless otherwise stated herein:

3. All large scale retail development ~~other than the~~ within Pocket A shall be developed pursuant to LDC Section 6.11.106 Large Scale Retail Development. All other Pocket A development shall comply with the following standards, unless otherwise referenced herein.

~~3.1 All buildings shall be placed within the building envelopes as shown on the site plan. Buildings constructed within envelopes indicating either "front façade build to line" (adjacent to U.S. Hwy 41 and Leisey Road) or "other build to line" (adjacent to internal roadways) shall be placed along those lines.~~

~~3.2 Not less than sixty percent (60%) or more than ninety percent (90%) of the total surface area of the front elevation of any building with a "front façade build to line" shall include public entrances and windows.~~

3.1 ~~3.3~~ Ground floor walls or sections of walls that front onto U.S. 41 or Leisey Road without windows or entryways shall not exceed twenty (20) feet in length.

3.2 ~~3.4~~ All building elevations fronting along U.S. 41 and Leisey Road shall have an entrance and be designed as a front elevation, regardless of any other access which may be provided. Buildings on ~~comer~~ corner lots with frontages on two sidewalks may have an individual entrance on each sidewalk, or one entrance oriented diagonally to the corner with direct access to both sidewalks.

3.3 ~~3.5~~ Buildings may be recessed to accommodate courtyards.

3.4 ~~3.6~~ Buildings shall be articulated so that facades that face public streets and exceed fifty (50) feet in horizontal length shall include vertical piers, columns, colonnades or other vertical visual elements to break the plane of the façade. Such vertical visual elements shall be spaced six (6) feet to thirty-five (35) feet apart along the façade.

3.5 ~~3.7~~ Galleries, cafes, and arcades may include outdoor seating.

3.6 ~~3.8~~ Within the building envelope along US ~~4 1~~ 41 directly west of the building labeled "large scale retail", the developer shall set aside an area or areas, totaling no less than 30% of this frontage, for the construction of a building, or buildings, to screen the large scale retail building from US 41. Parking areas may be provided between these building areas and the large scale retail building, subject to LDC Section 6.11.106 design standards. ~~No parking shall be allowed within the subject building envelope until such time as the buildings adjacent to U.S. 41 are constructed.~~

~~3.9 No more than 50 percent of the frontage on U.S. 41 and on Leisey Road shall be an open parking lot without buildings in front of it. The single row of parking areas shall not be considered open parking lots or be counted in the allowed 50 percent.~~

~~3.10 A prominent architectural feature may be placed at the traffic circle in front of the large scale retail building. Said feature may include a bell or clock tower, sculpture or other public art which reaches a height of at least 25 feet.~~

3.7 ~~3.11~~ Vehicular and pedestrian interconnectivity shall be provided between all portions of the project.

~~4. The developer shall provide a minimum eight foot buffer along US 41 and Leisey Road. Within said area the developer shall provide a decorative fence a minimum of 4 feet in height. Landscaping treatment within the eight-foot buffer area shall consist of eight to ten foot high shade trees, spaced 20 feet on center, and of a hedge measuring 30 inches high at the time of planting, spaced 36 inches on center. PVC fencing material shall be prohibited. This buffering shall be provided instead of the buffer in LDC Section 6.11.106.C.7.c.~~

~~5. Maximum building setbacks for buildings within pockets A and B that front on U.S. 41 and Leisey Road shall be 57 feet from the right-of-way line. This may vary up to eight additional feet for variations in the wall facade.~~

4. ~~6.~~ Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

4.1 ~~6.2~~ On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

4.2 Large scale retail development parking shall be provided at 4 parking spaces per 1,000 square feet of big box gross floor area.

4.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

4.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

5. ~~7. The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~ As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

6. ~~8. If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~ The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

6.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;

6.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Road.;

6.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only

driveway;

6.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;

6.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;

6.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;

6.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Road.;

6.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Road.;

6.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Road.;

6.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Road.;

6.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,

6.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

~~6. 10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

7. ~~12.~~ Prior to ~~Construction Plan approval~~ or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others) ~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~ Hillsborough County Corridor Preservation Plan.

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project, as a four lane divided arterial as identified in the South Shore Corridor Plan.~~

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entity has committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

8. ~~17.~~ The Developer shall construct sidewalks ~~within the right-of-way along all (i) roadways adjacent to the property boundaries and along both sides of all (ii) internal roadways~~ in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The sidewalks~~ Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

9. ~~18.~~ Prior to or concurrent with the initial increment of development, ~~The~~ the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

10. ~~19.~~ The project may be permitted a maximum of ~~635,000~~ 230,000 square feet of commercial/office/industrial uses and 303 multi-family units, subject to formal delineation of on-site conservation areas, preservation areas and water bodies and final calculation of maximum density/intensity (FAR) permitted by the Comprehensive Plan in accordance with the Environmentally Sensitive Lands Credits requirement of the Comprehensive Plan. If the maximum number of units and/or maximum square footage for the project as permitted herein exceeds the maximum density/intensity (FAR) permitted by the Comprehensive Plan, per the Environmentally Sensitive Lands Credits requirement, the number of dwelling units and/or square footage allowed in the project shall decrease as necessary to conform to the Comprehensive Plan.

11. ~~20.~~ The stormwater management system shall be designed and constructed in such a manner so as to not adversely impact off-site surface and groundwater elevations.

~~21. The type, location, size and number of signs permitted shall be as set forth in Part 7.03.00 of the Land Development Code with the following exception(s):~~

~~21.1 Ground Signs shall be limited to Monument Signs.~~

~~21.2 Billboards, pennants and banners shall be prohibited.~~

~~22. Approval of this application does not ensure that water will be available at the time when the applicant seeks permits to actually develop.~~

12. ~~23.~~ Approval of this rezoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impacts to wetlands, and does not grant any implied or vested right to environmental approvals.

13. ~~24.~~ If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval.

14. In accordance with LDC Section 5.03.07.C, the certified PD general site plan shall expire for the internal transportation network and external access points, as well as for any conditions related to the internal transportation network and external access points, if site construction plans, or equivalent thereof, have not been approved for all or part of the subject Planned Development within 5 years of the effective date of the PD unless an extension is granted as provided in the LDC. Upon expiration, re-certification of the PD General Site Plan shall be required in accordance with provisions set forth in LDC Section 5.03.07.C.

15. Water distribution system improvements will need to be completed prior to connection to the Count's water system for a multi-family development approved through MM 22-1228. No building permits for the multi-family dwellings shall be issued until the completion by the County of funded Capital Improvement Projects C32001 – South County Potable Water Repump Station Expansion and C32011 – Potable Water In-Line Booster Pump Station, and the projects are put into operation.

~~25. The Development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.~~

~~26. Within 90 days of approval by the Hillsborough County Board of County Commissioners, the applicant shall submit to the Planning and Growth Management Department a revised General Development Plan for certification which conforms the notes and graphic of the plan to the conditions outlined above and the Land Development Code (LDC). Subsequent to certification of the plan, if it is determined the certified plan does not accurately reflect the conditions of approval or requirements of the LDC, said plan will be deemed invalid and certification of the revised plan will be required.~~

~~27. Effective as of February 1, 1990, this development order/permit shall meet the concurrency requirements of Chapter 163, Part II, Florida Statutes. Approval of this development order/permit does not constitute a guarantee that there will be public facilities at the time of application for subsequent development orders or permits to allow issuance of such development orders or permits.~~

Zoning Administrator Sign Off:	J. Brian Grady Tue Jan 17 2023 09:57:06

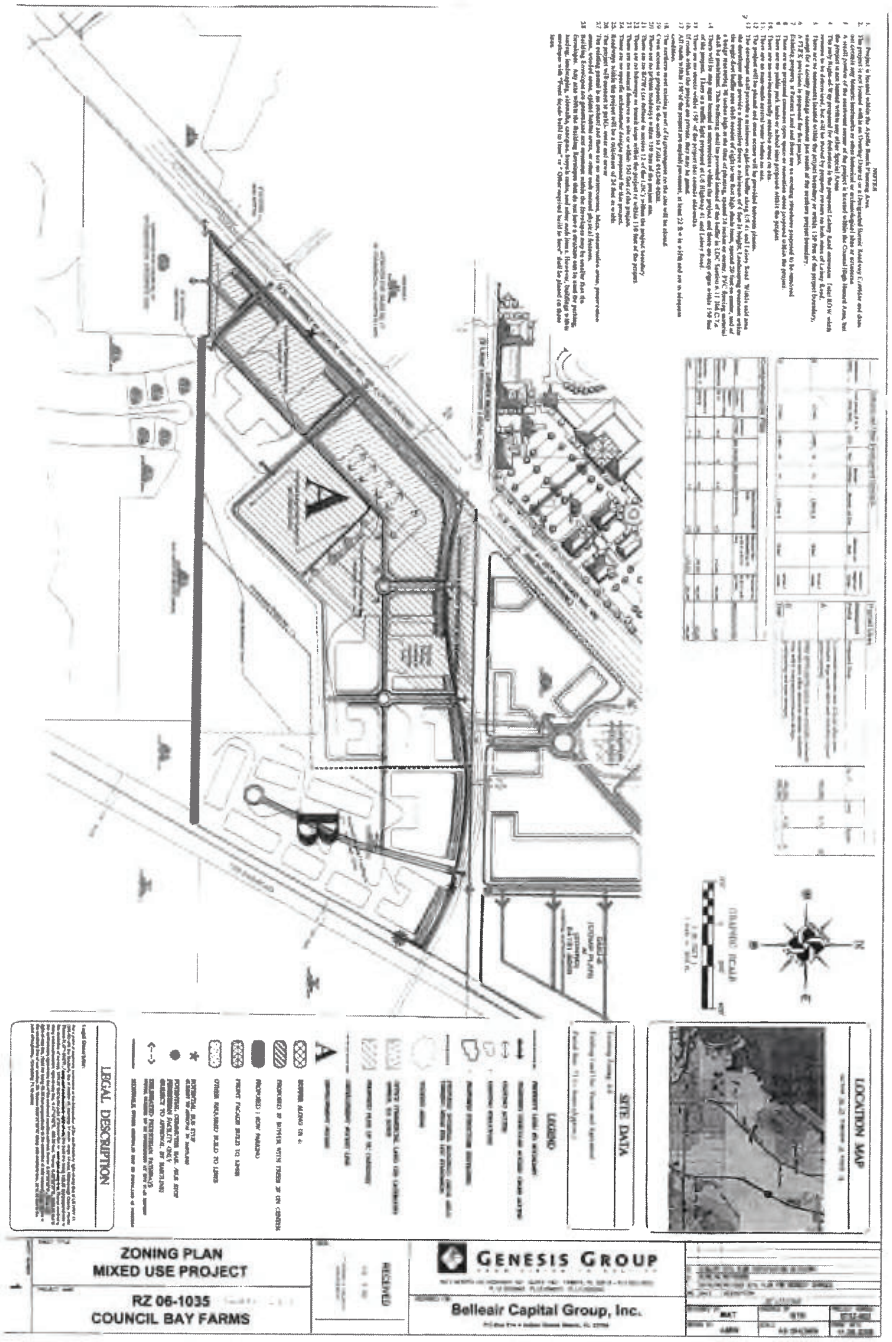
SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

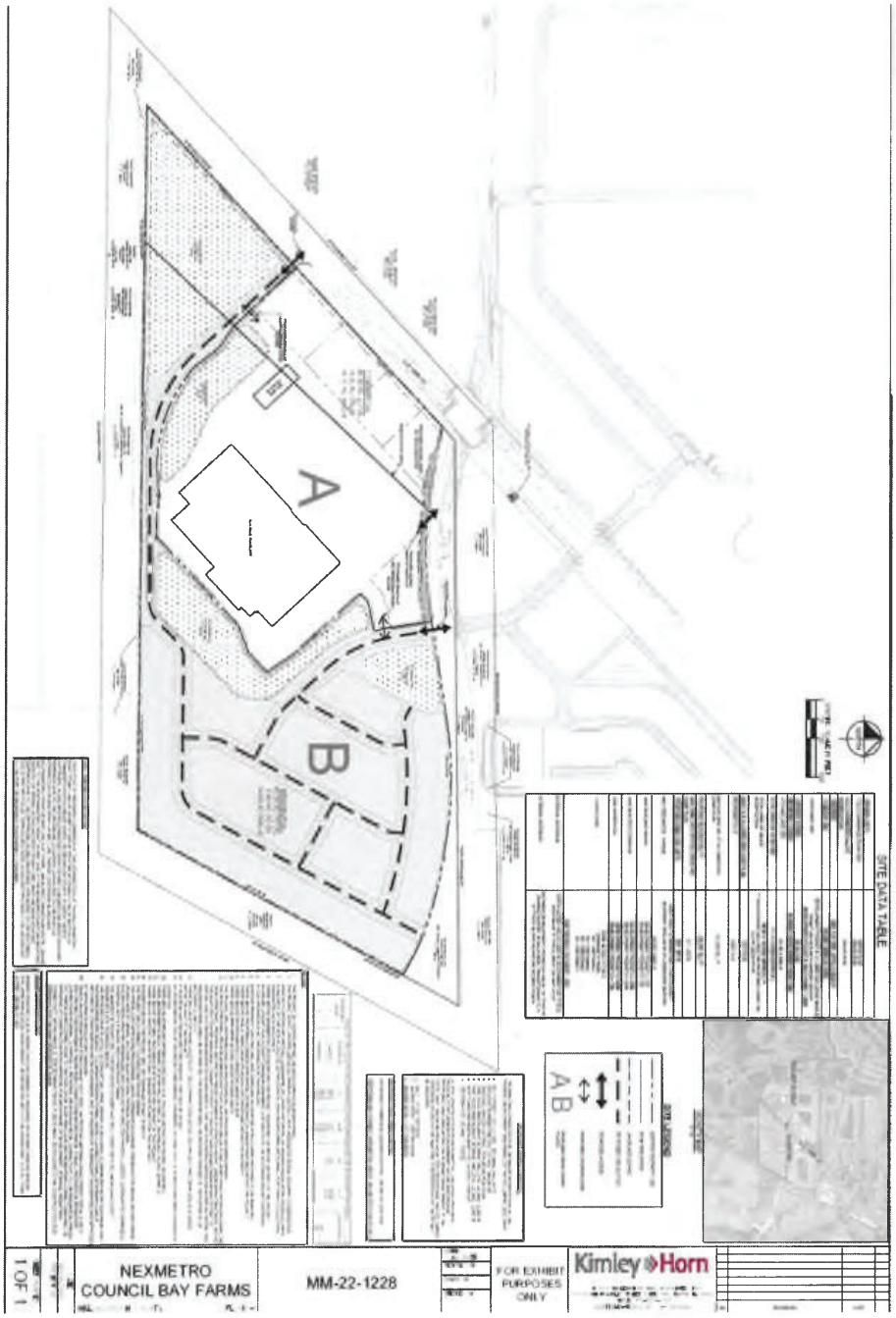
8.0 SITE PLANS (FULL)

8.1 Approved Site Plan (Full)



8.0 SITE PLANS (FULL)

8.2 Proposed Site Plan (Full)



9.0 FULL TRANSPORTATION REPORT (see following pages)

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department	DATE: 1/08/2022
REVIEWER: James Ratliff, AICP, PTP, Principal Planner	AGENCY/DEPT: Transportation
PLANNING AREA/SECTOR: APB/ South	PETITION NO: MM 22-1228

[ ] This agency has no comments.

[ ] This agency has no objection.

[X] This agency has no objection, subject to the listed or attached conditions.

[ ] This agency objects for the reasons set forth below.

NEW AND REVISED CONDITIONS OF APPROVAL

Revised Conditions

6. Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

6.~~2~~1 On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

6.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single-tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

6.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

[Staff recommends modification of this above condition to reflect the applicant's requested PD variation for parking. Staff notes that the applicant has requested a change to 6.1. This is a design related condition and, as such, was not reviewed by Transportation Review Section staff. It is shown only for clarity. Comments related to this change will be addressed by Zoning Section staff.]

7. ~~The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by~~

~~Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and access configuration requirements by the County and/or FDOT.]

8. ~~If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

8.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
8.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
8.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
8.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
8.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;
8.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;
8.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
8.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
8.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
8.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
8.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and site access improvements requirements by the County and/or FDOT.]

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system

for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that some of the listed improvements will be completed as required site-access improvements—see revised condition 8.]

~~10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

[Staff is recommending deletion of this condition to comport with current practice. Staff notes that, regardless of the deletion of a condition addressing throat depth within the PD zoning, the developer will be required to comply with then current throat depth standards as found within the LDC at the time of plat/site/construction plan review.]

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

[Staff is recommending deletion of this condition. Staff notes the zoning to the south, #20-1029, was recently modified for a charter school use and as such cross would not be required pursuant to Sec. 6.04.03.Q of the LDC. Also, as shown on the Property Appraiser's website and on the PD site plan, there appears to be an intervening strip of land between the subject PD and property to the south owned by Hillsborough County which separates the two developments.]

12. Prior to ~~Construction Plan approval~~or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others)~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~Hillsborough County Corridor Preservation Plan.

[Staff is recommending modification of this condition. Staff notes that the majority of needed road right-of-way has been acquired by the developers of Waterset. A portion of the 2-lane Leisey Rd. extension is under construction and is anticipated to be dedicated/conveyed/accepted by Hillsborough County for maintenance in the near future. The above additional right-of-way ensures that the required site access improvements which must be constructed by the subject PD do not jeopardize the County's ability to construct the 4-lane widening envisioned by--and for which right-of-way must be preserved in accordance with--the Hillsborough County Corridor Preservation.]

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

[Staff is recommending deletion of this condition. Staff notes that there is sufficient right-of-way along US 41 to accommodate the future 6-laning of the facility.]

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that the project will be required to construct certain site-access improvements as detailed in revised condition 8.]

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project as a four lane divided arterial as identified in the South Shore Corridor Plan~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that, given the proposed access changes, the 2-lane portion of the roadway has already been completed to the easternmost project driveway.]

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entityhas committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT~~.

[Staff is recommending deletion of this condition. Staff notes that a traffic signal already exists at this intersection. Modification of the signal by the developer of the subject PD is required, and such condition has been proposed as a part of revised condition 8, above.]

17. The Developer shall construct sidewalks ~~within the right-of-way along all roadways adjacent to the property boundaries and along both sides of all internal roadways~~in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The s~~Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

[Staff is recommending modification of this condition for clarity and to comport with current practice.]

18. Prior to or concurrent with the initial increment of development, ~~T~~the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

[Staff is recommending modification of this condition to comport with current practice and LDC requirements. Additionally, staff is unsure of the type of HART service which will be provided, and the zoning condition should not bind the developer or HART to provision of a certain frequency of service, e.g. express service.]

Other Conditions

- Prior to PD site plan certification, the developer shall:
  - Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
  - Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
  - Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
  - Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
  - The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
  - The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
  - Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
  - Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
  - Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
  - Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
  - Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
  - Delete the box and information within the box titled "Waiver Under MM-22-1228".

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting a Major Modification a +/- 66.83 ac. parcel currently zoned Planned Development (PD) 06-1035-1402. The existing PD has approval for two development pockets. Pocket A is approved for 300,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box. Pocket B is approved for 335,000 square feet of Business, Professional Offices Uses (Includes Flex Space Uses), Personal Services, Minor Industry (Within completely Enclosed Buildings), Research Corporate Park, Warehousing and Open Storage uses.

The applicant is proposing the following transportation related changes:

1. Modify the boundaries of Pockets A and B as shown on the PD site plan;
2. Reduce the entitlements in Pocket A from 300,000 s.f. to 230,000 s.f.;
3. Replace the uses currently approved within Pocket B with entitlements for up to 303 multi-family dwelling units.; and,
4. Modify project access as follows:
    a. Eliminate one (1) of the two (2) previously approved access from Pocket A to US 41; and,
    b. Eliminate one (1) of the three (3) previously approved access from Pockets A and B to Leisey Rd.

Staff notes additional changes, including more design related transportation changes are proposed and will be addressed by zoning section staff. Staff also notes the applicant is proposing to modify the right-in/right-out access to Leisey Rd. from Pocket A (such that allows right-in only movements), and retain one full access connection to Leisey Rd. within Pocket B, which will be shared with the Pocket A development. Staff notes the PD site plan is incorrectly labeled as right-in/right-out (staff has proposed a condition to address this issue). Similarly, access to US 41 from Pocket A has been eliminated, but there will be one (1) right-in/right-out/left-in access within Pocket B which will be shared with the Pocket A development.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a trip generation and site access analysis for the proposed project which was reviewed by staffs of both the Florida Department of Transportation and Hillsborough County. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition and the applicant's transportation analysis.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 300,000 s.f. Shopping Center (Multiple Uses, Reference Applicant's Analysis in Optix Adjusted by Increasing g.s.f. of Proposed by 70k)	23,058	1,271	1929
PD, Pocket B, 335,000 s.f. Office Park (ITE LUC 750)	3,923	509	443
Subtotal:	26,981	1,780	2,372

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 230,000 s.f. Shopping Center, Reference Applicant's Analysis in Optix)	19,522	1,141	1,626
PD, Pocket B, 303 Multi-Family Dwelling Units (ITE LUC 220)	2,018	117	151
Subtotal:	21,540	1,258	1,777

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	**(-) 5,441**	**(-) 522**	**(-) 595**

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 4-lane principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot wide travel lanes in average condition. The roadway lies within a +/- 182 foot wide right-of-way along the project's frontage. There are bicycle facilities (on paved shoulders) along both sides of the roadway in the vicinity of the project. There +/- 5-foot wide sidewalks along portions of the east and west sides of US 41 in the vicinity of the proposed project.

US 41 is shown on the Hillsborough County Corridor Preservation Plan as a future 6-lane roadway along the project's frontage. There is adequate existing right-of-way along the project's frontage to accommodate the future widening.

Leisey Rd. is currently a 2-lane collector roadway which has been recently constructed for a distance of 800 feet east of US 41 to collector roadway standards as found within the Transportation Technical Manual (TTM); however, the roadway has not yet been accepted by the County for maintenance (current Hillsborough County Property Appraiser's records indicate the road right-of-way is currently owned by the developer of Waterset to the east of the proposed project).

In order to accommodate traffic generated by development on both the north and south sides of Leisey Rd. (between US 41 and the CSX railroad) and proposed site access changes, the developer is required to construct a variety of site access improvements as specified in the section hereinbelow. In order to retain the County's ability to 4-lane this roadway in the future in accordance with the Corridor Preservation Plan, this will necessitate the developer to dedicate and convey up to an additional 29 feet of right-of-way along the project's Leisey Rd. frontage (staff notes that some areas of the frontage require less or no additional right-of-way dedication and conveyance).

SITE ACCESS AND CONNECTIVITY

General project site access is summarized hereinabove. The developer will be required by FDOT and the County to make certain improvements prior to or concurrent with the initial increment of development. Specifically, the developer will be required to:

1. Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
2. Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
3. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
4. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
5. Construct a southbound to eastbound left turn lane on US 41 at the project access;
6. Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
7. Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8. Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
9. Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
10. Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
11. Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

TRANSIT FACILITIES

Pursuant to Section 6.03.09.C.2 of the LDC, non-residential and mixed-use projects containing greater than 200,000 s.f. but less than 500,000 s.f. are required to provide a bus bay and transit accessory pad including shelter, trash receptacle and bicycle rack. FDOT has indicated a preferred location of the transit facility, but has stated they will ultimately defer to whatever location Hillsborough Area Regional Transit (HART) prefers. Staff has proposed a zoning condition requiring the location to be coordinate with an approved by the County, FDOT and HART prior to or concurrent with the initial increment of development.

REQUESTED PD VARIATION

The applicant submitted the PD variation request for the retail anchor tenant which they indicate will be a "discount retail superstore" (as it's referred to in the ITE Parking Generation Manual, 5th Edition, LUC 813). The Hillsborough County Land Development Code, Section 6.05.02.E. requires such use to provide parking at a rate of 5 spaces per 1,000 s.f. (reference the "All Other Retail" parking standard). The applicant is proposing to provide parking at a rate of 4.0 spaces per 1,000 s.f. The applicant submitted supporting documentation from the ITE Parking Generation Manual indicating that such rate could be appropriate. Staff believes that the proposed rate, in combination with bicycle parking spaces, can be supported. Staff notes that Section 6.05.02.P.1. of the LDC allows for a 5% reduction of parking spaces if bicycle parking meeting certain location criteria is provided. The applicant is requesting a reduction of 20% of the required parking rate.

As such, while staff believes that the parking reduction requested is supportable, staff also believes that provision of a number of bicycle parking meeting such location criteria in an amount equivalent to 5% of the number of vehicular spaces (calculated at a rate of 5 per 1,000 is also appropriate). This PD variation essentially has the effect of granting a further 15% decrease in the parking rate from what could already be authorized under the LDC.

Staff recommends approval of the proposed PD variation request and has proposed conditions of approval consistent with the above.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway section(s) is reported below. LOS information for the segment east of US 41 cannot be provided, as the roadway is not yet open to traffic (or has not been accepted by the County for maintenance).

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	19th Ave NE	Apollo Beach Blvd./ Paseo al Mar Blvd.	D	C
Leisey Rd.	Golf and Sea Blvd.	US 41	D	B

Source: Hillsborough County 2020 Level of Service Report.

Transportation Comment Sheet

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
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	**Objections**	**Conditions Requested**	**Additional Information/Comments**
☐ Design Exception/Adm. Variance Requested ☒ Off-Site Improvements Provided	☐ Yes ☐N/A ☒ No	☒ Yes ☐ No	

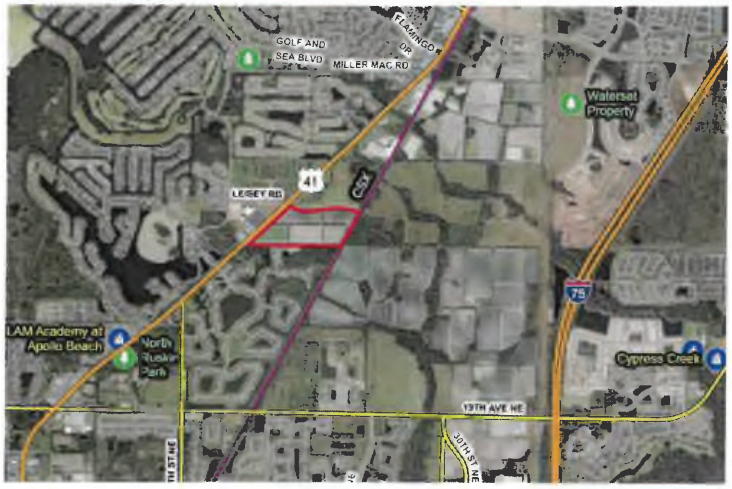
PD Modification Application:	MM 22-1228
Zoning Hearing Master Date:	January 17, 2023
BOCC Land Use Meeting Date:	March 14, 2023

Hillsborough County Florida

Development Services Department

1.0 APPLICATION SUMMARY

Applicant:	Council Bay Farms
FLU Category:	Office Commercial – 20 (OC – 20) Suburban Mixed Use – 6 (SMU – 6)
Service Area:	Urban
Site Acreage:	66.83
Community Plan Area:	Apollo Beach
Overlay:	None



Introduction Summary
PD 06-1035 was approved in 2007 to allow for 71.1 acres located along the east side of N US Highway 41 (N US 41) to the south of Leisey Road to be developed with up to 300,000 square feet (SF) of Commercial Intensive (CI) uses, and 335,000 SF of office (BPO), flexspace uses, personal services, minor industrial, RCP, warehousing, and open storage. The applicant is requesting a modification to: reduce the maximum entitlements on the property from the currently approved Commercial Intensive uses of 300,000 square feet to 230,000 square feet; to eliminate the currently approved 335,000 square feet of BPO, warehouse, open storage, RCP and personal service uses and replace it with 303 multi-family dwelling; and to modify the boundaries between Pods A and B.

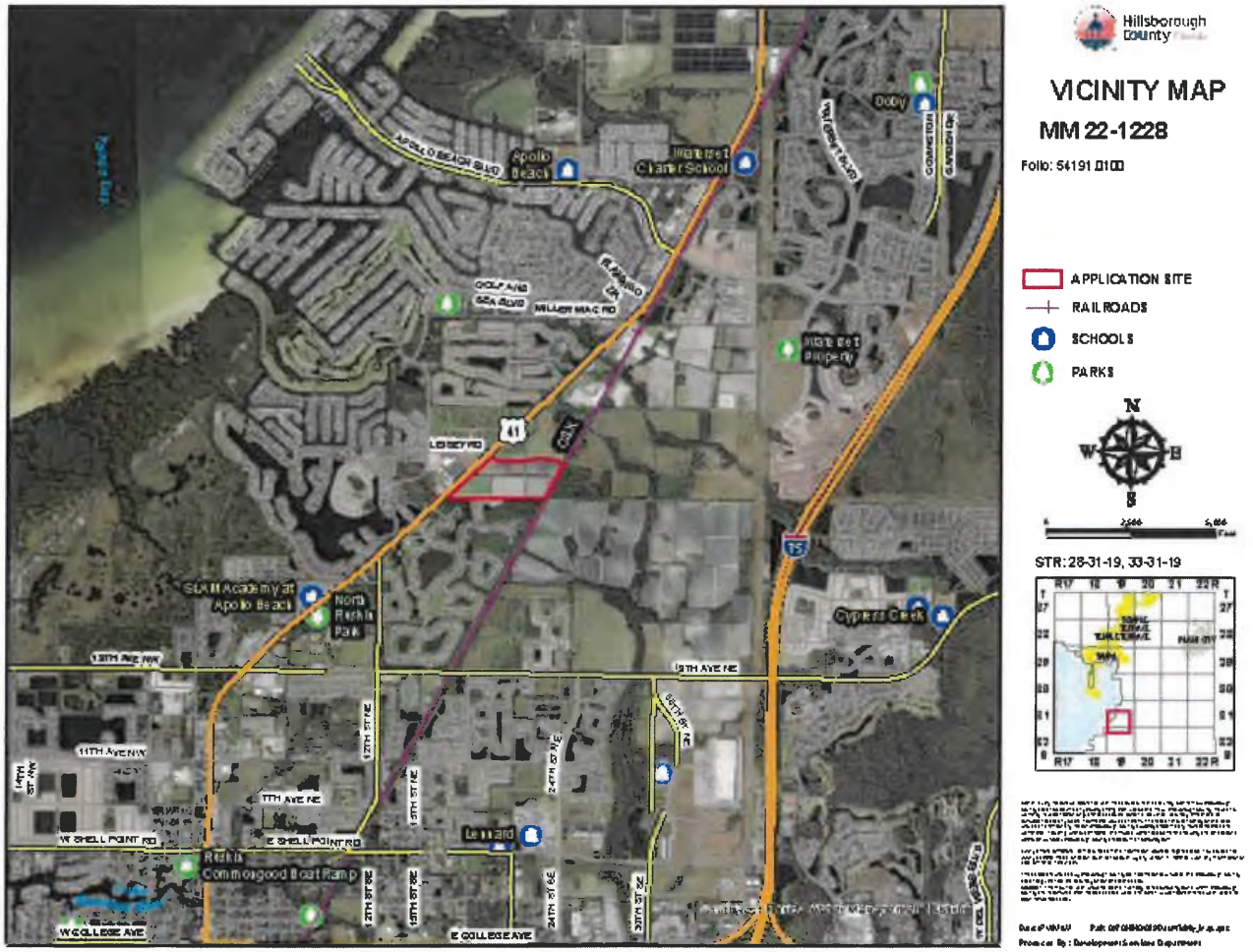
Existing Approval(s)	Proposed Modification(s)
Site development to allow up to 300,000 SF of CI uses without open storage within Pocket A.	Site development to allow up to 230,000 SF of CI uses without open storage within Pocket A.
Site development to allow up to 335,000 square feet of BPO with flex space, personal services, minor industry within completely enclosed buildings, RCP, warehousing, and open storage within Pocket B.	Site development to allow up to 303 multi-family dwelling units within Pocket B.

Additional Information	
PD Variation(s)	Section 6.05.02 – Parking and Loading Standards A variation to allow a 4.0 spaces per 1,000 SF where 5.0 spaces per 1,000 square feet is required.
Waiver(s) to the Land Development Code	None

Planning Commission Recommendation	Development Services Recommendation
Consistent	Approvable, subject to proposed conditions

2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map



Context of Surrounding Area:

The subject property is located at the southeast corner of the N US 41 intersection and Leisey Road (Brandermill Road). The uses in the immediate vicinity include single-family residential, auto repair, shopping center, railroad right-of-way, acreage, and vacant lands.

The properties to the west are separated by 182-foot of N US 41 right-of-way and are zoned PD 98-1513. The uses to the west include a shopping center, auto repair, vacant residential and vacant commercial land.

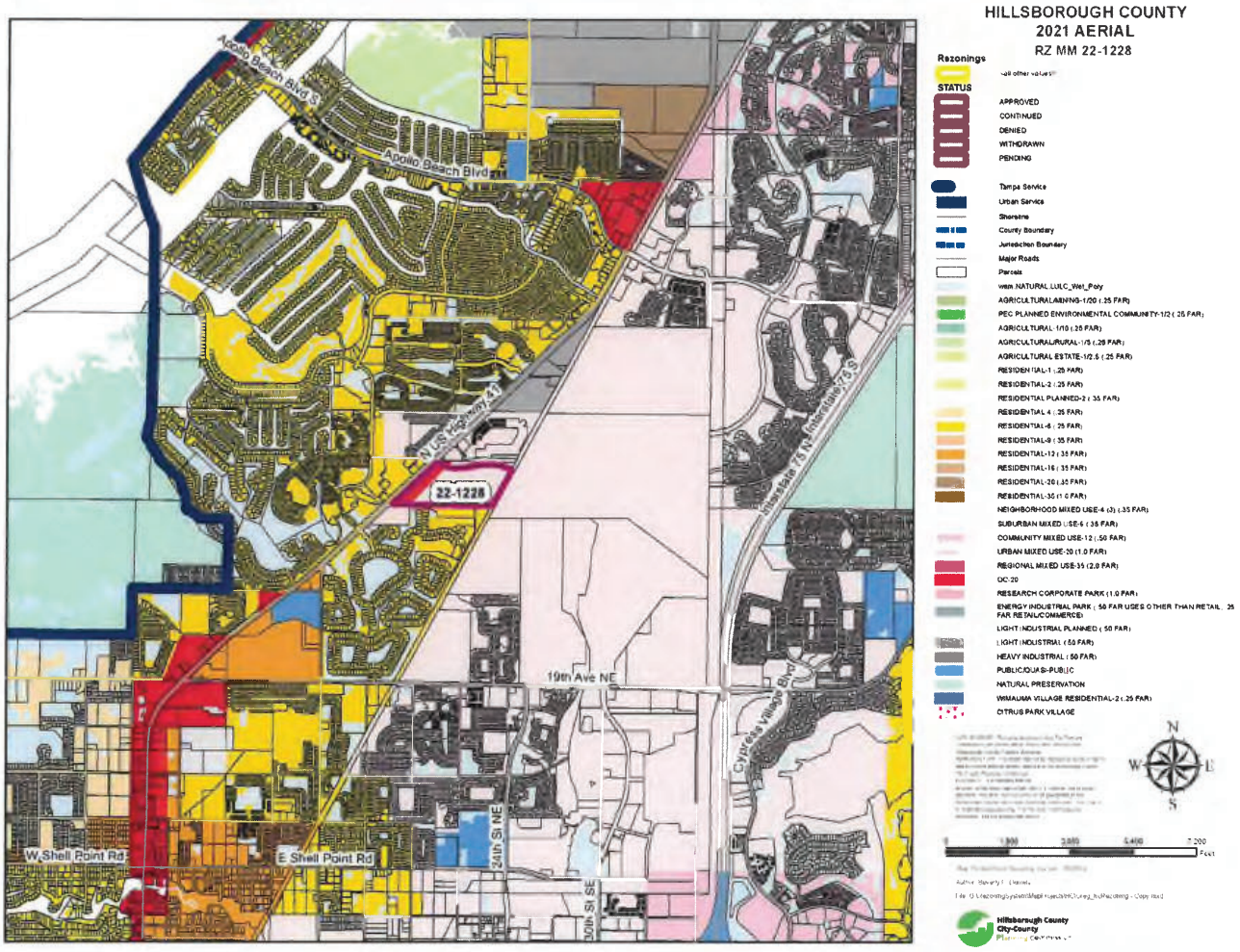
The adjoining properties to the south are zoned PD 00-1167 and PD 05-1951, The PD 00-1167 property abuts the majority of the southern property boundary and is developed for single-family residential use. The remaining southern boundary abuts a planned development (PD 05-1951) that is approved for a mix of commercial uses and multi-family; the site is currently undeveloped.

The properties to the north are vacant lands that are zoned PD 06-0120 which allows for a mix of BPO, GC, and single-family and multi-family residential uses.

The subject property abuts a 100-foot wide railroad right-of-way to the east. The properties located on the opposite side of the railroad right-of-way, to the east, are part of a 1,626 acre planned development that allows for a town center and mixed use the development. The properties within the PD that abut the railroad right-of-way are designated for single-family, villa-duplex, and townhouse development with an allowable density up to six dwellings per acre.

2.0 LAND USE MAP SET AND SUMMARY DATA

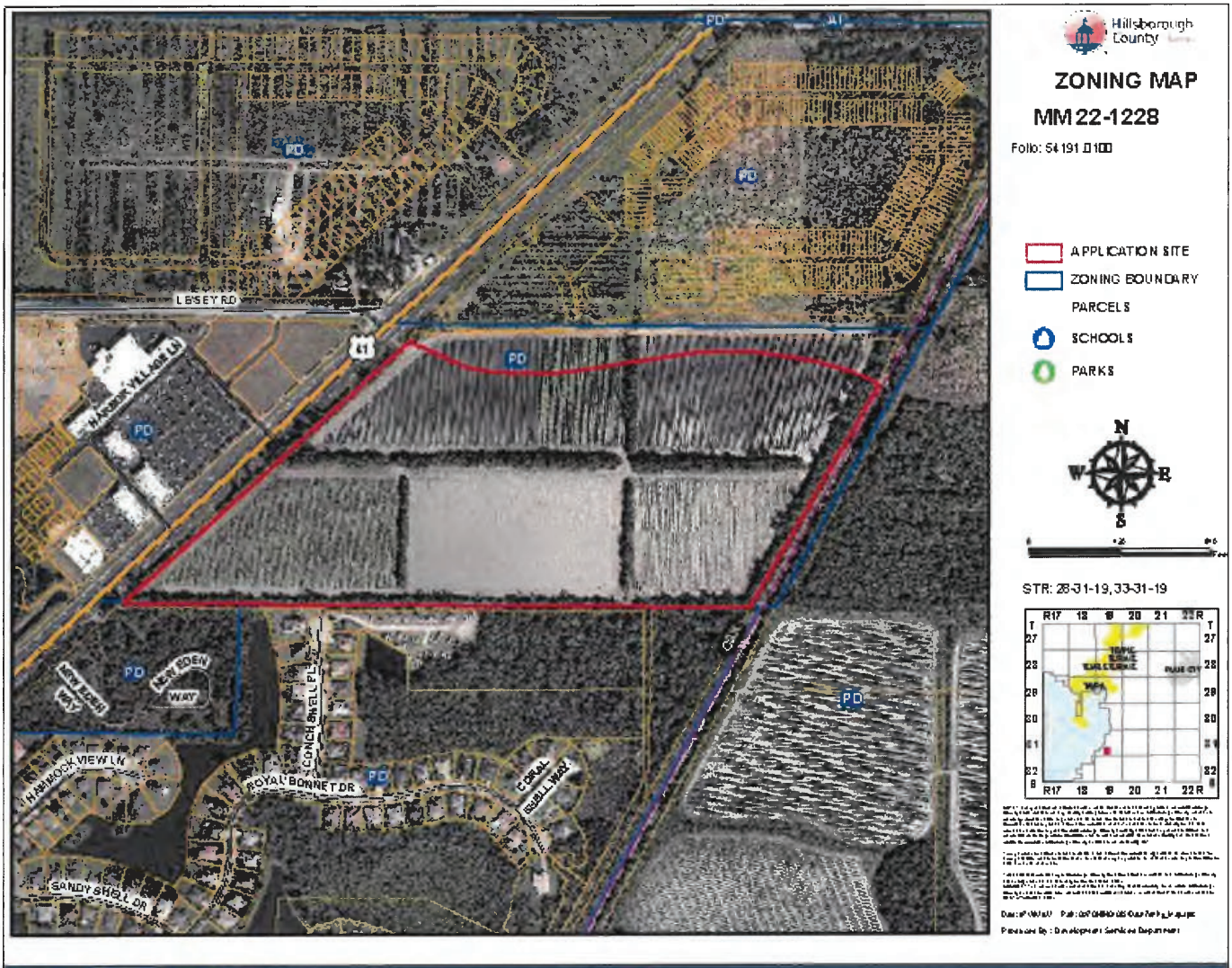
2.2 Future Land Use Map



Subject Site Future Land Use Category	Office Commercial-20 (OC-20) Suburban Mixed Use-6 (SMU-6)
Maximum Density/F.A.R.	Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)
Typical Uses	Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.

2.0 LAND USE MAP SET AND SUMMARY DATA

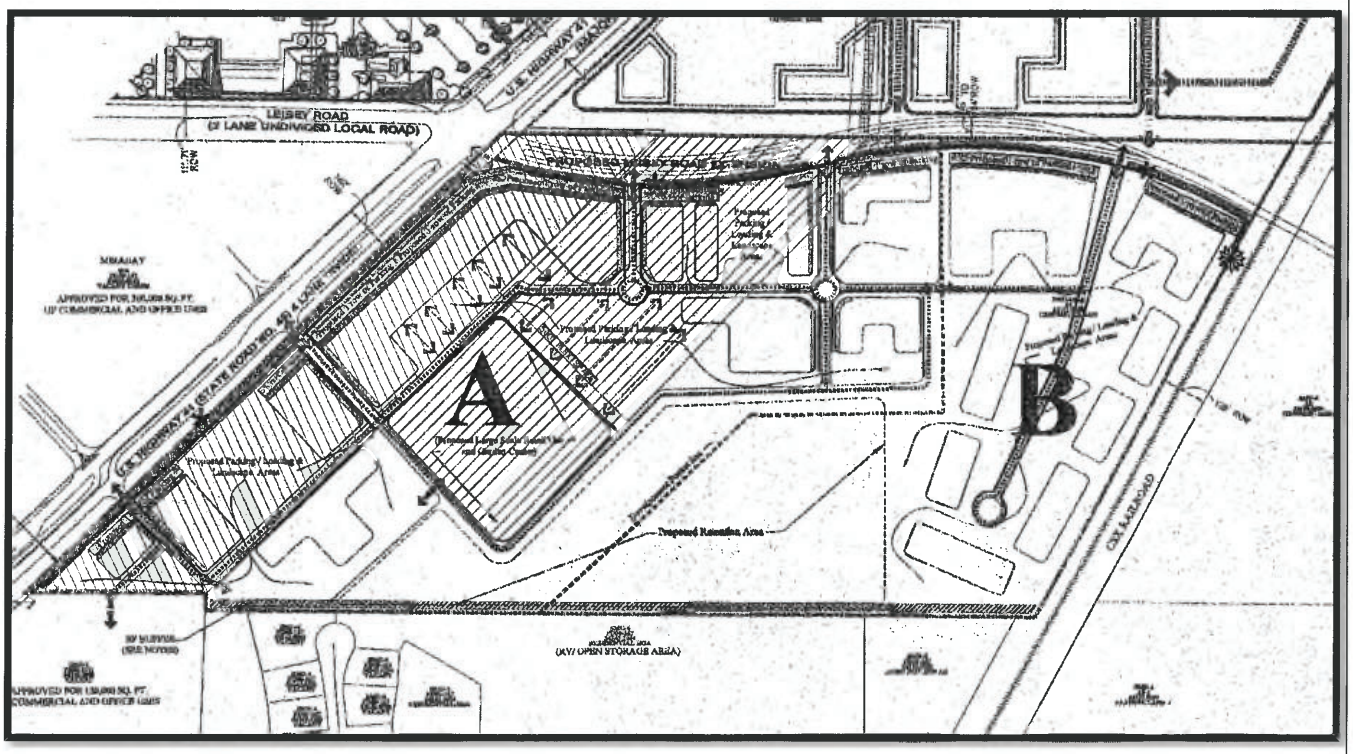
2.3 Immediate Area Map



Adjacent Zonings and Uses				
Location	Zoning	Maximum Density/F.A.R. Permitted by Zoning District	Allowable Use	Existing Use
North	PD 20-0329	3.97 du/1 ga FAR: 0.25	BPO, GC, single-family, multi-family residential	Vacant
South	PD 00-1167	1 du/ga FAR: 0.25	Single-family, multi-family, CG	Single-family, conventional
South	PD 05-1951	4.24 du/ga FAR: 0.30	BPO, GC, multi-family residential	Vacant
East	PD 14-0815	6 du/ga FAR: 0.25	Town center, mixed use commercial and residential	Vacant
West	PD 13-0591	20 du/ga FAR: 0.25	Town center, mixed use commercial, single-family, multi-family residential	Shopping center, automotive repair, vacant

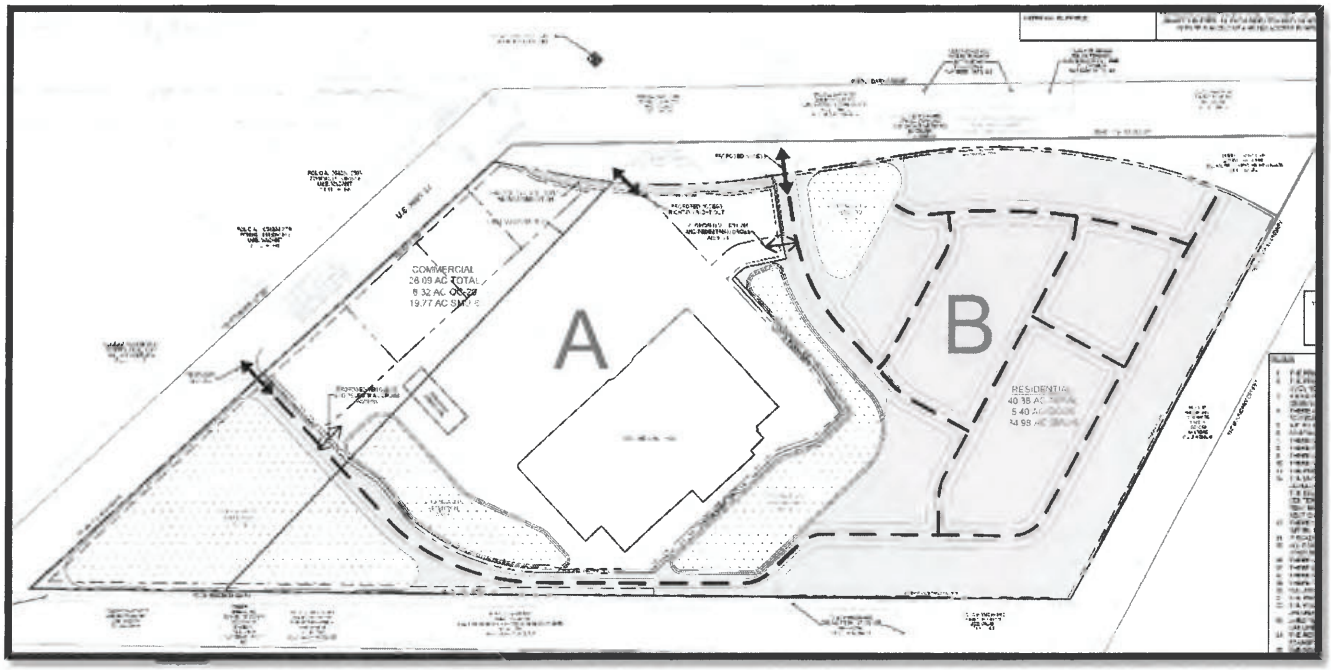
2.0 LAND USE MAP SET AND SUMMARY DATA

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
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	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	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Natural Resources	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ No	
Conservation & Environ. Lands Mgmt.	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ 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**
Transportation ☐ Design Exc./Adm. Variance Requested ☒ Off-site Improvements Provided	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Service Area/ Water & Wastewater ☒Urban ☐ City of Tampa ☐Rural ☐ City of Temple Terrace	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	South County Statement of Record
Hillsborough County School Board Adequate ☒ K-5 ☒6-8 ☐9-12 ☐N/A Inadequate ☐ K-5 ☐6-8 ☒9-12 ☐N/A	☒ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	
Impact/Mobility Fees: Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore				
Discount Superstore (per 1,000 sf) **Mobility: $14,708*230 = $3,382,840** **Fire: $ 313*320 = $ 100,160** **Total: $3,483,000**	**Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story** **Mobility: $6,661 * 303 units = $2,018,283** **Parks: $1,555 * 303 units = $ 471,165** **School: $3,891 * 303 units = $1,178,973** **Fire: $249 * 303 units = $ 75,447** **Total Multi-Family (1-2 story) = $3,743,868**			
Comprehensive Plan:	**Comments Received**	**Findings**	**Conditions Requested**	**Additional Information/Comments**
Planning Commission ☐ Meets Locational Criteria ☒N/A ☐ Locational Criteria Waiver Requested ☐ Minimum Density Met ☒ N/A	☒ Yes ☐ No	☐ Inconsistent ☒ Consistent	☐ Yes ☒ No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

Based on the adjacent zonings and uses identified in the report, staff finds that the proposed reduction in allowable Commercial Intensive entitlements in conjunction with replacing 335,000 SF of BPO, warehouse, open storage, RCP and personal service use entitlements with 303 multi-family dwellings is compatible with the existing zoning districts and development pattern in the area. Additionally, staff finds that the result of the variation to reduce the required parking ratio from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet for the 208,000 square-foot discount superstore would reduce the number required parking spaces from 1,040 spaces to 832 spaces, and would be in harmony with the purpose and intent of the Land Development Code.

5.2 Recommendation

Based on the above considerations, staff recommends approval of the request, subject to conditions.

6.0 PROPOSED CONDITIONS

Prior to PD site plan certification, applicant shall:

1. Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
2. Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
3. Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
4. Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
5. The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
6. The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
7. Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
8. Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
9. Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
10. Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
11. Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
12. Delete the box and information within the box titled "Waiver Under MM-22-1228".

Approval - Recommended zoning conditions are based on site plan received ~~November 7, 2006~~ December 28, 2022.

1. The project shall be permitted the following development options:

   1.1 Pocket A – ~~300,000~~ 230,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box

   1.2 Pocket B – ~~335,000 square feet of the following uses:~~ 303 Multi-family units

~~Business, Professional Offices Uses (Includes Flex Space Uses)~~

~~Personal Services~~

~~Minor Industry (Within completely Enclosed Buildings)~~

~~Research Corporate Park~~

~~Warehousing~~

~~Open Storage~~

2. The project shall be subject to the Apollo Beach Community Plan and Pocket A shall follow the Land Development Code (LDC) Development Standards of the Commercial Intensive (CI) zoning district and, where applicable, LDC Section 6.11.106 – Large Scale Retail Development (Single Tenant Big Box), unless otherwise stated herein:

3. All large scale retail development ~~other than the~~ within Pocket A shall be developed pursuant to LDC Section 6.11.106 Large Scale Retail Development. All other Pocket A development shall comply with the following standards, unless otherwise referenced herein.

~~3.1 All buildings shall be placed within the building envelopes as shown on the site plan. Buildings constructed within envelopes indicating either "front façade build to line" (adjacent to U.S. Hwy 41 and Leisey Road) or "other build to line" (adjacent to internal roadways) shall be placed along those lines.~~

~~3.2 Not less than sixty percent (60%) or more than ninety percent (90%) of the total surface area of the front elevation of any building with a "front façade build to line" shall include public entrances and windows.~~

3.1 ~~3.3~~ Ground floor walls or sections of walls that front onto U.S. 41 or Leisey Road without windows or entryways shall not exceed twenty (20) feet in length.

3.2 ~~3.4~~ All building elevations fronting along U.S. 41 and Leisey Road shall have an entrance and be designed as a front elevation, regardless of any other access which may be provided. Buildings on ~~comer~~ corner lots with frontages on two sidewalks may have an individual entrance on each sidewalk, or one entrance oriented diagonally to the corner with direct access to both sidewalks.

3.3 ~~3.5~~ Buildings may be recessed to accommodate courtyards.

3.4 ~~3.6~~ Buildings shall be articulated so that facades that face public streets and exceed fifty (50) feet in horizontal length shall include vertical piers, columns, colonnades or other vertical visual elements to break the plane of the façade. Such vertical visual elements shall be spaced six (6) feet to thirty-five (35) feet apart along the façade.

3.5 ~~3.7~~ Galleries, cafes, and arcades may include outdoor seating.

3.6 ~~3.8~~ Within the building envelope along US ~~4 1~~ 41 directly west of the building labeled "large scale retail", the developer shall set aside an area or areas, totaling no less than 30% of this frontage, for the construction of a building, or buildings, to screen the large scale retail building from US 41. Parking areas may be provided between these building areas and the large scale retail building, subject to LDC Section 6.11.106 design standards. ~~No parking shall be allowed within the subject building envelope until such time as the buildings adjacent to U.S. 41 are constructed.~~

~~3.9 No more than 50 percent of the frontage on U.S. 41 and on Leisey Road shall be an open parking lot without buildings in front of it. The single row of parking areas shall not be considered open parking lots or be counted in the allowed 50 percent.~~

~~3.10 A prominent architectural feature may be placed at the traffic circle in front of the large scale retail building. Said feature may include a bell or clock tower, sculpture or other public art which reaches a height of at least 25 feet.~~

3.7 ~~3.11~~ Vehicular and pedestrian interconnectivity shall be provided between all portions of the project.

~~4. The developer shall provide a minimum eight-foot buffer along US 41 and Leisey Road. Within said area the developer shall provide a decorative fence a minimum of 4 feet in height. Landscaping treatment within the eight-foot buffer area shall consist of eight to ten foot high shade trees, spaced 20 feet on center, and of a hedge measuring 30 inches high at the time of planting, spaced 36 inches on center. PVC fencing material shall be prohibited. This buffering shall be provided instead of the buffer in LDC Section 6.11.106.C.7.c.~~

~~5. Maximum building setbacks for buildings within pockets A and B that front on U.S. 41 and Leisey Road shall be 57 feet from the right-of-way line. This may vary up to eight additional feet for variations in the wall facade.~~

4. ~~6.~~ Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

4.1 ~~6.2~~ On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

4.2 Large scale retail development parking shall be provided at 4 parking spaces per 1,000 square feet of big box gross floor area.

4.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

4.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

5. ~~7. The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~ As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

6. ~~8. If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~ The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

6.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;

6.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Road.;

6.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only

driveway;

6.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;

6.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;

6.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;

6.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Road.;

6.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Road.;

6.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Road.;

6.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Road.;

6.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,

6.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

~~6. 10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

7. ~~12.~~ Prior to ~~Construction Plan approval~~ or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others) ~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~ Hillsborough County Corridor Preservation Plan.

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project, as a four lane divided arterial as identified in the South Shore Corridor Plan.~~

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entity has committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

8. ~~17.~~ The Developer shall construct sidewalks ~~within the right-of-way along all (i) roadways adjacent to the property boundaries and along both sides of all (ii) internal roadways~~ in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The sidewalks~~ Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

9. ~~18.~~ Prior to or concurrent with the initial increment of development, ~~The~~ the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

10. ~~19.~~ The project may be permitted a maximum of ~~635,000~~ 230,000 square feet of commercial/office/industrial uses and 303 multi-family units, subject to formal delineation of on-site conservation areas, preservation areas and water bodies and final calculation of maximum density/intensity (FAR) permitted by the Comprehensive Plan in accordance with the Environmentally Sensitive Lands Credits requirement of the Comprehensive Plan. If the maximum number of units and/or maximum square footage for the project as permitted herein exceeds the maximum density/intensity (FAR) permitted by the Comprehensive Plan, per the Environmentally Sensitive Lands Credits requirement, the number of dwelling units and/or square footage allowed in the project shall decrease as necessary to conform to the Comprehensive Plan.

11. ~~20.~~ The stormwater management system shall be designed and constructed in such a manner so as to not adversely impact off-site surface and groundwater elevations.

~~21. The type, location, size and number of signs permitted shall be as set forth in Part 7.03.00 of the Land Development Code with the following exception(s):~~

~~21.1 Ground Signs shall be limited to Monument Signs.~~

~~21.2 Billboards, pennants and banners shall be prohibited.~~

~~22. Approval of this application does not ensure that water will be available at the time when the applicant seeks permits to actually develop.~~

12. ~~23.~~ Approval of this rezoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impacts to wetlands, and does not grant any implied or vested right to environmental approvals.

13. ~~24.~~ If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval.

14. In accordance with LDC Section 5.03.07.C, the certified PD general site plan shall expire for the internal transportation network and external access points, as well as for any conditions related to the internal transportation network and external access points, if site construction plans, or equivalent thereof, have not been approved for all or part of the subject Planned Development within 5 years of the effective date of the PD unless an extension is granted as provided in the LDC. Upon expiration, re-certification of the PD General Site Plan shall be required in accordance with provisions set forth in LDC Section 5.03.07.C.

15. Water distribution system improvements will need to be completed prior to connection to the Count's water system for a multi-family development approved through MM 22-1228. No building permits for the multi-family dwellings shall be issued until the completion by the County of funded Capital Improvement Projects C32001 – South County Potable Water Repump Station Expansion and C32011 – Potable Water In-Line Booster Pump Station, and the projects are put into operation.

~~25. The Development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.~~

~~26. Within 90 days of approval by the Hillsborough County Board of County Commissioners, the applicant shall submit to the Planning and Growth Management Department a revised General Development Plan for certification which conforms the notes and graphic of the plan to the conditions outlined above and the Land Development Code (LDC). Subsequent to certification of the plan, if it is determined the certified plan does not accurately reflect the conditions of approval or requirements of the LDC, said plan will be deemed invalid and certification of the revised plan will be required.~~

~~27. Effective as of February 1, 1990, this development order/permit shall meet the concurrency requirements of Chapter 163, Part II, Florida Statutes. Approval of this development order/permit does not constitute a guarantee that there will be public facilities at the time of application for subsequent development orders or permits to allow issuance of such development orders or permits.~~

Zoning Administrator Sign Off:	J. Brian Grady Tue Jan 17 2023 09:57:06

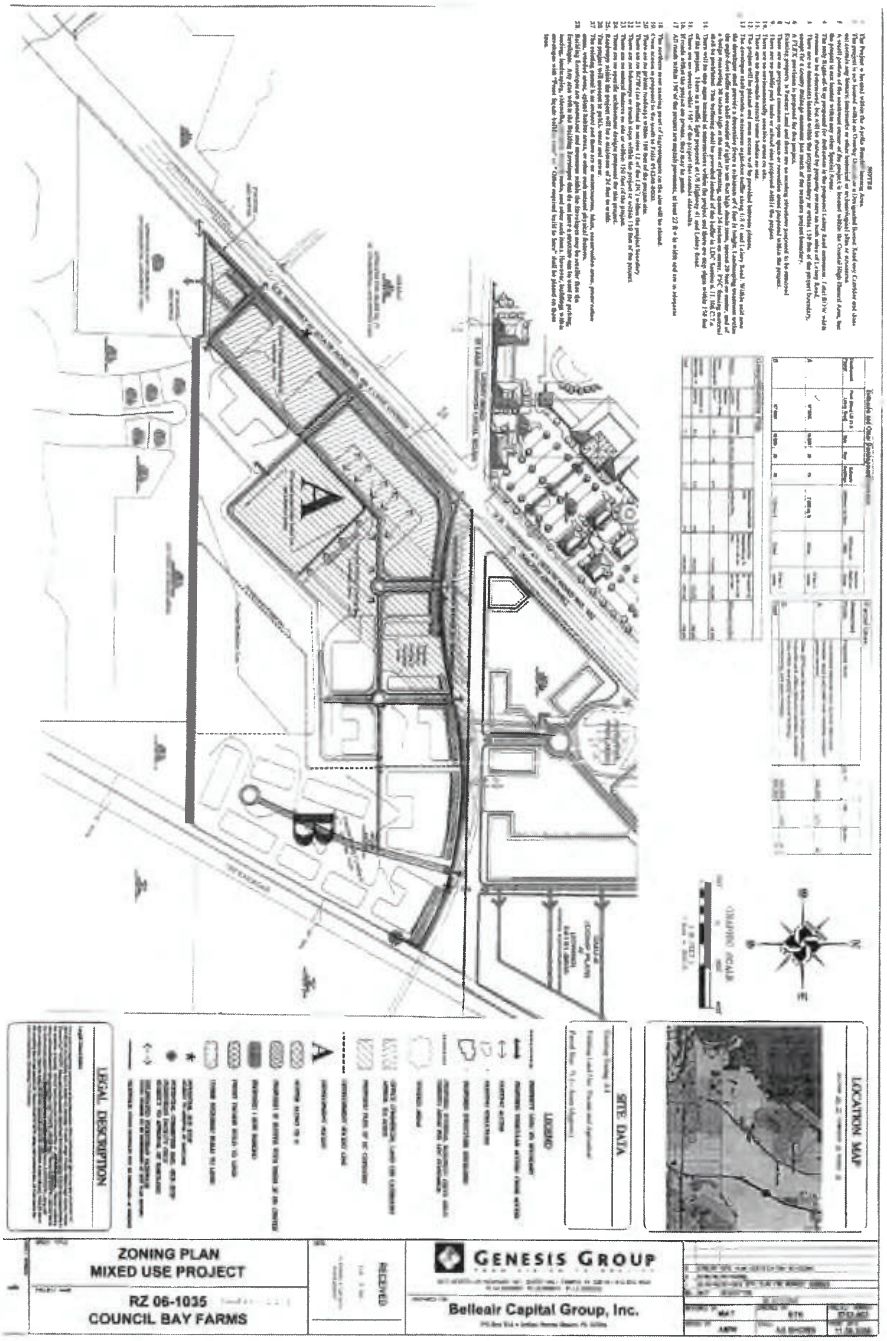
SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

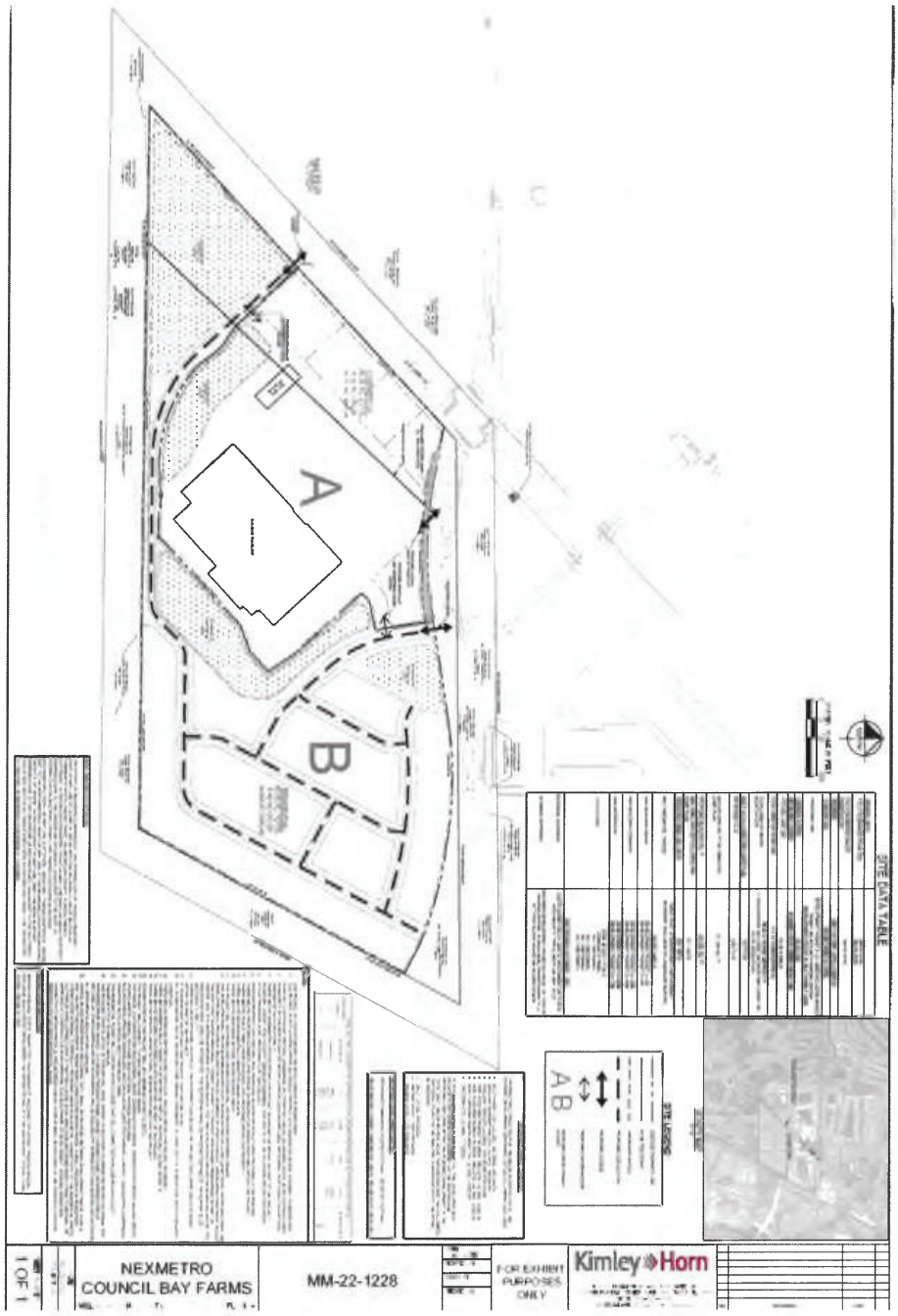
8.0 SITE PLANS (FULL)

8.1 Approved Site Plan (Full)



8.0 SITE PLANS (FULL)

8.2 Proposed Site Plan (Full)



9.0 FULL TRANSPORTATION REPORT (see following pages)

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department	DATE: 1/08/2022
REVIEWER: James Ratliff, AICP, PTP, Principal Planner	AGENCY/DEPT: Transportation
PLANNING AREA/SECTOR: APB/ South	PETITION NO: MM 22-1228

[ ] This agency has no comments.

[ ] This agency has no objection.

[X] This agency has no objection, subject to the listed or attached conditions.

[ ] This agency objects for the reasons set forth below.

NEW AND REVISED CONDITIONS OF APPROVAL

Revised Conditions

6. Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

6.~~2~~1 On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

6.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single-tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

6.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

[Staff recommends modification of this above condition to reflect the applicant's requested PD variation for parking. Staff notes that the applicant has requested a change to 6.1. This is a design related condition and, as such, was not reviewed by Transportation Review Section staff. It is shown only for clarity. Comments related to this change will be addressed by Zoning Section staff.]

7. ~~The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by~~

~~Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and access configuration requirements by the County and/or FDOT.]

8. ~~If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

8.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
8.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
8.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
8.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
8.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;
8.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;
8.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
8.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
8.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
8.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
8.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and site access improvements requirements by the County and/or FDOT.]

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system

for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that some of the listed improvements will be completed as required site-access improvements—see revised condition 8.]

~~10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

[Staff is recommending deletion of this condition to comport with current practice. Staff notes that, regardless of the deletion of a condition addressing throat depth within the PD zoning, the developer will be required to comply with then current throat depth standards as found within the LDC at the time of plat/site/construction plan review.]

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

[Staff is recommending deletion of this condition. Staff notes the zoning to the south, #20-1029, was recently modified for a charter school use and as such cross would not be required pursuant to Sec. 6.04.03.Q of the LDC. Also, as shown on the Property Appraiser's website and on the PD site plan, there appears to be an intervening strip of land between the subject PD and property to the south owned by Hillsborough County which separates the two developments.]

12. Prior to ~~Construction Plan approval~~or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others) ~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~Hillsborough County Corridor Preservation Plan.

[Staff is recommending modification of this condition. Staff notes that the majority of needed road right-of-way has been acquired by the developers of Waterset. A portion of the 2-lane Leisey Rd. extension is under construction and is anticipated to be dedicated/conveyed/accepted by Hillsborough County for maintenance in the near future. The above additional right-of-way ensures that the required site access improvements which must be constructed by the subject PD do not jeopardize the County's ability to construct the 4-lane widening envisioned by--and for which right-of-way must be preserved in accordance with--the Hillsborough County Corridor Preservation.]

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

[Staff is recommending deletion of this condition. Staff notes that there is sufficient right-of-way along US 41 to accommodate the future 6-laning of the facility.]

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that the project will be required to construct certain site-access improvements as detailed in revised condition 8.]

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project as a four lane divided arterial as identified in the South Shore Corridor Plan~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that, given the proposed access changes, the 2-lane portion of the roadway has already been completed to the easternmost project driveway.]

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entityhas committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

[Staff is recommending deletion of this condition. Staff notes that a traffic signal already exists at this intersection. Modification of the signal by the developer of the subject PD is required, and such condition has been proposed as a part of revised condition 8, above.]

17. The Developer shall construct sidewalks ~~within the right-of-way along all roadways adjacent to the property boundaries and along both sides of all internal roadways~~in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The s~~Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

[Staff is recommending modification of this condition for clarity and to comport with current practice.]

18. Prior to or concurrent with the initial increment of development, ~~T~~the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

[Staff is recommending modification of this condition to comport with current practice and LDC requirements. Additionally, staff is unsure of the type of HART service which will be provided, and the zoning condition should not bind the developer or HART to provision of a certain frequency of service, e.g. express service.]

Other Conditions

- Prior to PD site plan certification, the developer shall:
    - Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
    - Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
    - Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
    - Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
    - The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
    - The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
    - Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
    - Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
    - Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
    - Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
    - Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
    - Delete the box and information within the box titled "Waiver Under MM-22-1228".

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting a Major Modification a +/- 66.83 ac. parcel currently zoned Planned Development (PD) 06-1035-1402. The existing PD has approval for two development pockets. Pocket A is approved for 300,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box. Pocket B is approved for 335,000 square feet of Business, Professional Offices Uses (Includes Flex Space Uses), Personal Services, Minor Industry (Within completely Enclosed Buildings), Research Corporate Park, Warehousing and Open Storage uses.

The applicant is proposing the following transportation related changes:

1. Modify the boundaries of Pockets A and B as shown on the PD site plan;
2. Reduce the entitlements in Pocket A from 300,000 s.f. to 230,000 s.f.;
3. Replace the uses currently approved within Pocket B with entitlements for up to 303 multi-family dwelling units.; and,
4. Modify project access as follows:
    a. Eliminate one (1) of the two (2) previously approved access from Pocket A to US 41; and,
    b. Eliminate one (1) of the three (3) previously approved access from Pockets A and B to Leisey Rd.

Staff notes additional changes, including more design related transportation changes are proposed and will be addressed by zoning section staff. Staff also notes the applicant is proposing to modify the right-in/right-out access to Leisey Rd. from Pocket A (such that allows right-in only movements), and retain one full access connection to Leisey Rd. within Pocket B, which will be shared with the Pocket A development. Staff notes the PD site plan is incorrectly labeled as right-in/right-out (staff has proposed a condition to address this issue). Similarly, access to US 41 from Pocket A has been eliminated, but there will be one (1) right-in/right-out/left-in access within Pocket B which will be shared with the Pocket A development.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a trip generation and site access analysis for the proposed project which was reviewed by staffs of both the Florida Department of Transportation and Hillsborough County. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition and the applicant's transportation analysis.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 300,000 s.f. Shopping Center (Multiple Uses, Reference Applicant's Analysis in Optix Adjusted by Increasing g.s.f. of Proposed by 70k)	23,058	1,271	1929
PD, Pocket B, 335,000 s.f. Office Park (ITE LUC 750)	3,923	509	443
Subtotal:	26,981	1,780	2,372

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 230,000 s.f. Shopping Center, Reference Applicant's Analysis in Optix)	19,522	1,141	1,626
PD, Pocket B, 303 Multi-Family Dwelling Units (ITE LUC 220)	2,018	117	151
Subtotal:	21,540	1,258	1,777

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	**(-) 5,441**	**(-) 522**	**(-) 595**

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 4-lane principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot wide travel lanes in average condition. The roadway lies within a +/- 182 foot wide right-of-way along the project's frontage. There are bicycle facilities (on paved shoulders) along both sides of the roadway in the vicinity of the project. There +/- 5-foot wide sidewalks along portions of the east and west sides of US 41 in the vicinity of the proposed project.

US 41 is shown on the Hillsborough County Corridor Preservation Plan as a future 6-lane roadway along the project's frontage. There is adequate existing right-of-way along the project's frontage to accommodate the future widening.

Leisey Rd. is currently a 2-lane collector roadway which has been recently constructed for a distance of 800 feet east of US 41 to collector roadway standards as found within the Transportation Technical Manual (TTM); however, the roadway has not yet been accepted by the County for maintenance (current Hillsborough County Property Appraiser's records indicate the road right-of-way is currently owned by the developer of Waterset to the east of the proposed project).

In order to accommodate traffic generated by development on both the north and south sides of Leisey Rd. (between US 41 and the CSX railroad) and proposed site access changes, the developer is required to construct a variety of site access improvements as specified in the section hereinbelow. In order to retain the County's ability to 4-lane this roadway in the future in accordance with the Corridor Preservation Plan, this will necessitate the developer to dedicate and convey up to an additional 29 feet of right-of-way along the project's Leisey Rd. frontage (staff notes that some areas of the frontage require less or no additional right-of-way dedication and conveyance).

SITE ACCESS AND CONNECTIVITY

General project site access is summarized hereinabove. The developer will be required by FDOT and the County to make certain improvements prior to or concurrent with the initial increment of development. Specifically, the developer will be required to:

1. Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
2. Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
3. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
4. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
5. Construct a southbound to eastbound left turn lane on US 41 at the project access;
6. Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
7. Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8. Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
9. Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
10. Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
11. Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

TRANSIT FACILITIES

Pursuant to Section 6.03.09.C.2 of the LDC, non-residential and mixed-use projects containing greater than 200,000 s.f. but less than 500,000 s.f. are required to provide a bus bay and transit accessory pad including shelter, trash receptacle and bicycle rack. FDOT has indicated a preferred location of the transit facility, but has stated they will ultimately defer to whatever location Hillsborough Area Regional Transit (HART) prefers. Staff has proposed a zoning condition requiring the location to be coordinate with an approved by the County, FDOT and HART prior to or concurrent with the initial increment of development.

REQUESTED PD VARIATION

The applicant submitted the PD variation request for the retail anchor tenant which they indicate will be a "discount retail superstore" (as it's referred to in the ITE Parking Generation Manual, 5th Edition, LUC 813). The Hillsborough County Land Development Code, Section 6.05.02.E. requires such use to provide parking at a rate of 5 spaces per 1,000 s.f. (reference the "All Other Retail" parking standard). The applicant is proposing to provide parking at a rate of 4.0 spaces per 1,000 s.f. The applicant submitted supporting documentation from the ITE Parking Generation Manual indicating that such rate could be appropriate. Staff believes that the proposed rate, in combination with bicycle parking spaces, can be supported. Staff notes that Section 6.05.02.P.1. of the LDC allows for a 5% reduction of parking spaces if bicycle parking meeting certain location criteria is provided. The applicant is requesting a reduction of 20% of the required parking rate.

As such, while staff believes that the parking reduction requested is supportable, staff also believes that provision of a number of bicycle parking meeting such location criteria in an amount equivalent to 5% of the number of vehicular spaces (calculated at a rate of 5 per 1,000 is also appropriate). This PD variation essentially has the effect of granting a further 15% decrease in the parking rate from what could already be authorized under the LDC.

Staff recommends approval of the proposed PD variation request and has proposed conditions of approval consistent with the above.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway section(s) is reported below. LOS information for the segment east of US 41 cannot be provided, as the roadway is not yet open to traffic (or has not been accepted by the County for maintenance).

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	19th Ave NE	Apollo Beach Blvd./ Paseo al Mar Blvd.	D	C
Leisey Rd.	Golf and Sea Blvd.	US 41	D	B

Source: Hillsborough County 2020 Level of Service Report.

Transportation Comment Sheet

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
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	**Objections**	**Conditions Requested**	**Additional Information/Comments**
☐ Design Exception/Adm. Variance Requested ☒ Off-Site Improvements Provided	☐ Yes ☐N/A ☒ No	☒ Yes ☐ No	

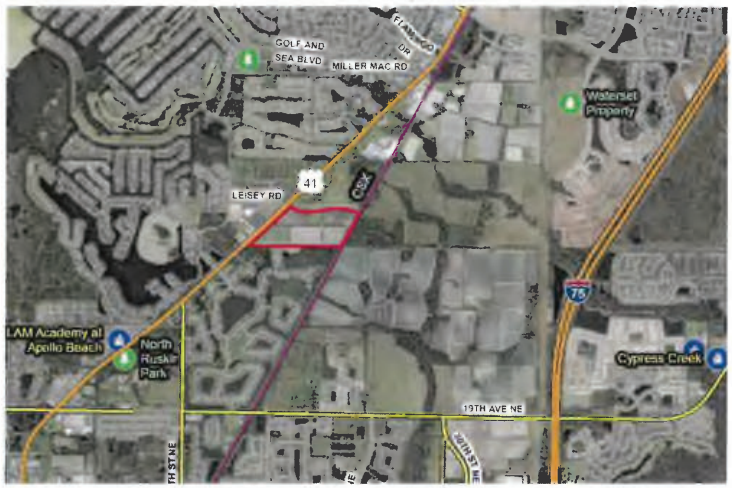
PD Modification Application:	MM 22-1228
Zoning Hearing Master Date:	January 17, 2023
BOCC Land Use Meeting Date:	March 14, 2023

Hillsborough County Florida

Development Services Department

1.0 APPLICATION SUMMARY

Applicant:	Council Bay Farms
FLU Category:	Office Commercial – 20 (OC – 20) Suburban Mixed Use – 6 (SMU – 6)
Service Area:	Urban
Site Acreage:	66.83
Community Plan Area:	Apollo Beach
Overlay:	None



Introduction Summary
PD 06-1035 was approved in 2007 to allow for 71.1 acres located along the east side of N US Highway 41 (N US 41) to the south of Leisey Road to be developed with up to 300,000 square feet (SF) of Commercial Intensive (CI) uses, and 335,000 SF of office (BPO), flexspace uses, personal services, minor industrial, RCP, warehousing, and open storage. The applicant is requesting a modification to: reduce the maximum entitlements on the property from the currently approved Commercial Intensive uses of 300,000 square feet to 230,000 square feet; to eliminate the currently approved 335,000 square feet of BPO, warehouse, open storage, RCP and personal service uses and replace it with 303 multi-family dwelling; and to modify the boundaries between Pods A and B.

Existing Approval(s)	Proposed Modification(s)
Site development to allow up to 300,000 SF of CI uses without open storage within Pocket A.	Site development to allow up to 230,000 SF of CI uses without open storage within Pocket A.
Site development to allow up to 335,000 square feet of BPO with flex space, personal services, minor industry within completely enclosed buildings, RCP, warehousing, and open storage within Pocket B.	Site development to allow up to 303 multi-family dwelling units within Pocket B.

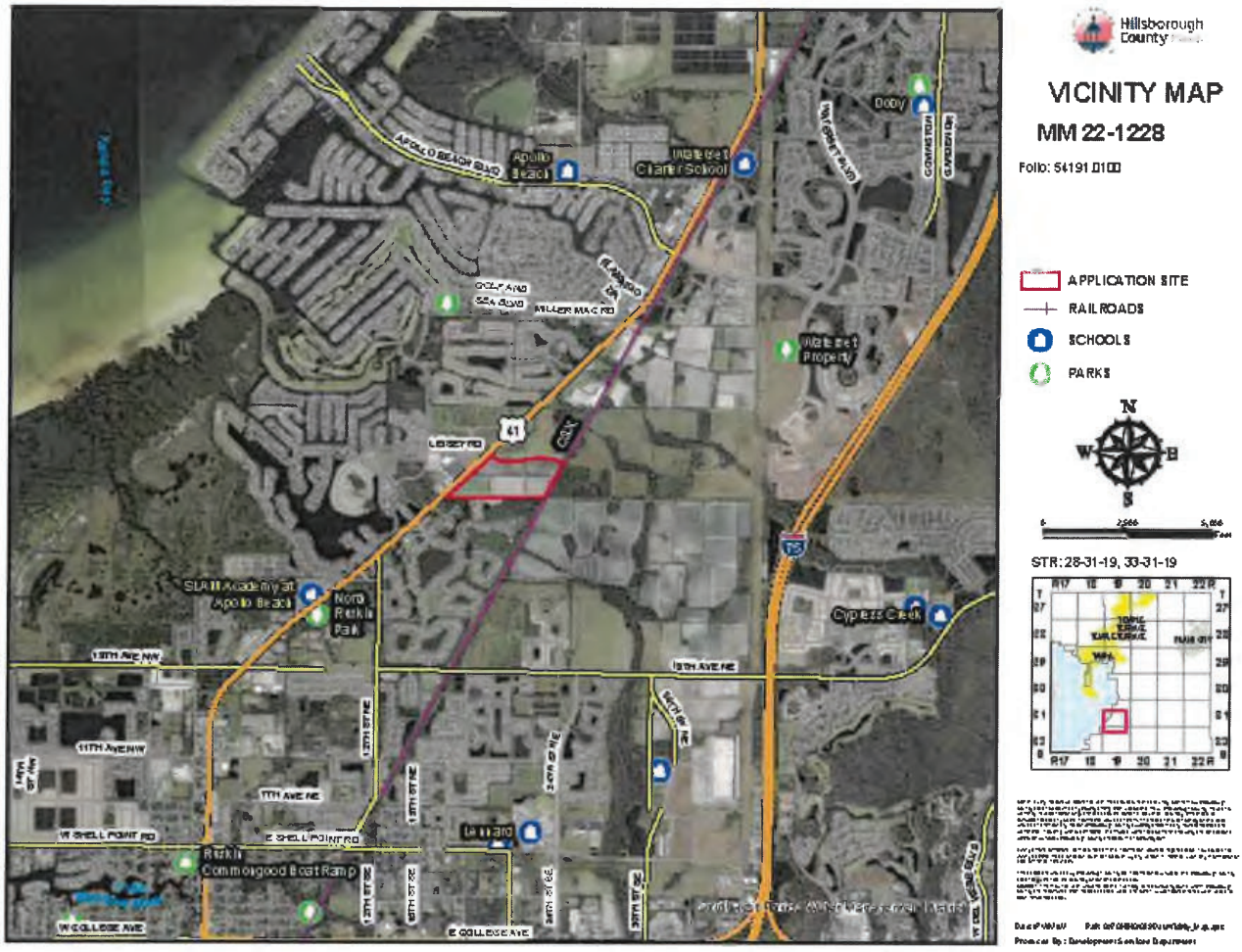
Additional Information	
PD Variation(s)	Section 6.05.02 – Parking and Loading Standards A variation to allow a 4.0 spaces per 1,000 SF where 5.0 spaces per 1,000 square feet is required.
Waiver(s) to the Land Development Code	None

Planning Commission Recommendation	Development Services Recommendation
Consistent	Approvable, subject to proposed conditions

Created: 8-17-21

2.0 LAND USE MAP SET AND SUMMARY DATA

2.1 Vicinity Map



Context of Surrounding Area:

The subject property is located at the southeast corner of the N US 41 intersection and Leisey Road (Brandermill Road). The uses in the immediate vicinity include single-family residential, auto repair, shopping center, railroad right-of-way, acreage, and vacant lands.

The properties to the west are separated by 182-foot of N US 41 right-of-way and are zoned PD 98-1513. The uses to the west include a shopping center, auto repair, vacant residential and vacant commercial land.

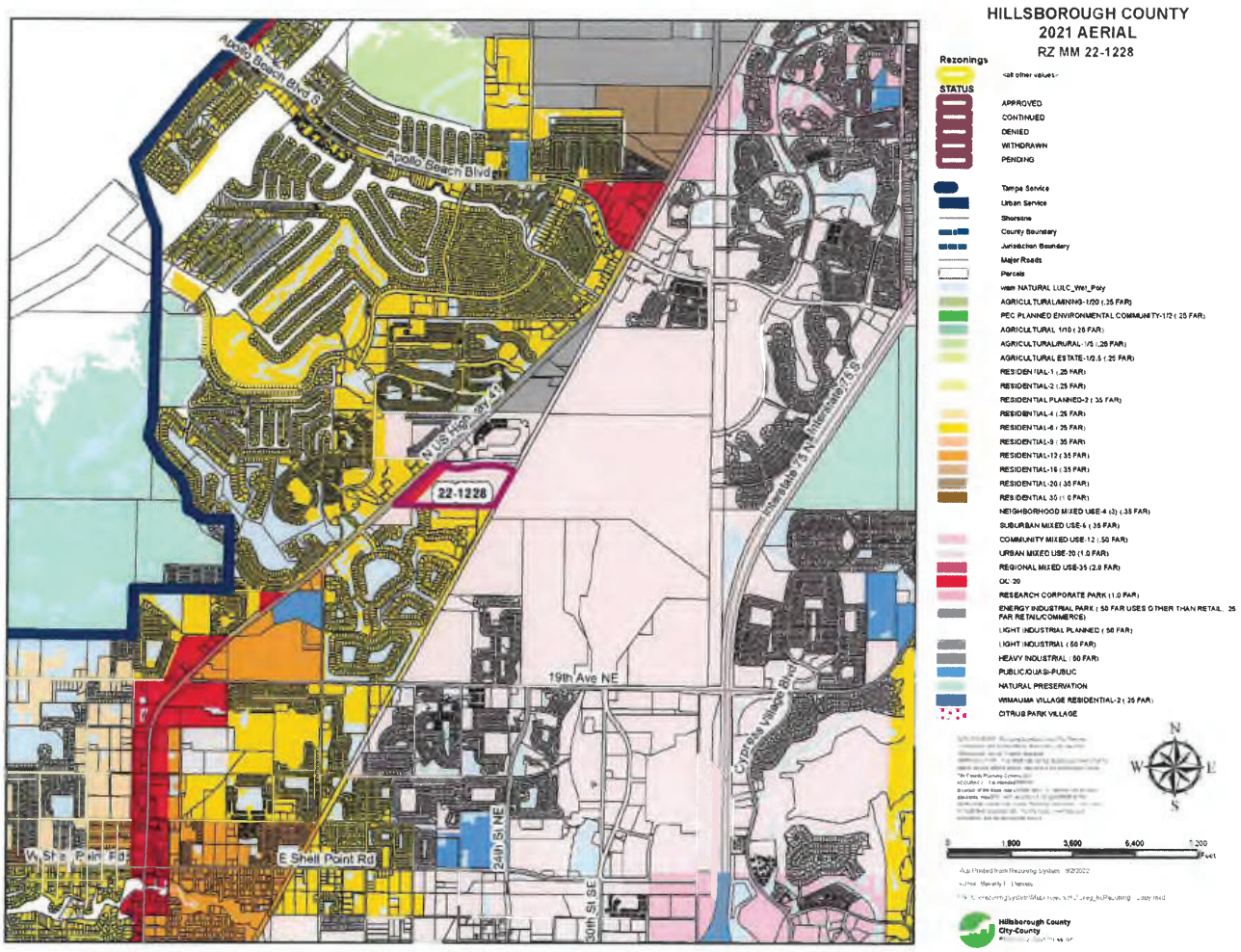
The adjoining properties to the south are zoned PD 00-1167 and PD 05-1951, The PD 00-1167 property abuts the majority of the southern property boundary and is developed for single-family residential use. The remaining southern boundary abuts a planned development (PD 05-1951) that is approved for a mix of commercial uses and multi-family; the site is currently undeveloped.

The properties to the north are vacant lands that are zoned PD 06-0120 which allows for a mix of BPO, GC, and single-family and multi-family residential uses.

The subject property abuts a 100-foot wide railroad right-of-way to the east. The properties located on the opposite side of the railroad right-of-way, to the east, are part of a 1,626 acre planned development that allows for a town center and mixed use the development. The properties within the PD that abut the railroad right-of-way are designated for single-family, villa-duplex, and townhouse development with an allowable density up to six dwellings per acre.

2.0 LAND USE MAP SET AND SUMMARY DATA

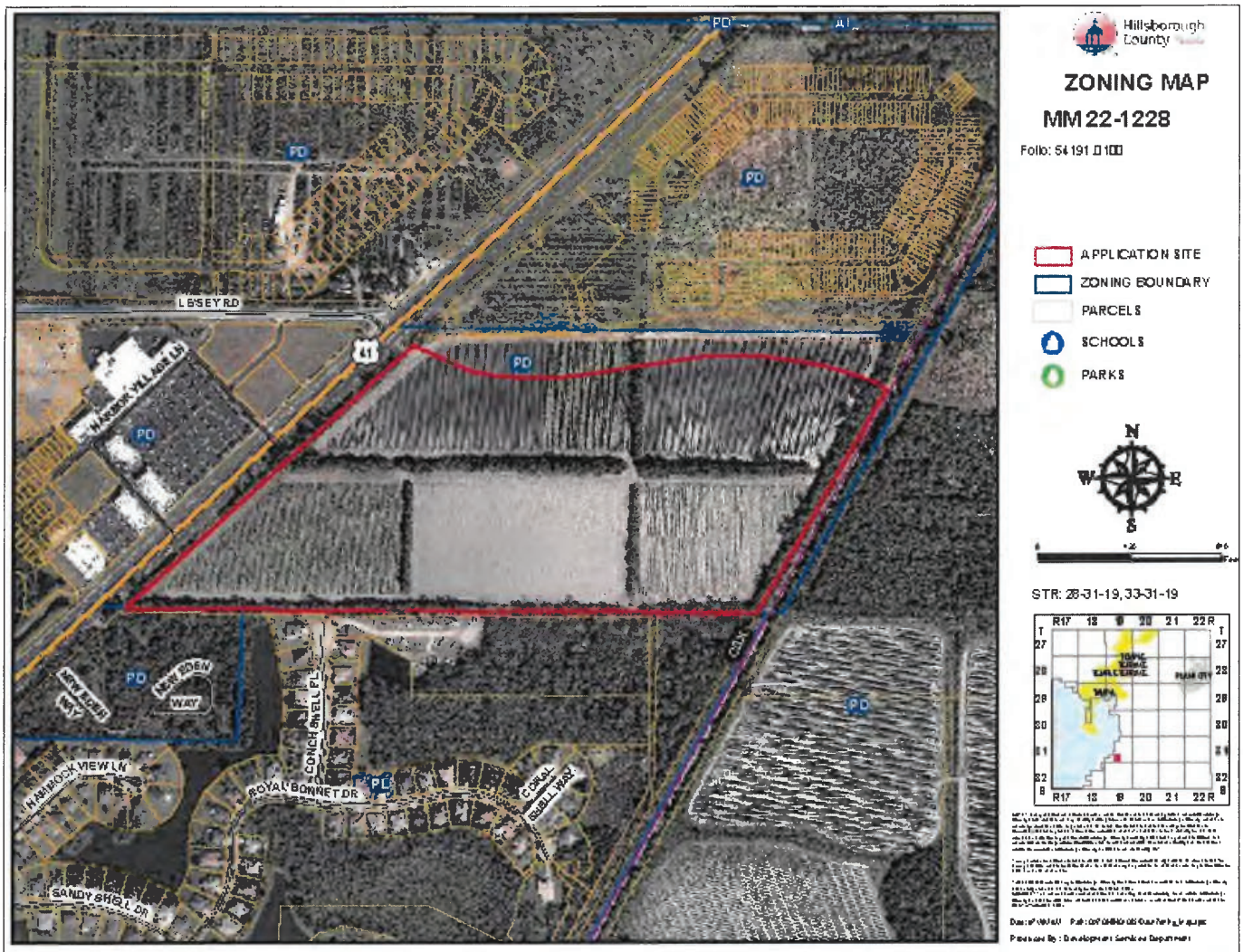
2.2 Future Land Use Map



Subject Site Future Land Use Category	Office Commercial-20 (OC-20) Suburban Mixed Use-6 (SMU-6)
Maximum Density/F.A.R.	Office Commercial-20 (20 du/ga; 0.75 FAR) Suburban Mixed Use-6 (6 du/ga; 0.25/0.35/0.50 FAR)
Typical Uses	Typical uses in the OC-20 Future Land Use category are community commercial type uses, office uses, mixed use developments, and compatible residential uses. Typical uses in the SMU-6 Future Land Use category include residential, suburban scale neighborhood commercial, office uses, research corporate park uses, light industrial multi-purpose and clustered residential and/or mixed use projects at appropriate locations.

2.0 LAND USE MAP SET AND SUMMARY DATA

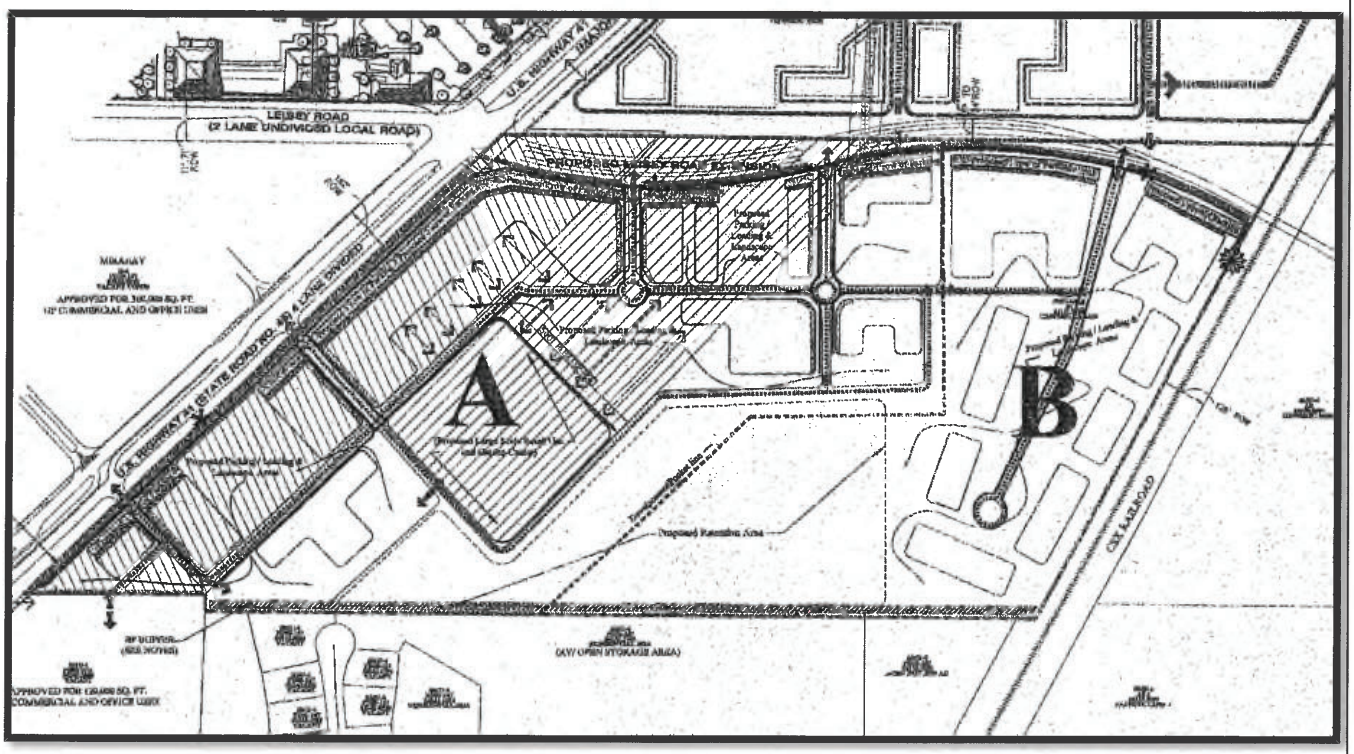
2.3 Immediate Area Map



Adjacent Zonings and Uses				
Location	Zoning	Maximum Density/F.A.R. Permitted by Zoning District	Allowable Use	Existing Use
North	PD 20-0329	3.97 du/1 ga FAR: 0.25	BPO, GC, single-family, multi-family residential	Vacant
South	PD 00-1167	1 du/ga FAR: 0.25	Single-family, multi-family, CG	Single-family, conventional
South	PD 05-1951	4.24 du/ga FAR: 0.30	BPO, GC, multi-family residential	Vacant
East	PD 14-0815	6 du/ga FAR: 0.25	Town center, mixed use commercial and residential	Vacant
West	PD 13-0591	20 du/ga FAR: 0.25	Town center, mixed use commercial, single-family, multi-family residential	Shopping center, automotive repair, vacant

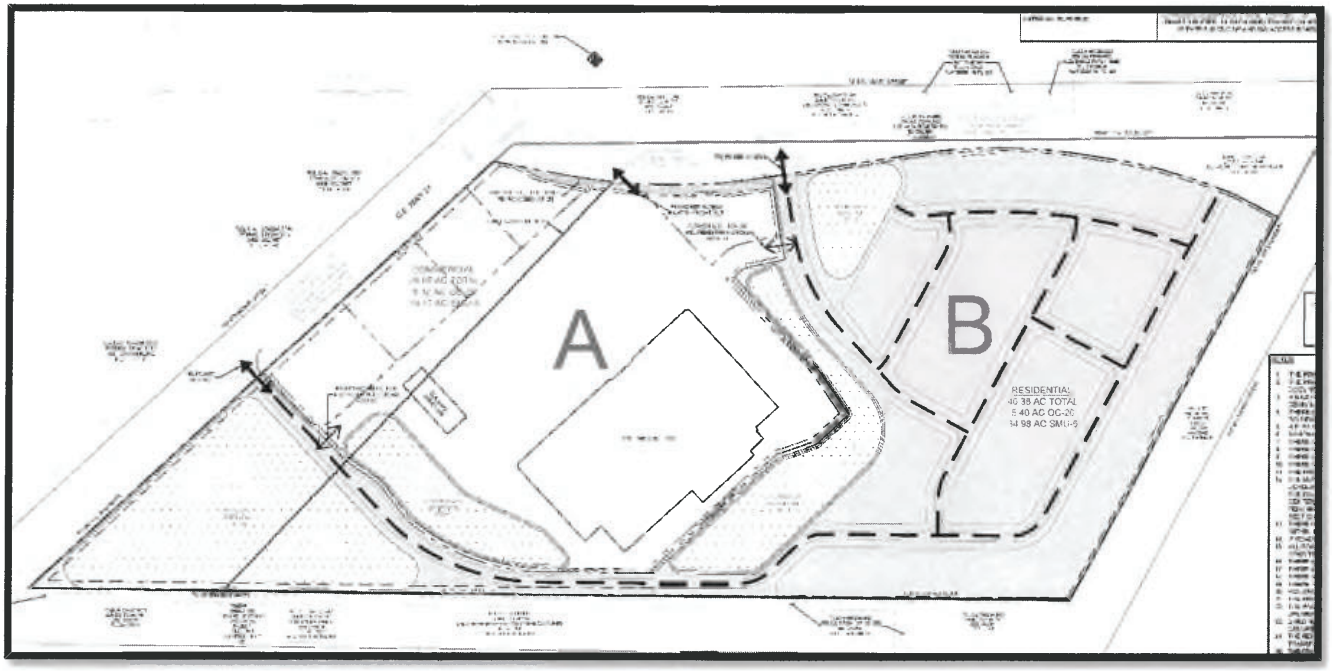
2.0 LAND USE MAP SET AND SUMMARY DATA

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
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request

	Average Annual Daily Trips	A.M. Peak Hour Trips	P.M. Peak Hour Trips
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request

Road Name/Nature of Request	Type	Finding
	Choose an item.	Choose an item.
	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	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Natural Resources	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ No	
Conservation & Environ. Lands Mgmt.	☒ Yes ☐ No	☐ Yes ☒ No	☐ Yes ☒ 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**
Transportation ☐ Design Exc./Adm. Variance Requested ☒ Off-site Improvements Provided	☒ Yes ☐ No	☐ Yes ☒ No	☒ Yes ☐ No	
Service Area/ Water & Wastewater ☒Urban ☐ City of Tampa ☐Rural ☐ City of Temple Terrace	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	South County Statement of Record
Hillsborough County School Board Adequate ☒ K-5 ☒6-8 ☐9-12 ☐N/A Inadequate ☐ K-5 ☐6-8 ☒9-12 ☐N/A	☒ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	
Impact/Mobility Fees: Urban Mobility, South Park/Fire - 303 multi-family units; 230,000 sf discount superstore				
Discount Superstore (per 1,000 sf) **Mobility: $14,708*230 = $3,382,840** **Fire: $ 313*320 = $ 100,160** **Total: $3,483,000**	**Fee estimate is based on a 1,200 square foot, Multi-Family Units 1-2 story** **Mobility: $6,661 * 303 units = $2,018,283** **Parks: $1,555 * 303 units = $ 471,165** **School: $3,891 * 303 units = $1,178,973** **Fire: $249 * 303 units = $ 75,447** **Total Multi-Family (1-2 story) = $3,743,868**			
Comprehensive Plan:	**Comments Received**	**Findings**	**Conditions Requested**	**Additional Information/Comments**
Planning Commission ☐ Meets Locational Criteria ☒N/A ☐ Locational Criteria Waiver Requested ☐ Minimum Density Met ☒ N/A	☒ Yes ☐ No	☐ Inconsistent ☒ Consistent	☐ Yes ☒ No	

5.0 IMPLEMENTATION RECOMMENDATIONS

5.1 Compatibility

Based on the adjacent zonings and uses identified in the report, staff finds that the proposed reduction in allowable Commercial Intensive entitlements in conjunction with replacing 335,000 SF of BPO, warehouse, open storage, RCP and personal service use entitlements with 303 multi-family dwellings is compatible with the existing zoning districts and development pattern in the area. Additionally, staff finds that the result of the variation to reduce the required parking ratio from 5 spaces per 1,000 square feet to 4 spaces per 1,000 square feet for the 208,000 square-foot discount superstore would reduce the number required parking spaces from 1,040 spaces to 832 spaces, and would be in harmony with the purpose and intent of the Land Development Code.

5.2 Recommendation

Based on the above considerations, staff recommends approval of the request, subject to conditions.

6.0 PROPOSED CONDITIONS

Prior to PD site plan certification, applicant shall:

1. Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
2. Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
3. Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
4. Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
5. The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
6. The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
7. Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
8. Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
9. Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
10. Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
11. Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
12. Delete the box and information within the box titled "Waiver Under MM-22-1228".

Approval - Recommended zoning conditions are based on site plan received ~~November 7, 2006~~ December 28, 2022.

1. The project shall be permitted the following development options:

   1.1 Pocket A – ~~300,000~~ 230,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box

   1.2 Pocket B – ~~335,000 square feet of the following uses:~~ 303 Multi-family units

~~Business, Professional Offices Uses (Includes Flex Space Uses)~~

~~Personal Services~~

~~Minor Industry (Within completely Enclosed Buildings)~~

~~Research Corporate Park~~

~~Warehousing~~

~~Open Storage~~

2. The project shall be subject to the Apollo Beach Community Plan and Pocket A shall follow the Land Development Code (LDC) Development Standards of the Commercial Intensive (CI) zoning district and, where applicable, LDC Section 6.11.106 – Large Scale Retail Development (Single Tenant Big Box), unless otherwise stated herein:

3. All large scale retail development ~~other than the~~ within Pocket A shall be developed pursuant to LDC Section 6.11.106 Large Scale Retail Development. All other Pocket A development shall comply with the following standards, unless otherwise referenced herein.

~~3.1 All buildings shall be placed within the building envelopes as shown on the site plan. Buildings constructed within envelopes indicating either "front façade build to line" (adjacent to U.S. Hwy 41 and Leisey Road) or "other build to line" (adjacent to internal roadways) shall be placed along those lines.~~

~~3.2 Not less than sixty percent (60%) or more than ninety percent (90%) of the total surface area of the front elevation of any building with a "front façade build to line" shall include public entrances and windows.~~

3.1 ~~3.3~~ Ground floor walls or sections of walls that front onto U.S. 41 or Leisey Road without windows or entryways shall not exceed twenty (20) feet in length.

3.2 ~~3.4~~ All building elevations fronting along U.S. 41 and Leisey Road shall have an entrance and be designed as a front elevation, regardless of any other access which may be provided. Buildings on ~~comer~~ corner lots with frontages on two sidewalks may have an individual entrance on each sidewalk, or one entrance oriented diagonally to the corner with direct access to both sidewalks.

3.3 ~~3.5~~ Buildings may be recessed to accommodate courtyards.

3.4 ~~3.6~~ Buildings shall be articulated so that facades that face public streets and exceed fifty (50) feet in horizontal length shall include vertical piers, columns, colonnades or other vertical visual elements to break the plane of the façade. Such vertical visual elements shall be spaced six (6) feet to thirty-five (35) feet apart along the façade.

3.5 ~~3.7~~ Galleries, cafes, and arcades may include outdoor seating.

3.6 ~~3.8~~ Within the building envelope along US ~~4 1~~ 41 directly west of the building labeled "large scale retail", the developer shall set aside an area or areas, totaling no less than 30% of this frontage, for the construction of a building, or buildings, to screen the large scale retail building from US 41. Parking areas may be provided between these building areas and the large scale retail building, subject to LDC Section 6.11.106 design standards. ~~No parking shall be allowed within the subject building envelope until such time as the buildings adjacent to U.S. 41 are constructed.~~

~~3.9 No more than 50 percent of the frontage on U.S. 41 and on Leisey Road shall be an open parking lot without buildings in front of it. The single row of parking areas shall not be considered open parking lots or be counted in the allowed 50 percent.~~

~~3.10 A prominent architectural feature may be placed at the traffic circle in front of the large scale retail building. Said feature may include a bell or clock tower, sculpture or other public art which reaches a height of at least 25 feet.~~

3.7 ~~3.11~~ Vehicular and pedestrian interconnectivity shall be provided between all portions of the project.

~~4. The developer shall provide a minimum eight-foot buffer along US 41 and Leisey Road. Within said area the developer shall provide a decorative fence a minimum of 4 feet in height. Landscaping treatment within the eight-foot buffer area shall consist of eight to ten foot high shade trees, spaced 20 feet on center, and of a hedge measuring 30 inches high at the time of planting, spaced 36 inches on center. PVC fencing material shall be prohibited. This buffering shall be provided instead of the buffer in LDC Section 6.11.106.C.7.c.~~

~~5. Maximum building setbacks for buildings within pockets A and B that front on U.S. 41 and Leisey Road shall be 57 feet from the right-of-way line. This may vary up to eight additional feet for variations in the wall facade.~~

4. ~~6.~~ Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

4.1 ~~6.2~~ On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

4.2 Large scale retail development parking shall be provided at 4 parking spaces per 1,000 square feet of big box gross floor area.

4.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

4.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

5. ~~7. The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~ As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

6. ~~8. If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~ The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

6.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;

6.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Road.;

6.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only

driveway;

6.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;

6.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;

6.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;

6.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Road.;

6.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Road.;

6.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Road.;

6.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Road.;

6.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,

6.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

~~6. 10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

7. ~~12.~~ Prior to ~~Construction Plan approval~~ or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others) ~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~ Hillsborough County Corridor Preservation Plan.

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project, as a four lane divided arterial as identified in the South Shore Corridor Plan.~~

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entity has committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

8. ~~17.~~ The Developer shall construct sidewalks ~~within the right-of-way along all (i) roadways adjacent to the property boundaries and along both sides of all (ii) internal roadways~~ in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The sidewalks~~ Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

9. ~~18.~~ Prior to or concurrent with the initial increment of development, ~~The~~ the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

10. ~~19.~~ The project may be permitted a maximum of ~~635,000~~ 230,000 square feet of commercial/office/industrial uses and 303 multi-family units, subject to formal delineation of on-site conservation areas, preservation areas and water bodies and final calculation of maximum density/intensity (FAR) permitted by the Comprehensive Plan in accordance with the Environmentally Sensitive Lands Credits requirement of the Comprehensive Plan. If the maximum number of units and/or maximum square footage for the project as permitted herein exceeds the maximum density/intensity (FAR) permitted by the Comprehensive Plan, per the Environmentally Sensitive Lands Credits requirement, the number of dwelling units and/or square footage allowed in the project shall decrease as necessary to conform to the Comprehensive Plan.

11. ~~20.~~ The stormwater management system shall be designed and constructed in such a manner so as to not adversely impact off-site surface and groundwater elevations.

~~21. The type, location, size and number of signs permitted shall be as set forth in Part 7.03.00 of the Land Development Code with the following exception(s):~~

~~21.1 Ground Signs shall be limited to Monument Signs.~~

~~21.2 Billboards, pennants and banners shall be prohibited.~~

~~22. Approval of this application does not ensure that water will be available at the time when the applicant seeks permits to actually develop.~~

12. ~~23.~~ Approval of this rezoning petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impacts to wetlands, and does not grant any implied or vested right to environmental approvals.

13. ~~24.~~ If the notes and/or graphic on the site plan are in conflict with specific zoning conditions and/or the Land Development Code (LDC) regulations, the more restrictive regulation shall apply, unless specifically conditioned otherwise. References to development standards of the LDC in the above stated conditions shall be interpreted as the regulations in effect at the time of preliminary site plan/plat approval.

14. In accordance with LDC Section 5.03.07.C, the certified PD general site plan shall expire for the internal transportation network and external access points, as well as for any conditions related to the internal transportation network and external access points, if site construction plans, or equivalent thereof, have not been approved for all or part of the subject Planned Development within 5 years of the effective date of the PD unless an extension is granted as provided in the LDC. Upon expiration, re-certification of the PD General Site Plan shall be required in accordance with provisions set forth in LDC Section 5.03.07.C.

15. Water distribution system improvements will need to be completed prior to connection to the Count's water system for a multi-family development approved through MM 22-1228. No building permits for the multi-family dwellings shall be issued until the completion by the County of funded Capital Improvement Projects C32001 – South County Potable Water Repump Station Expansion and C32011 – Potable Water In-Line Booster Pump Station, and the projects are put into operation.

~~25. The Development of the project shall proceed in strict accordance with the terms and conditions contained in the Development Order, the General Site Plan, the land use conditions contained herein, and all applicable rules, regulations, and ordinances of Hillsborough County.~~

~~26. Within 90 days of approval by the Hillsborough County Board of County Commissioners, the applicant shall submit to the Planning and Growth Management Department a revised General Development Plan for certification which conforms the notes and graphic of the plan to the conditions outlined above and the Land Development Code (LDC). Subsequent to certification of the plan, if it is determined the certified plan does not accurately reflect the conditions of approval or requirements of the LDC, said plan will be deemed invalid and certification of the revised plan will be required.~~

~~27. Effective as of February 1, 1990, this development order/permit shall meet the concurrency requirements of Chapter 163, Part II, Florida Statutes. Approval of this development order/permit does not constitute a guarantee that there will be public facilities at the time of application for subsequent development orders or permits to allow issuance of such development orders or permits.~~

Zoning Administrator Sign Off:	J. Brian Grady Tue Jan 17 2023 09:57:06

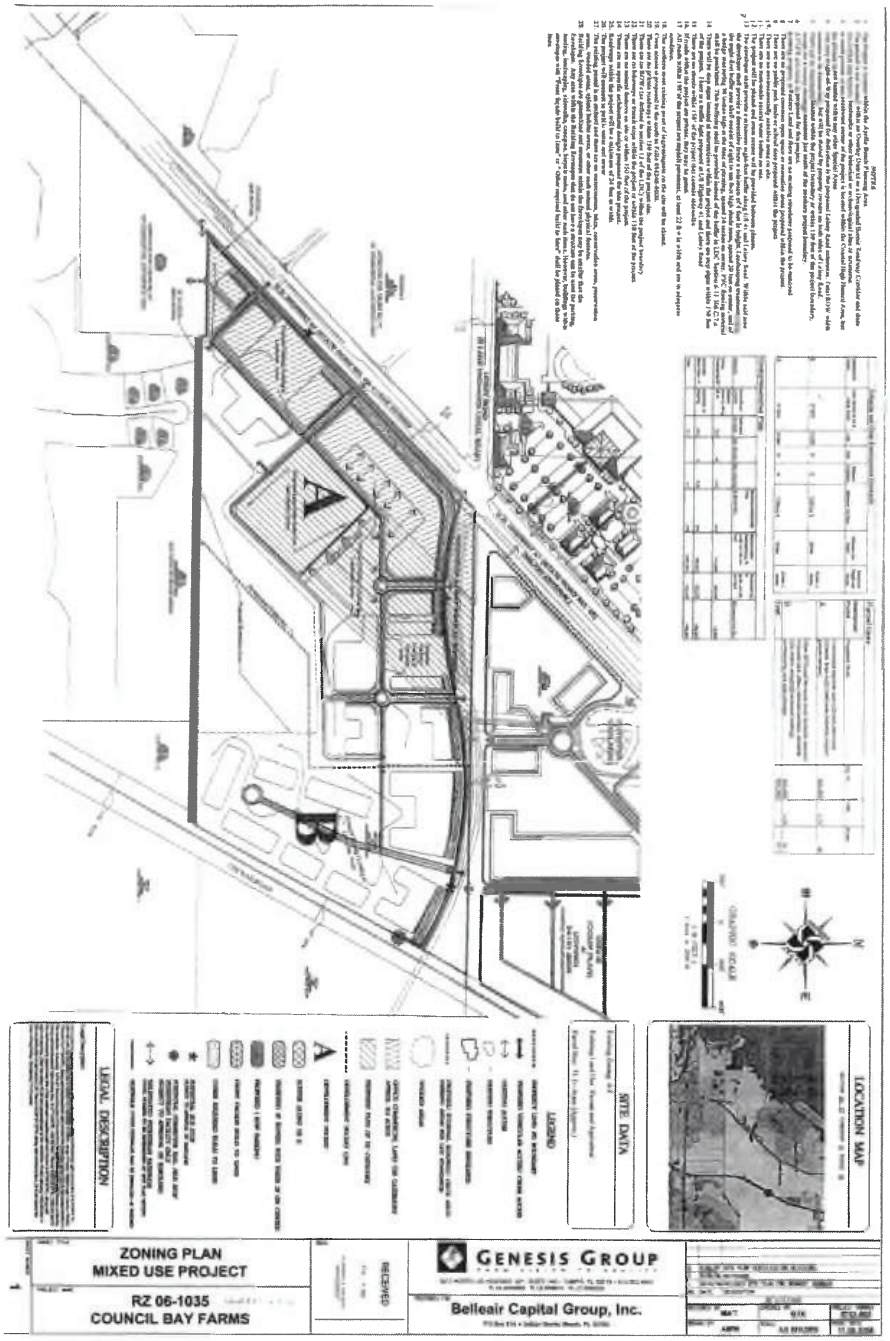
SITE, SUBDIVISION AND BUILDING CONSTRUCTION IN ACCORDANCE WITH HILLSBOROUGH COUNTY SITE DEVELOPMENT PLAN & BUILDING REVIEW AND APPROVAL.

Approval of this re-zoning petition by Hillsborough County does not constitute a guarantee that the project will receive approvals/permits necessary for site development as proposed will be issued, nor does it imply that other required permits needed for site development or building construction are being waived or otherwise approved. The project will be required to comply with the Site Development Plan Review approval process in addition to obtain all necessary

7.0 ADDITIONAL INFORMATION AND/OR GRAPHICS

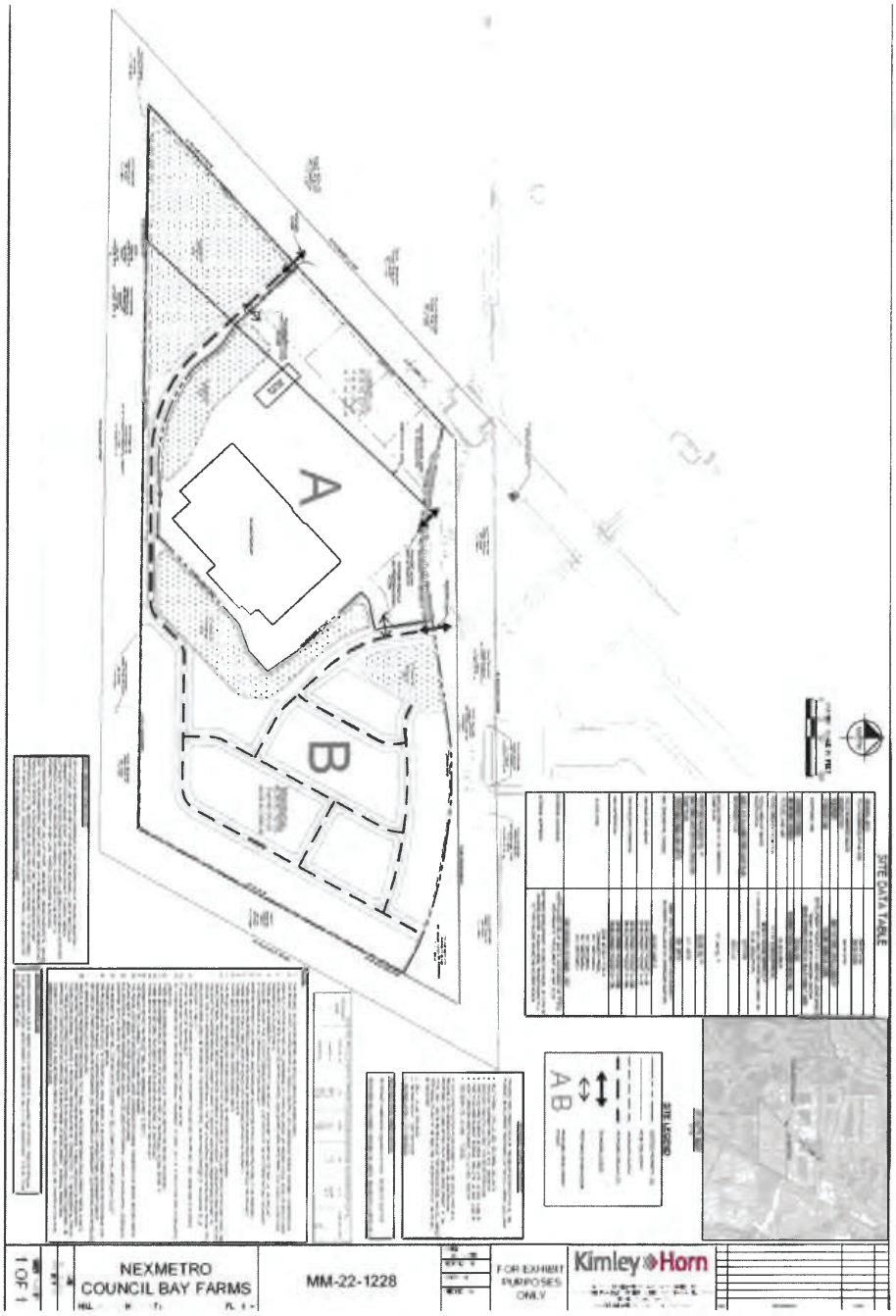
8.0 SITE PLANS (FULL)

8.1 Approved Site Plan (Full)



8.0 SITE PLANS (FULL)

8.2 Proposed Site Plan (Full)



9.0 FULL TRANSPORTATION REPORT (see following pages)

AGENCY REVIEW COMMENT SHEET

TO: Zoning Technician, Development Services Department	DATE: 1/08/2022
REVIEWER: James Ratliff, AICP, PTP, Principal Planner	AGENCY/DEPT: Transportation
PLANNING AREA/SECTOR: APB/ South	PETITION NO: MM 22-1228

[ ] This agency has no comments.

[ ] This agency has no objection.

[X] This agency has no objection, subject to the listed or attached conditions.

[ ] This agency objects for the reasons set forth below.

NEW AND REVISED CONDITIONS OF APPROVAL

Revised Conditions

6. Parking shall be provided in accordance with the Land Development Code unless otherwise specified herein:

~~6.1 A maximum of one row of parking area may be provided between US Highway 41 and Leisey Road and the proposed buildings.~~

6.~~2~~1 On street parking shall be permitted on internal streets subject to the requirements of the Land Development Code.

6.2 Consistent with the PD variation approved concurrently with MM 22-1228, Large Scale Retail Development use parking shall be provided at a minimum rate of 4 spaces per 1,000 s.f. of single-tenant big box use. Notwithstanding anything within the Land Development Code or herein these conditions to the contrary, no additional decrease in the minimum vehicle parking rate for this use shall be permitted.

6.3 The developer shall construct bicycle parking for any Large-Scale Retail Development use in an amount equal to five (5) percent of the total number of vehicle parking spaces for the single-tenant big box use using the methodology described below. For the sole purpose of calculating the required number of bicycle parking spaces, the number of vehicle parking spaces shall be calculated using a parking rate of 5.0 per 1,000 s.f. of the single-tenant big box use. All such required bicycle parking shall comply with the locational and design requirements found within Sec. 6.05.02.P. of the LDC.

[Staff recommends modification of this above condition to reflect the applicant's requested PD variation for parking. Staff notes that the applicant has requested a change to 6.1. This is a design related condition and, as such, was not reviewed by Transportation Review Section staff. It is shown only for clarity. Comments related to this change will be addressed by Zoning Section staff.]

7. ~~The general design, number and location of the access point(s) shall be regulated by the Hillsborough County Access Management regulations as found in the Land Development Code (Land Development Code Section 6.04) and FDOT. The design and construction of curb cuts are subject to approval by the Hillsborough County Planning and Growth Management Department and FDOT. Final design, if approved by~~

~~Hillsborough County Planning and Growth Management Department and/or FDOT may include, but is not limited too: left turn lanes, acceleration lane(s) and deceleration lane(s). Access points may be restricted in movements.~~As shown on the PD site plan, developer shall be served by and restricted to one (1) right-in/right-out/left-in driveway connection to US 41, one (1) right-in only driveway connection to Leisey Rd. and one (1) full access connection to Leisey Rd. Notwithstanding anything shown on the PD site plan to the contrary, bicycle and pedestrian access may be permitted anywhere along the PD boundaries.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and access configuration requirements by the County and/or FDOT.]

8. ~~If full access to US 41 access points is not permitted, the applicant shall construct applicable storage lanes to accommodate U-turning vehicles on US 41 at median openings north and south of the access driveways on US 41.~~The developer shall complete the following site access improvements prior to or concurrent with the initial increment of development:

8.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
8.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
8.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
8.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
8.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;
8.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;
8.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
8.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
8.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
8.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
8.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

[Staff recommends modification of this above condition to reflect the applicant's revised proposal, proposed access changes, and site access improvements requirements by the County and/or FDOT.]

~~9. Prior to Concurrency approval, the Developer shall provide a traffic analysis, signed by a Professional Engineer, showing the length of the left and right turn lanes needed to serve development traffic. The turn lane shall be constructed to FDOT and/or Hillsborough County standards using FDOT standard Index 301 & 526 and an asphalt overlay shall be applied over the entire portion of roadway where a left turn lane is provided. Where applicable, the Developer shall construct the following turn lanes at his expense:~~

~~9.1 Construct or lengthen SB left and NB right turn lanes @ project driveways on US 41.~~

~~9.2 Construct or lengthen SB left and NB right turn lanes to accommodate project traffic at the US 41/Leisey Road intersection.~~

~~9.3 Construct WB left and EB right turn lanes into the site @ project driveways on Leisey Road Extension.~~

~~9.4 Construct WB left and EB right turn lanes on the Leisey Road Extension @ US 41.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system

for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that some of the listed improvements will be completed as required site-access improvements—see revised condition 8.]

~~10. Based on the projected trip generation to the site, access onto the public road would be via "Type III" Minor Roadway Connection (more than 1,500 trip ends per day). The Land Development Code requires that all internal access (the "throat") to the driveways must be a minimum of 100 feet from the edge of pavement of the public roadway, and shall remain free of internal connections or parking spaces that might interfere with the movement of vehicles into or out of the site.~~

[Staff is recommending deletion of this condition to comport with current practice. Staff notes that, regardless of the deletion of a condition addressing throat depth within the PD zoning, the developer will be required to comply with then current throat depth standards as found within the LDC at the time of plat/site/construction plan review.]

~~11. Prior to General Site Plan Certification, the Developer shall provide for vehicular cross-access to the adjacent southern parcel of land. All cross-access shall be paved to the project boundary and designed to County standards.~~

[Staff is recommending deletion of this condition. Staff notes the zoning to the south, #20-1029, was recently modified for a charter school use and as such cross would not be required pursuant to Sec. 6.04.03.Q of the LDC. Also, as shown on the Property Appraiser's website and on the PD site plan, there appears to be an intervening strip of land between the subject PD and property to the south owned by Hillsborough County which separates the two developments.]

12. Prior to ~~Construction Plan approval~~or concurrent with the initial increment of development, the ~~Developer~~ property owner shall dedicate and convey to Hillsborough County ~~a total of~~ up to ~~124~~ 29 feet of right-of-way ~~on~~ along the project's northern boundary, or as otherwise sufficient to accommodate the required site access improvements described within zoning condition 8 and the future 4-laning of Leisey Rd. (to be completed by others)~~property's northern boundary to construct the Leisey Road Extension~~ in accordance with the ~~South Shore~~Hillsborough County Corridor Preservation Plan.

[Staff is recommending modification of this condition. Staff notes that the majority of needed road right-of-way has been acquired by the developers of Waterset. A portion of the 2-lane Leisey Rd. extension is under construction and is anticipated to be dedicated/conveyed/accepted by Hillsborough County for maintenance in the near future. The above additional right-of-way ensures that the required site access improvements which must be constructed by the subject PD do not jeopardize the County's ability to construct the 4-lane widening envisioned by--and for which right-of-way must be preserved in accordance with--the Hillsborough County Corridor Preservation.]

~~13. Prior to Construction Plan approval, the Developer shall dedicate up to 101 feet of right-of-way from the existing center line of right-of-way on US 41, to accommodate for the right-of-way as needed for a six lane divided major rural arterial (under 55 mph) roadway.~~

[Staff is recommending deletion of this condition. Staff notes that there is sufficient right-of-way along US 41 to accommodate the future 6-laning of the facility.]

~~14. Prior to the Concurrency approval, the applicant shall update the traffic analysis and identify transportation improvements to mitigate projects impacts. Mitigation may include intersection improvements at the intersections of US 41 @ Apollo Beach Boulevard, US 41 @ Big Bend Road, US 41 @ Shell Point Road and US 41 @ SR 674. If required to meet Concurrency, the developer shall be responsible for widening a portion of US Highway 41 to a six lane divided facility.~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that the project will be required to construct certain site-access improvements as detailed in revised condition 8.]

~~15. Unless otherwise constructed by some other entity the, the Developer shall construct the Leisey Road Extension from U.S. 41 to the eastern project driveway, if required to meet concurrency or to serve the project as a four lane divided arterial as identified in the South Shore Corridor Plan~~

[Staff is recommending deletion of this condition, as it was based upon Hillsborough County's former system for the evaluation and mitigation of transportation impacts, i.e. transportation concurrency. Given HB 7207 (2011) and the County's adoption of a mobility fee ordinance, this condition is no longer enforceable. Staff notes future development will be required to pay mobility fees unless grandfathered in accordance with the ordinance. Staff also notes that, given the proposed access changes, the 2-lane portion of the roadway has already been completed to the easternmost project driveway.]

~~16. Unless otherwise constructed by some other entity, the Developer shall install a traffic signal and required intersection geometry as approved by Hillsborough County and FDOT, at the intersection of U.S. 41 and Leisey Road. Unless some other entity has committed to construct the traffic signal, prior to Construction Plan Approval, the Developer shall submit a Traffic Signal Warrant Study to determine when the traffic signal is warranted. Unless otherwise constructed by some other entity, once warrants are established, unless some other entity has committed to construct the traffic signal, the developer shall submit preliminary design plans for the signal concurrent with the design plans for the intersection. Unless some other entityhas committed to construct the traffic signal, the Developer shall be responsible for the cost of the design and installation of the traffic signal and appropriate interconnect with adjacent signals. All signals must be approved by the Hillsborough County Public Works Department and FDOT. The placement and design of the signal shall be subject to approval by Hillsborough County Public Works Department and FDOT.~~

[Staff is recommending deletion of this condition. Staff notes that a traffic signal already exists at this intersection. Modification of the signal by the developer of the subject PD is required, and such condition has been proposed as a part of revised condition 8, above.]

17. The Developer shall construct sidewalks ~~within the right-of-way along all roadways adjacent to the property boundaries and along both sides of all internal roadways~~in accordance with LDC Sections 6.02.08 and 6.03.02 and the Transportation Technical Manual (TTM). ~~The s~~Sidewalks shall be a minimum width of five (5) feet. The developer shall construct wider sidewalks along the project's US 41 frontage if required by FDOT in accordance with their standards. Pedestrian interconnectivity shall be provided between uses and adjacent parcels.

[Staff is recommending modification of this condition for clarity and to comport with current practice.]

18. Prior to or concurrent with the initial increment of development, ~~T~~the developer ~~will~~ shall construct a bus bay, transit accessory pad, and transit shelter with seating, trash receptacles and bicycle rack(s) on US 41 in the vicinity of the proposed project as required by the LDC. The developer shall coordinate with HART and FDOT regarding design and placement of the transit facility. The developer shall construct any turn lane or roadway modifications needed to facilitate construction of the shelter in the location agreed upon by HART and FDOT, if any. This condition may require the developer to dedicate and convey additional right-of-way to FDOT to accommodate the transit facility, if insufficient right-of-way exists to accommodate the project, required site access improvements and the future 6-laning of US 41 in the agreed upon location. ~~to provide an express stop at the front of the property on U.S. Highway 41. The developer should meet with HART to determine the exact location. The developer will fund the installation of a shelter, bike rack, bus bay and an ADA landing pad to accommodate the transit vehicle ADA lift. The developer's permit will include the transit amenities.~~

[Staff is recommending modification of this condition to comport with current practice and LDC requirements. Additionally, staff is unsure of the type of HART service which will be provided, and the zoning condition should not bind the developer or HART to provision of a certain frequency of service, e.g. express service.]

Other Conditions

- Prior to PD site plan certification, the developer shall:
  - Modify the label reading "Proposed Access Right-In/Right-Out" to read "Proposed Right-in Only Access – See Conditions of Approval".
  - Modify the labels reading "Proposed Vehicular and Pedestrian Cross Access" to read "Proposed Vehicular and Pedestrian Access/Interconnectivity".
  - Modify the label reading "Proposed Access" at US 41 to read "Proposed Pedestrian and Left-In/Right-In/Right-Out Vehicular Access – See Conditions of Approval".
  - Modify the label reading "Proposed future Leisey Rd. ROW Dedication" to read "Up to +/- 29 feet Right-of-way Dedication Per Hillsborough County Corridor Preservation Plan – See Conditions of Approval".
  - The applicant shall revise the site plan to replace all instances of "R/W Width Varies" along Leisey Rd. with labels which read "Right-of-Way Width Varies Between ____ feet and ____ feet". Additionally, the applicant shall show and label the locations of the minimum and maximum extents of variance.
  - The applicant shall update the adjacent PD zoning information to display accurate zoning information. For example, the applicant shows the PD to the south labeled at 05-1951 while the County's zoning atlas (i.e. GIS viewer) indicates the correct number is # 20-1029.
  - Modify site note 11 to instead state "The project will be developed in phases. Vehicular and pedestrian interconnectivity to be provided between phase, and access points to Leisey Rd. and US 41 and shared by development within Pockets A and B."
  - Modify site note 14 to state "Internal project driveways will be privately owned and maintained. Portions of driveways serving only multi-family uses may be gated. Any internal private roadways may be public or private and, if private, may be gated. All facilities within the project will be constructed to applicable Transportation Technical Manual (TTM) and LDC standards. All residential gates shall comply with Typical Detail – 9 within the TTM." Staff notes that this change combines notes 14 and 24, so please delete note 24.
  - Modify site note 17 to add "Transit accommodations will be provided – see conditions of zoning approval."
  - Delete the portion of note 25 indicating that ingress and egress is "conceptual". Staff notes that PD zonings are site plan controlled zoning districts. Only minor deviations to project access are permitted at the time of plat/site/construction plan review. More substantial access changes or relocation will require a modification to the PD.
  - Add a note indicating that "Parking will be provided in accordance with Section 6.05 of the LDC and the PD variation approved concurrently with MM 22-1228 – see zoning conditions of approval."
  - Delete the box and information within the box titled "Waiver Under MM-22-1228".

PROJECT SUMMARY AND ANALYSIS

The applicant is requesting a Major Modification a +/- 66.83 ac. parcel currently zoned Planned Development (PD) 06-1035-1402. The existing PD has approval for two development pockets. Pocket A is approved for 300,000 square feet of the uses allowed in the Commercial Intensive (CI) zoning district (Includes Large Scale Retail Development, Single Tenant Big Box, Includes Garden Center) No Open Storage, except as provided in the Land Development Code (LDC) Section 6.11.106 for Large Scale Retail Development, Single Tenant Big Box. Pocket B is approved for 335,000 square feet of Business, Professional Offices Uses (Includes Flex Space Uses), Personal Services, Minor Industry (Within completely Enclosed Buildings), Research Corporate Park, Warehousing and Open Storage uses.

The applicant is proposing the following transportation related changes:

1. Modify the boundaries of Pockets A and B as shown on the PD site plan;
2. Reduce the entitlements in Pocket A from 300,000 s.f. to 230,000 s.f.;
3. Replace the uses currently approved within Pocket B with entitlements for up to 303 multi-family dwelling units.; and,
4. Modify project access as follows:
    a. Eliminate one (1) of the two (2) previously approved access from Pocket A to US 41; and,
    b. Eliminate one (1) of the three (3) previously approved access from Pockets A and B to Leisey Rd.

Staff notes additional changes, including more design related transportation changes are proposed and will be addressed by zoning section staff. Staff also notes the applicant is proposing to modify the right-in/right-out access to Leisey Rd. from Pocket A (such that allows right-in only movements), and retain one full access connection to Leisey Rd. within Pocket B, which will be shared with the Pocket A development. Staff notes the PD site plan is incorrectly labeled as right-in/right-out (staff has proposed a condition to address this issue). Similarly, access to US 41 from Pocket A has been eliminated, but there will be one (1) right-in/right-out/left-in access within Pocket B which will be shared with the Pocket A development.

As required by the Development Review Procedures Manual (DRPM), the applicant submitted a trip generation and site access analysis for the proposed project which was reviewed by staffs of both the Florida Department of Transportation and Hillsborough County. Staff has prepared a comparison of the trips potentially generated under the existing and proposed zoning designations, utilizing a generalized worst-case scenario. The information below is based on data from the Institute of Transportation Engineer's Trip Generation Manual, 11th Edition and the applicant's transportation analysis.

Approved Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 300,000 s.f. Shopping Center (Multiple Uses, Reference Applicant's Analysis in Optix Adjusted by Increasing g.s.f. of Proposed by 70k)	23,058	1,271	1929
PD, Pocket B, 335,000 s.f. Office Park (ITE LUC 750)	3,923	509	443
Subtotal:	26,981	1,780	2,372

Proposed Uses:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
PD, Pocket A, 230,000 s.f. Shopping Center, Reference Applicant's Analysis in Optix)	19,522	1,141	1,626
PD, Pocket B, 303 Multi-Family Dwelling Units (ITE LUC 220)	2,018	117	151
Subtotal:	21,540	1,258	1,777

Trip Generation Difference:

Zoning, Land Use/Size	24 Hour Two-Way Volume	Total Peak Hour Trips	
		AM	PM
Difference	**(-) 5,441**	**(-) 522**	**(-) 595**

TRANSPORTATION INFRASTRUCTURE SERVING THE SITE

US 41 is a 4-lane principal arterial roadway owned and maintained by the Florida Department of Transportation (FDOT). The roadway is characterized by +/- 11-foot wide travel lanes in average condition. The roadway lies within a +/- 182 foot wide right-of-way along the project's frontage. There are bicycle facilities (on paved shoulders) along both sides of the roadway in the vicinity of the project. There +/- 5-foot wide sidewalks along portions of the east and west sides of US 41 in the vicinity of the proposed project.

US 41 is shown on the Hillsborough County Corridor Preservation Plan as a future 6-lane roadway along the project's frontage. There is adequate existing right-of-way along the project's frontage to accommodate the future widening.

Leisey Rd. is currently a 2-lane collector roadway which has been recently constructed for a distance of 800 feet east of US 41 to collector roadway standards as found within the Transportation Technical Manual (TTM); however, the roadway has not yet been accepted by the County for maintenance (current Hillsborough County Property Appraiser's records indicate the road right-of-way is currently owned by the developer of Waterset to the east of the proposed project).

In order to accommodate traffic generated by development on both the north and south sides of Leisey Rd. (between US 41 and the CSX railroad) and proposed site access changes, the developer is required to construct a variety of site access improvements as specified in the section hereinbelow. In order to retain the County's ability to 4-lane this roadway in the future in accordance with the Corridor Preservation Plan, this will necessitate the developer to dedicate and convey up to an additional 29 feet of right-of-way along the project's Leisey Rd. frontage (staff notes that some areas of the frontage require less or no additional right-of-way dedication and conveyance).

SITE ACCESS AND CONNECTIVITY

General project site access is summarized hereinabove. The developer will be required by FDOT and the County to make certain improvements prior to or concurrent with the initial increment of development. Specifically, the developer will be required to:

1. Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;
2. Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Rd.;
3. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only driveway;
4. Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;
5. Construct a southbound to eastbound left turn lane on US 41 at the project access;
6. Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Rd.;
7. Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Rd.;
8. Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Rd.;
9. Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Rd.;
10. Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and,
11. Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

TRANSIT FACILITIES

Pursuant to Section 6.03.09.C.2 of the LDC, non-residential and mixed-use projects containing greater than 200,000 s.f. but less than 500,000 s.f. are required to provide a bus bay and transit accessory pad including shelter, trash receptacle and bicycle rack. FDOT has indicated a preferred location of the transit facility, but has stated they will ultimately defer to whatever location Hillsborough Area Regional Transit (HART) prefers. Staff has proposed a zoning condition requiring the location to be coordinate with an approved by the County, FDOT and HART prior to or concurrent with the initial increment of development.

REQUESTED PD VARIATION

The applicant submitted the PD variation request for the retail anchor tenant which they indicate will be a "discount retail superstore" (as it's referred to in the ITE Parking Generation Manual, 5th Edition, LUC 813). The Hillsborough County Land Development Code, Section 6.05.02.E. requires such use to provide parking at a rate of 5 spaces per 1,000 s.f. (reference the "All Other Retail" parking standard). The applicant is proposing to provide parking at a rate of 4.0 spaces per 1,000 s.f. The applicant submitted supporting documentation from the ITE Parking Generation Manual indicating that such rate could be appropriate. Staff believes that the proposed rate, in combination with bicycle parking spaces, can be supported. Staff notes that Section 6.05.02.P.1. of the LDC allows for a 5% reduction of parking spaces if bicycle parking meeting certain location criteria is provided. The applicant is requesting a reduction of 20% of the required parking rate.

As such, while staff believes that the parking reduction requested is supportable, staff also believes that provision of a number of bicycle parking meeting such location criteria in an amount equivalent to 5% of the number of vehicular spaces (calculated at a rate of 5 per 1,000 is also appropriate). This PD variation essentially has the effect of granting a further 15% decrease in the parking rate from what could already be authorized under the LDC.

Staff recommends approval of the proposed PD variation request and has proposed conditions of approval consistent with the above.

ROADWAY LEVEL OF SERVICE (LOS) INFORMATION

Level of Service (LOS) information for adjacent roadway section(s) is reported below. LOS information for the segment east of US 41 cannot be provided, as the roadway is not yet open to traffic (or has not been accepted by the County for maintenance).

Roadway	From	To	LOS Standard	Peak Hour Directional LOS
US 41	19th Ave NE	Apollo Beach Blvd./ Paseo al Mar Blvd.	D	C
Leisey Rd.	Golf and Sea Blvd.	US 41	D	B

Source: Hillsborough County 2020 Level of Service Report.

Transportation Comment Sheet

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**
US 41	FDOT Principal Arterial - Rural	4 Lanes ☐Substandard Road ☒Sufficient ROW Width	☐ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
Leisey Rd. (Improved Portions)	County Collector - Urban	2 Lanes ☒ Substandard Road ☐ Sufficient ROW Width	☒ Corridor Preservation Plan ☒ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐ Substandard Road ☐ Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other
	Choose an item.	Choose an item. Lanes ☐Substandard Road ☐Sufficient ROW Width	☐ Corridor Preservation Plan ☐ Site Access Improvements ☐ Substandard Road Improvements ☐ Other

Project Trip Generation ☐Not applicable for this request			
	Average Annual Daily Trips	**A.M. Peak Hour Trips**	**P.M. Peak Hour Trips**
Existing	26,981	1,780	2,372
Proposed	21,540	1,258	1,777
Difference (+/-)	**(-) 5,441**	**(-) 522**	**(-) 595**

*Trips reported are gross 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	X	Vehicular & Pedestrian	None	Meets LDC
South		None	None	Meets LDC
East		None	None	Meets LDC
West	X	Vehicular & Pedestrian	None	Meets LDC
Notes:				

Design Exception/Administrative Variance ☒Not applicable for this request		
Road Name/Nature of Request	**Type**	**Finding**
	Choose an item.	Choose an item.
	Choose an item.	Choose an item.
Notes:		

Transportation Comment Sheet

4.0 Additional Site Information & Agency Comments Summary			
Transportation	**Objections**	**Conditions Requested**	**Additional Information/Comments**
☐ Design Exception/Adm. Variance Requested ☒ Off-Site Improvements Provided	☐ Yes ☐N/A ☒ No	☒ Yes ☐ No	

At 200 signatures, this petition is more likely to be **featured in recommendations!**

Application No. MM 22-1228
Name: Sherri Southwell
Entered at Public Hearing: ZHM
Exhibit # 2 Date: 1/17/2023

Dashboard Petition details Edit Comments

JUST SAY NO TO BIG BOX IN APOLLO BEACH AND YES TO RESPONSIBLE GROWTH!

138 have signed. Let's get to 200!

At 200 signatures, this petition is more likely to be **featured in recommendations!**

Sherri Southwell/Citizens for a Sustainable South Shore started this petition

Did you know that there are plans to build a BIG BOX store with a gas station, a garden center, fast food restaurants, and an additional 300+ apartments right here in Apollo Beach across from the Winn Dixie Shopping Center?!

Share this petition

At 200 signatures, this petition is more likely to be **featured in recommendations!**

[illegible] int in certain cities that police departments say their resources are being stretched thin responding to calls".

*Low wages- When local businesses have to lower their prices AND employees' wages in order to compete, our local economy will be negatively impacted. We need to attract businesses that will enhance and showcase our community and offer competitive wages to keep our local economy strong!

*Resource depletion-Growth is inevitable, we just need to be smart about HOW we grow! Who says we must allow big box to be progressive? What we MUST have are the proper resources and infrastructure to deal with growth no matter where it comes from!

*Negative environmental impact-Walmart and other big box stores fail on sustainability and contribute greatly to the sprawl killing our communities. "Big box retail takes away almost 3,000 acres of farmland, wetlands, and other green spaces every year. That's the size of the state of Delaware". We must come up with viable alternatives to big box that include SMART development!

*Increased sprawl-The type of growth that follows big box is NOT the answer. We must be thoughtful and responsible in our growth.

*Increased traffic-Fix our roads first before approving more development. Infrastructure first, then development.

*Loss of Local Businesses: Studies have shown that Big Box is a killer of local mom and pop businesses. This could be your neighbor's business or your own!

There are two Walmarts within a 20 min drive of us-do we REALLY need a big box store in Apollo Beach? One guarantee, once the big box door is opened, the rest will come knocking and stopping them will be almost impossible! Remember when Brandon was a small community? And just look at the chaotic mess it is now!

Won't you join us in telling our Commissioners NO to big box and YES to smart responsible growth? Citizens for a Sustainable South Shore is on Nextdoor and Facebook and can be contacted at: SAVESOUTHSHORE@GMAIL.COM

JUST SAY NO ON 1/17/23!

At 200 signatures, this petition is more likely to be **featured in recommendations!**

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petition_signatures_jobs_35363248_20230117004513 (1)

Name	City	State	Postal Code	Country	Signed On
Sherri Southwell	Apollo Beach	FL	33572	US	2022-12-30
Michele D'Onofrio	Riverview	FL	33578	US	2022-12-31
Amy O'HARA	Apollo Beach	FL	33572	US	2022-12-31
Pam Barr	Apollo Beach	FL	33572	US	2023-01-02
d'Arcy Muller	Apollo Beach	FL	33572	US	2023-01-03
Tim Jagodzinski	Apollo Beach	FL	33572	US	2023-01-03
April Howard	Apollo Beach	FL	33572	US	2023-01-04
Michelle Levin	Apollo Beach	FL	33572	US	2023-01-04
Melissa Brown	Orlando	FL	32808	US	2023-01-04
Marsha Brawley	Apollo Beach	FL	33572	US	2023-01-04
Jacqueline Kaminski	Sun City Center	FL	33573	US	2023-01-04
Marilyn Boyer	Ruskin	FL	33570	US	2023-01-04
Marco Rosario	Apollo Beach	FL	33572	US	2023-01-06
Debra Knowles	Ruskin	FL	33570	US	2023-01-06
Donna Steadman	Ruskin	FL	33572	US	2023-01-07
Adaline Glazer	Apollo Beach	FL	33572	US	2023-01-07
Eric Lien	Tampa	FL	33612	US	2023-01-07
Teresia Rice	Apollo Beach	FL	33572	US	2023-01-07
Susan Sass	Apollo beach	FL	33572	US	2023-01-07
Penny Hulbert	Ruskin	FL	33570	US	2023-01-07
Kenneth Fink	Ruskin	FL	33570	US	2023-01-07
Kathleen Nader	Ruskin	FL	33570	US	2023-01-07
Monte Taylor	Apollo Beach	FL	33572	US	2023-01-07
Ashley Bowen	Apollo Beach	FL	33572	US	2023-01-07
Kristopher Picard	Nashua		3063	US	2023-01-07
Salvatore Perez	Portland		97217	US	2023-01-07
Aixa Fielder	Los Angeles		90028	US	2023-01-07
Brian Lange	Apollo Beach	FL	33572	US	2023-01-07
Robert Riddle	Sun City Center	FL	33572	US	2023-01-07
Stanton Olsen	Apollo Beach	FL	33572	US	2023-01-07
Melissa Argo	Apollo Beach	FL	33572	US	2023-01-07
Karen White	Tampa	FL	33629	US	2023-01-07
Donald Butler	Ruskin	FL	33570	US	2023-01-07
Shane Jacobson	Apollo Beach	FL	33572	US	2023-01-07
Paul George	Tampa	FL	33622	US	2023-01-07
Keith Ivester	Cleveland	TN	37312	US	2023-01-07
Melissa Combes	Apollo beach	FL	33572	US	2023-01-07
Corey Combes	Sun City Center	FL	33573	US	2023-01-07
Shayna Coonin	Ruskin	FL	33570	US	2023-01-07
James Madsen	Apollo Beach	FL	33572	US	2023-01-07
Alex Kuen	Apollo Beach	FL	33572	US	2023-01-07
Melissa Brantley	Apollo Beach	FL	33572	US	2023-01-08
Rebecca Greene	Hayden	ID	83835	US	2023-01-08
Sandra Kloter	Sun City Center	FL	33573	US	2023-01-08
Jeff D'Addieco	Ruskin	FL	33570	US	2023-01-08
Phylis Vergales	Riverview	FL	33579	US	2023-01-08
Rachel Quinn	Apollo Beach	FL	33572	US	2023-01-08
Donna Johnson	Ruskin	FL	33572	US	2023-01-08

Sharon Rubright	Apollo Beach	FL	33572 US	2023-01-08
Robbie Massengill	Apollo Beach	FL	33572 US	2023-01-08
Michele Reed	Apollo Beach	FL	33572 US	2023-01-08
Dawn Fiske	Apollo Beach	FL	33572 US	2023-01-08
Burch Fiske	Sun City Center	FL	33573 US	2023-01-08
Joseph Weaver	Ruskin	FL	33570 US	2023-01-08
marney weaver	apollo beach	FL	33572 US	2023-01-08
Gerald Gower Jr	Apollo Beach	FL	33572 US	2023-01-08
Claudia Wax	Tampa	FL	33615 US	2023-01-08
Jessica O'Connor	Apollo Beach	FL	33349 US	2023-01-08
William O'Connor	Apollo Beach	FL	33572 US	2023-01-08
Paul Wilkins	Ruskin	FL	33570 US	2023-01-08
christopher oleary	Ruskin	FL	33572 US	2023-01-08
Jim Sass	Apollo Beach	FL	33572 US	2023-01-08
R Preston	Tampa	FL	33655 US	2023-01-08
Joanne Bolonda			US	2023-01-08
Scott Michaels	Ruskin	FL	33570 US	2023-01-08
Daniel Norman	Apollo Beach	FL	33572 US	2023-01-08
Mallory Quinette	Apollo Beach	FL	33572 US	2023-01-08
Linda Yaffe	Ruskin	FL	33570 US	2023-01-08
Linda Wildes	Ruskin	FL	33570 US	2023-01-08
Summer Decker	Apollo Beach	FL	33572 US	2023-01-08
Jonathan Ford	Apollo Beach	FL	33572 US	2023-01-08
Tracy Alves	Apollo Beach	FL	33572 US	2023-01-08
Elton Alves	Ruskin	FL	33570 US	2023-01-08
Doug LeJeune	Apollo Beach	FL	33572 US	2023-01-08
Jeffrey Lipphardt	Tampa	FL	33619 US	2023-01-08
Mark Peebles	Ruskin	FL	33570 US	2023-01-08
Shae Lawler	Apollo Beach	FL	33572 US	2023-01-08
Anna Lagarde	Ruskin	FL	33570 US	2023-01-08
Thomas Widacki	Apollo Beach	FL	33572 US	2023-01-08
Toni Bowling	Ruskin	FL	33572 US	2023-01-08
Sally Blacksher	Ruskin	FL	33570 US	2023-01-08
Greg Seibert	Apollo beach	FL	33572 US	2023-01-08
Cyndi Etzler	Apollo Beach	FL	33572 US	2023-01-08
Amy Grady	Ruskin	FL	33570 US	2023-01-08
Elizabeth Czerwonka	Apollo Beach	FL	33572 US	2023-01-08
William Baron	Apollo Beach	FL	33572 US	2023-01-09
Nancy Welch	Newark	DE	19702 US	2023-01-09
Elaine Petrisin	Ruskin	FL	33570 US	2023-01-09
Ashley Petrisin	Apollo Beach	FL	33572 US	2023-01-09
Suzanne Overduijn	Apollo Beach	FL	33572 US	2023-01-09
Vanessa Harmon	Ruskin	FL	33570 US	2023-01-09
Andria Cable	Apollo Beach	FL	33572 US	2023-01-09
Michael Smith	Newark	DE	19702 US	2023-01-09
Amber Garcia	Ruskin	FL	33570 US	2023-01-09
Craig Robison	Apollo Beach	FL	33572 US	2023-01-09
Cornelia Hurban	Apollo Beach	FL	33572 US	2023-01-09
Gary Garbelman	Apollo Beach	FL	33572 US	2023-01-09

Karen L'HommeDieu	Apollo Beach	FL	33572 US	2023-01-09
Russ L'HommeDieu	Ruskin	FL	33572 US	2023-01-09
Tamara Stewart	Ruskin	FL	33570 US	2023-01-09
Sean Donahoe	Apollo Beach	FL	33572 US	2023-01-09
Stephanie Polo	Ruskin	FL	33570 US	2023-01-10
Jeffrey Kilcoyne	Ruskin	FL	33572 US	2023-01-10
Gail Cappiello	Apollo Beach	FL	33572 US	2023-01-10
Elena Stumpe	Apollo Beach	FL	33572 US	2023-01-10
Stephanie Caputo	Apollo Beach		21078 Czech Republic	2023-01-10
Tammy Viola	Apollo Beach	FL	43074 US	2023-01-10
Julie Hansen-Jones	Apollo Beach	FL	33572 US	2023-01-10
Nicole Rosenberger	Apollo Beach	FL	33572 US	2023-01-10
Kristine Peebles	Apollo Beach	FL	33572 US	2023-01-10
Jennifer Maher	Ruskin	FL	33570 US	2023-01-10
Patricia Bewley	Apollo Beach	FL	33572 US	2023-01-10
Michelle Robison	Apollo Beach	FL	33572 US	2023-01-11
Amy Znaniec	Apollo Beach	FL	33572 US	2023-01-11
S Wick	Apollo Beach	FL	33572 US	2023-01-11
Rob de Cespedes	Apollo beach	FL	33572 US	2023-01-11
Melissa de Cespedes	Apollo Beach	FL	33572 US	2023-01-11
Ashley Mitchell	Ruskin	FL	33570 US	2023-01-12
Greg Seale	Apollo Beach	FL	33572 US	2023-01-13
Patricia Wood	Ruskin	FL	33570 US	2023-01-14
Jean Fagan	Ruskin	FL	33570 US	2023-01-14
Dawn Gabriele	Ruskin	FL	33570 US	2023-01-14
Alicia Thomas	Apollo Beach	FL	33572 US	2023-01-14
Laura Craig	Ruskin	FL	33570 US	2023-01-14
Martina Cook			US	2023-01-14
Julio Torres	Petaluma		94954 US	2023-01-14
Jeff Rouleau	Apollo Beach	FL	33572 US	2023-01-14
Cindy Fleming	Ruskin	FL	33570 US	2023-01-14
Joe Nenarella	Apollo Beach	FL	33572 US	2023-01-14
Kathleen Noack	Ruskin	FL	33570 US	2023-01-14
Tom Settle	Ruskin	FL	33570 US	2023-01-14
Yesenia Alvarez	Ruskin	FL	33570 US	2023-01-14
Marie Sherwood	Sun City Center	FL	33573 US	2023-01-15
Janet Marten	Apollo w	FL	33572 US	2023-01-15
Kelly Waldren	Tampa	FL	33572 US	2023-01-16
Joseph Brys	Apollo Beach	FL	33572 US	2023-01-16
Victoria Reithoffer	Apollo Beach	FL	33572 US	2023-01-16

PETITIONER COMMENTS

Kristine Peebles
6 days ago

We purchased our home here in Apollo Beach less than 8yrs ago. One of the most alluring factors to this area and community for our family was the small quaint community feel of unique and locally owned small businesses and restaurants.
Additionally, the area was NOT inundated with an abundance of fast food restaurants and commercialized businesses.
As the area has grown in recent years, we can see that infrastructure has NOT been able to keep up with growth, involving roads, schools, utilities, technology, emergency service support, increased crime, etc.
WE WANT TO KEEP OUR SMALL TOWN CLOSE KNIT COMMUNITY, without being invaded by fast food restaurants, big box stores, and franchised businesses.

Linda Yaffe
1 week ago

We do not want a Walmart and associated fast food restaurants, car wash, gas station and more housing in Apollo Beach!!!

Joanne Bolonda

1 week ago

We do not need another big box store in our area. There are several Walmart stores just minutes away.

marney weaver

1 week ago

It's important to me to NOT allow all of these big box stores to ruin our area. Enough is Enough!!

Rebecca Greene

1 week ago

I don't want a Walmart across the street

Teresia Rice

1 week ago

I am against big box stores in the area of US 41 and Apollo Beach Blvd down to Ruskin. We already have too much traffic in this area caused by poor planning in issuing permits for more homes. If people want to live close to big box stores then they should shop those already in existence. The only ones who benefit from big box stores are the owners of those businesses.

BIG BOX stores are a community killer and bring CRIME, LOW WAGES, NEGATIVE ENVIRONMENTAL IMPACT, SPRAWL, INCREASED TRAFFIC, and THE DEATH OF LOCAL MOM & POP BUSINESSES!

We, the undersigned, are concerned citizens who urge the Hillsborough County BOCC to act now to keep BIG BOX out of Apollo Beach and adopt SMART GROWTH policies which support local businesses and keep our local economy strong!

NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Rebecca Sturner	3658 Mooringline Cir Apollo Beach, FL 33572	215-596-6939	Rebecca M Sturner	1/7/2023
Russ Lewis	721 Johnson Dr Ruskin, Fl 33570	813 760 3874	[illegible]	1/7/23
Lori Ferguson	329 Star Shell Drive Apollo Beach, FL 33572	703-774-63100	[illegible]	1.9.23
Olivia Ferguson	6804 Salt Creek Ave Apollo Beach FL 33572	318 564 0314	Olivia Ferguson	1/9/23
Michael Alfano	238 Harbor Village Lane Apollo Beach FL 33572	8133313907	[illegible]	1-9-23

BIG BOX stores are a community killer and bring CRIME, LOW WAGES, NEGATIVE ENVIRONMENTAL IMPACT, SPRAWL, INCREASED TRAFFIC, and THE DEATH OF LOCAL MOM & POP BUSINESSES!

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Dawn Green	6420 Salt Creek Ave Apollo Beach FL 33572	8133408628	Dawn J Green	1/6/23
TRISH STOECKER	6309 SALT CREEK AVE APOLLO BEACH, FL 33572	240 888 8864	PE Stoecker	1/6/23
Christine Dereg	7519 Paradiso Drive Apollo beach, FL 33572	440547-6046	Christine Dereg	1/6/23
Norbert Dereg	7519 paradiso Drive Apollo beach, FL 33572	4402126598	[illegible]	1/6/23
Alice Tavassoli	6967 Crestpoint DR Apollo Beach FL 33572	813/507-4912	Alice Tavassoli	1/6/23
DAVID TAVASSOLI	6967 Crestpoint Dr Apollo Beach FL 33572	813-507-4902	David Tavassoli	1/6/23
Monica Adams Andrew ADAMS	6914 Neopolitan Ct. Apollo Beach FL	815-304-3978	Monica Adams	1/6/23
Amy ADAMS	6914 Neopolitan Ct Apollo Beach FL	(614) 571-147-1471	Amy	1/6/23
MaryJo Wheeler	7517 Paradiso Dr	217-251-3190	MJ Wheeler	1/17/23

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Jenny Shepard	6224 Voyagers Pl Apollo Beach, FL 33572	8135146562		1/13/23
James Shepard	6224 Voyagers Pl Apollo Beach FL 33572	8137875871		1-13-23
Julie Ann Perella	6913 Neopolitan Ct Apollo Beach FL 33572	7862662302		1-13-23
Wagner Parilla	6913 Neopolitan Ct Apollo Beach FL 33572	8137843033		1-13-23
Nicole Matthews	6913 Neopolitan Ct Apollo Beach Fl 33572	813-579-7207		1-13-23
Michelle Carnahan	5446 Wayfarer Ave Apollo Beach FL 33572	919-649-1179		1/17/23
Kathy Kozyil	5448 Wayfarer Ave Apollo Beach Fl 33572	6306612682		1/17/23
Kelly Butler	6229 Sea Air Dr. Apollo Beach, FL 33572	812-325-2866		1/17/23
Brian Schmelzle	6820 Ebb Tide Ave Apollo Beach, FL 33572	813-374-7703		1/17/23

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Rafael Beltran Carrie Beltran	5419 Silver Sun Dr. Apollo Beach, FL 33572	478-696-9644	[illegible] Carrie A Beltran	1/9/2023
William & Nicole Velazquez	5435 Silver Sun Dr. Apollo Beach, FL 33572	813-340-5353	[illegible]	1/9/23
Bethany Olivares	5706 Silver Sun Dr Apollo Beach, FL 33572	754-551-0254	[illegible] Olivares	[illegible]/11/23
Joshua Sechler	6404 Salt creek Ave Apollo Beach Ft 33572	610-360 5775	[illegible]	11/11/23
Nichole Sechler	6404 Salt creek apollo beach 33572		[illegible] Sechler	11/11/23
Vicki Bacila	6528 Clair Shore DR Apollo Beach FL 33572	813-453-8294	[illegible] Bacila	11/11/2023
Anita Cassady	6511 Santiago Ct Apollo Beach FL 33572	813-672-1603	A M Cassady	11/11/2023
Jacquelyn Coe Daniel Coe	5004 Madrigal Way Apollo Beach, FL 33572	(203) 727-8876	[illegible]	1/1/2023
Nicole Schmelzle	6820 Ebb Tide Ave Apollo Beach, FL 33572	813 374-7703	Nicole Schmelzle	1/1/2023

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
MARIA ALVARENGA	6916 SEA STONE CT APOLLO BEACH, FL	817 7933268	Maria Alvarenga	1/6/23
Leo dos Remedios	6318 VOYAGERS DR APOLLO BEACH FL	305 970-1796		1/6/23
Amanda Guley	6915 Sea Stone Ct Apollo Beach FL	706-631-8156	Amanda Guley	1/6/23
OFILIO ALVARENGA	6916 SEA STONE CT	817 7933468	Ofilio	1/6/23
THOMAS GULEY	6915 SEA STONE CT Apollo Beach FL	706 495-0687		1/6/23
Mary E McCollom	6914 Sea Stone Ct Apollo Beach FL	248-250 2817	Mary E McCollom	1/6/23
steven Walden	6909 E66 Tide Ave Apollo Beach FL 33572	813-5239484		1/7/23
Meghan Harris	5332 Silver Sun Dr Apollo Beach, FL 33572	305 3029824		1/7/2023
Chris Andreasen	6305 Salt Creek Ave Apollo Beach, FL 33572	813 504 1557		1/7/23

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Jennifer Bouyoucas	7205 Bowspirit Pl. Apollo Beach Fl 33572	910-964-3488	Jennifer	1/6/2023
Paul Cunningham	7207 Bowspirit Pl Apollo Beach FL 33572	845-499-7194	Paul E Cunningham	1/6/2023
Paulette Cunningham	7207 Bowspirit Pl. Apollo Beach Fl 33972	845-536-2346	Paulette E. Cunningham	1/6/2023
Chloe Creasy	7003 Makers Way Apollo Beach, Fl	813 928 5168	chloe creasy	1/6/23
Dawn Errico	7007 makers way Apollo Bch., FL 33572	727-251-0994	Dawn Errico	1/6/23
MELISSA SPEIDEL	6971 CRESTPOINT DR. APOLLO BEACH FL 33572	410-245-0830	Melissa Speidel	1/6/23
William Sayers	5805 Alabaster Stone Apollo Beach, FL. 33572	813-599-2742	[illegible]	1/6/2023
Mermaida Bell	6431 Triton LN Apollo Beach	813#176432	M Bell	1/6/2023
TAYLOR GREEN	6420 SALT CREEK AVE APOLLO BEACH, FL 33572	(813)505-0330	[illegible]	1/6/23

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NAME	*ADDRESS*	*PHONE NUMBER*	*SIGNATURE*	*DATE*
Terry Houdashelt	6304 CAMINO DR. APB, FL 33572	813-841-1311	[signature]	1/6/23
Ryan Thompson	6304 CAMINO DR. APB, FL 33572	419-239-8687	[signature]	1/6/23
Pamela Gonzales	6310 Cliveden Ct Apollo Beach, FL 33572	815-703-2729	Pamela Gonzales	1/6/23
Raul Gonzales	6310 CLIVEDEN CT APOLLO BEACH, FL 33572	815-276 4888	[signature]	1-6-23
Jean Claude Gonzales	6412 Seasound Dr A.B. FL 33572	813-334-8989	[signature]	1-6-23
Melissa Bothwell	6320 Waves End Pl Apollo Beach FL 33572	813-999-7717	[signature]	1/6/23
Hannah Miller	6307 Voyagers PL. Apollo Beach FL 33572	440-606-3040	Hannah Miller	1/6/23
Jacob Miller	6307 Voyagers Pl Apollo Beach, Fl 33572	352-650-1932	[signature]	1-6-23
Lindsey Petsch	7545 Lantern Park apollo beach, FL	405-919-4720	LPetsch	1-6-23

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NAME	*ADDRESS*	*PHONE NUMBER*	*SIGNATURE*	*DATE*
STEPHAN MAYER	7701 PARADISO DR.	813-527-4082	[signature]	1/3/23
[signature]	7701 Paradiso Dr.	727-808-3380	[signature]	1/3/23
Eric Edgerton	6908 Neopolitan Ct	402-701-1006	[signature]	1-3-23
Jennifer Sullivan [signature]	6813 Park Strand Dr	781-999-5889	[signature]	1-5-23
JUNESSA TROVELA	6811 PARK STRAND DR	847-890-2264	[signature]	1-5-23
Howard Duncan	6625 Lorenz Dr	813-364-2185	[signature]	1-5-23
Justin Alex	6912 Park Strand Dr	727-692-4143	[signature]	1-5-25
Kendall Alex	6912 parkstrand dr.	813-819-4777	[signature]	1-5-23
Eric Petsch	7545 Lantern Park Ave	813 733 1400	[signature]	1-6-23

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
Gina Youngblood	6913 Sea Stone Court	813 391 7636		1/12/23
Michael Youngblood	6913 Sea Stone Court	813 966 3248		1/12/23
Kristi Moore	7240 Milestone Dr Apollo Beach	717-372-3211		1-12-23
Julia Anthony	7015 Artesian Court Apollo Beach FL 33572	724-640-6915		1-12-23
Debra Indorato	6921 Ebb Tide Ave Apollo Beach, FL	757-343-8873	Debra Indorato	1/12/23
Curly McClain	7017 Old Benton Dr. apollo Beach, FL	727 313 3389		1/13/23
Tammy Arnone	304 Flamingo Dr. Apollo Beach, FL	813 481 8869		1/13/23
Libby Brooks	6539 Salt Creek Ave Apollo Beach FL	774.473 7579		1/13/23
Patrica Dzigos	6820 Ebb Tide Ave Apollo Beach FL	813-374 7703	Patricia A Dzigiados	1/16/23

BIG BOX stores are a community killer and bring CRIME, LOW WAGES, NEGATIVE ENVIRONMENTAL IMPACT, SPRAWL, INCREASED TRAFFIC, and THE DEATH OF LOCAL MOM & POP BUSINESSES!

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NAME	ADDRESS	PHONE NUMBER	SIGNATURE	DATE
SHERRI SOUTHWELL	552 FRANDOR PL AB 33572	813 410 7027		12/17/22
Bob Emerson	1026 Bellsil Way Apollo Beach, FL 33572	610-613-5279		12/17/22
SONJA JENNINGS	Apollo Beach FL 33572 346 Cedar Falls Dr	404/271-6817		12/17/22.
Eileen Smith	344 Mystic Falls Dr Apollo Beach 33572	614-353 3345		12/17/2022
Janet Flower	351 Laurel Falls Dr Apollo Beach 33572	813 240-6017	Janet L. Flower	12-17-2022
Diana Gross	6420 Grenada Island AVE Apollo Beach 33572	917-833-8328	Diana Gross	12-17-2022
Norma McClure	903 Allegro Lane Apollo Beach	508 360-4107		12/17/22
Tom Smith	344 Mystic Falls Dr. Apollo Beach, FL	813-641-9147		12-17-22
REBECCA BELL	1607 LAUGHTON PLACE SUN CITY CENTER, FL 33573	786-449-6766	RLCM	1-5-23
BERNARD DAVIS	931 CHIPAWAY DR. APOLLO BEACH, FL 33572	804-920-0823	Bernard A Davis	1-5-23

10 SIGNATURES/PAGE

2424 OVERLOOK

BIG BOX stores are a community killer and bring CRIME, LOW WAGES, NEGATIVE ENVIRONMENTAL IMPACT, SPRAWL, INCREASED TRAFFIC, and THE DEATH OF LOCAL MOM & POP BUSINESSES!

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NAME	***ADDRESS***	***PHONE NUMBER***	***SIGNATURE***	***DATE***
Monica Z Potter	909 Eagle Lane Apollo Beach FL 33572	813-760-3221	[signature]	1-5-23
Diane Seeger	918 EAGLE LANE Apollo Beach Fl. 33572	813-641-9069	[signature]	1-5-23
KIM PLANT	1029 APOLLO BCH BLVD APT 4, AP. BCH 33572	813 394-2041	[signature]	1-5-23
Gus + Maureen Biebrich	1121 Kingsfish Pl. Apollo Beach	813 641-8803	[signature]	1-5-23
Tony Spasiano	209 Sea Cove Cir AB	203 952 8899	[signature]	1-5-23

10 SIGNATURES/PAGE

BIG BOX IN APOLLO BEACH/SOUTH SHORE?

Growth has made its way to our little community. The question is, do WE want to control our growth or let growth control US?

216 answers

WE SHOULD CONTROL OUR GROWTH	210 votes	97.2%
WE SHOULD LET GROWTH CONTROL US	6 votes	2.8%

Do you support Big Box in Apollo Beach/South Shore with the knowledge that these stores bring Crime, Increased Traffic, Low Wages, Negative Environmental Impact, Increased Development, and Loss of Local Businesses?

237 answers

NO	205 votes	86.5%
YES	23 votes	9.7%
UNSURE	9 votes	3.8%

Would you support retail space that includes community spaces that enhance and showcase our community while bringing in tax and tourism revenue?

236 answers

NO	41 votes	17.4%
YES	163 votes	69.1%
UNSURE	32 votes	13.6%

Do you agree that BEFORE any new retail/residential development is approved in the Apollo Beach/South Shore area, the county MUST fix our roads and install the appropriate infrastructure (road widening, police, fire, schools) to handle the influx of new residents and increased traffic?

237 answers

NO	10 votes	4.2%
YES	223 votes	94.1%
UNSURE	4 votes	1.7%

Zoning Hearing Master
Hillsborough County
January 17, 2023

Major Modification
Rezoning Application
MM 22-1228
Agenda Item No. D.5.

Application No. MM 22-1228
Name: David Smith
Entered at Public Hearing: ZHM
Exhibit # 3 Date: 1/17/2023

S. Elise Batsel, Esq.
Kevin B. Reali, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
401 E. Jackson Street, Suite 2100
Tampa, FL 33602

STEARNS WEAVER MILLER

PROPOSED SCREENING CONDITION: MM 22-1228

Condition: The developer shall provide a six foot (6') masonry wall in lieu of a six foot (6') opaque PVC fence within a portion of the required buffer adjacent to Folio number 054243-1044. The wall shall be required from the northwest corner of Folio number 054243-1044, north of the cul-de-sac of Conch Shell Place, eastward to the terminus of the open storage actually improved within Folio number 054243-1044. The remaining buffer adjacent to Folio number 054243-1044 east of the existing open storage may be constructed with a six foot (6') opaque PVC fence.

Zoning Hearing Master
Hillsborough County
January 17, 2023

Major Modification
Rezoning Application
MM 22-1228
Agenda Item No. D.5.

S. Elise Batsel, Esq.
Kevin B. Reali, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
401 E. Jackson Street, Suite 2100
Tampa, FL 33602

STEARNS WEAVER MILLER

INDEX

A. Planned Development Rezoning Hearing Presentation – MM 22-1228

B. Site Plan

C. Resumes

D. Burden Shifting Framework in Quasi-Judicial Zoning Hearings

E. Principles of Citizen Testimony in Quasi-Judicial Hearings

NEXmetro Communities

Kimley»Horn
Expect More. Experience Better

LINCKS & ASSOCIATES, INC.
Engineers - Planners
Tampa, Florida

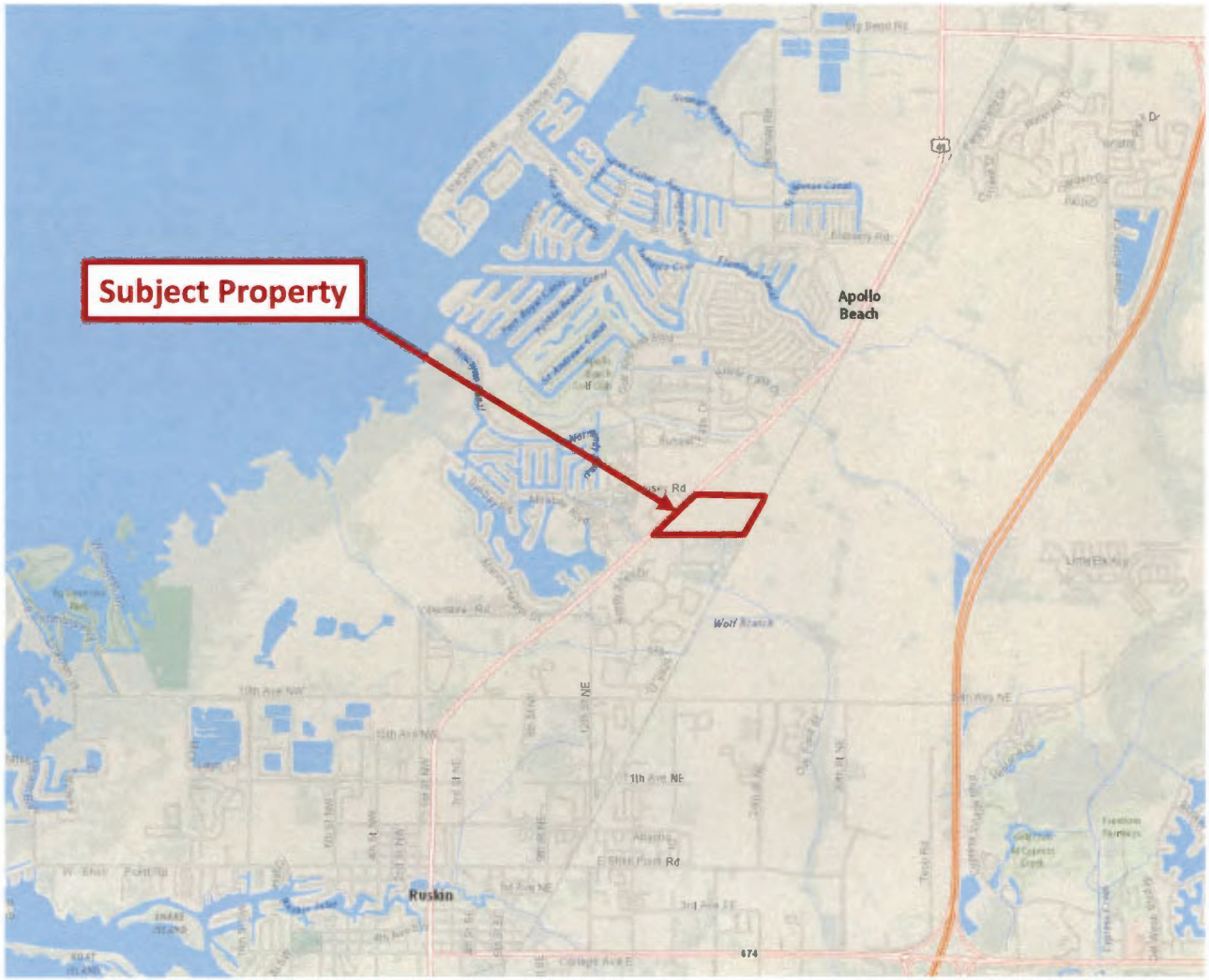
STEARNS WEAVER MILLER

Major Modification MM 22-1228

Zoning Hearing Master
January 17, 2023

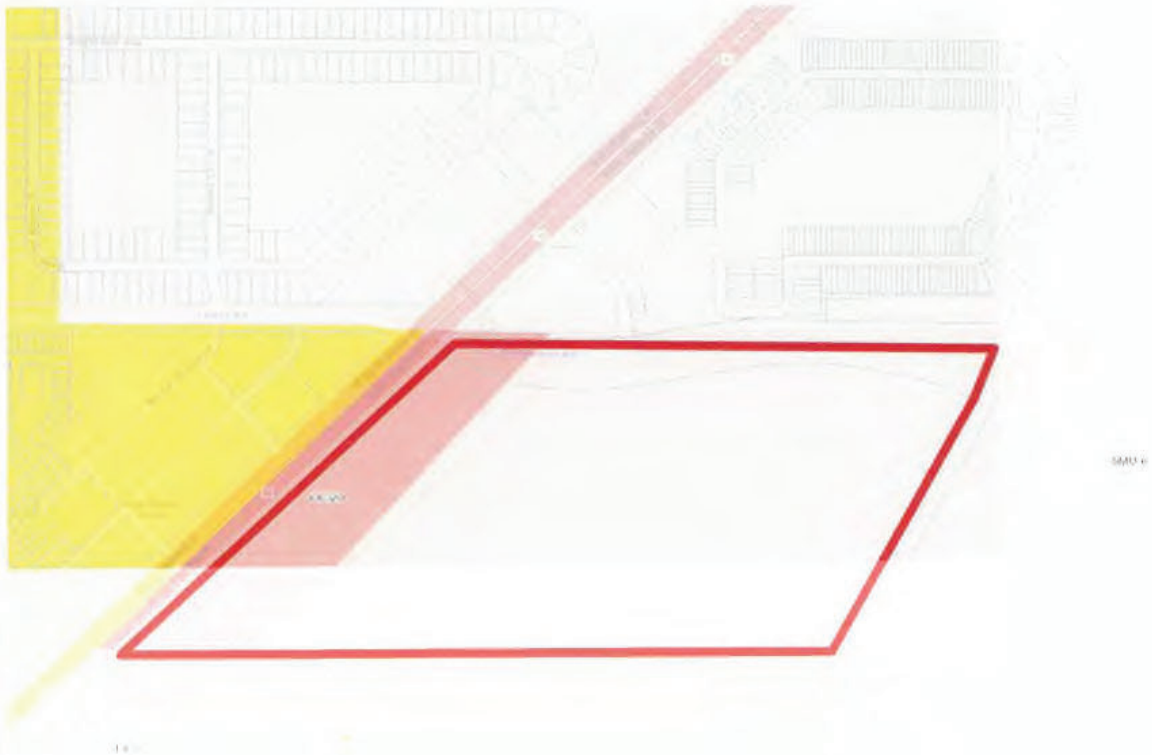
General Location

- +/- 71.1 acres located in Apollo Beach
- Generally located on US-41 south of Leisey Road
- Within Urban Service Area
- Apollo Beach and Southshore areawide plans



Future Land Use

- 11.72 Acres of OC-20
- 54.75 Acres of SMU-6
- Remaining acreage designated as future roadway

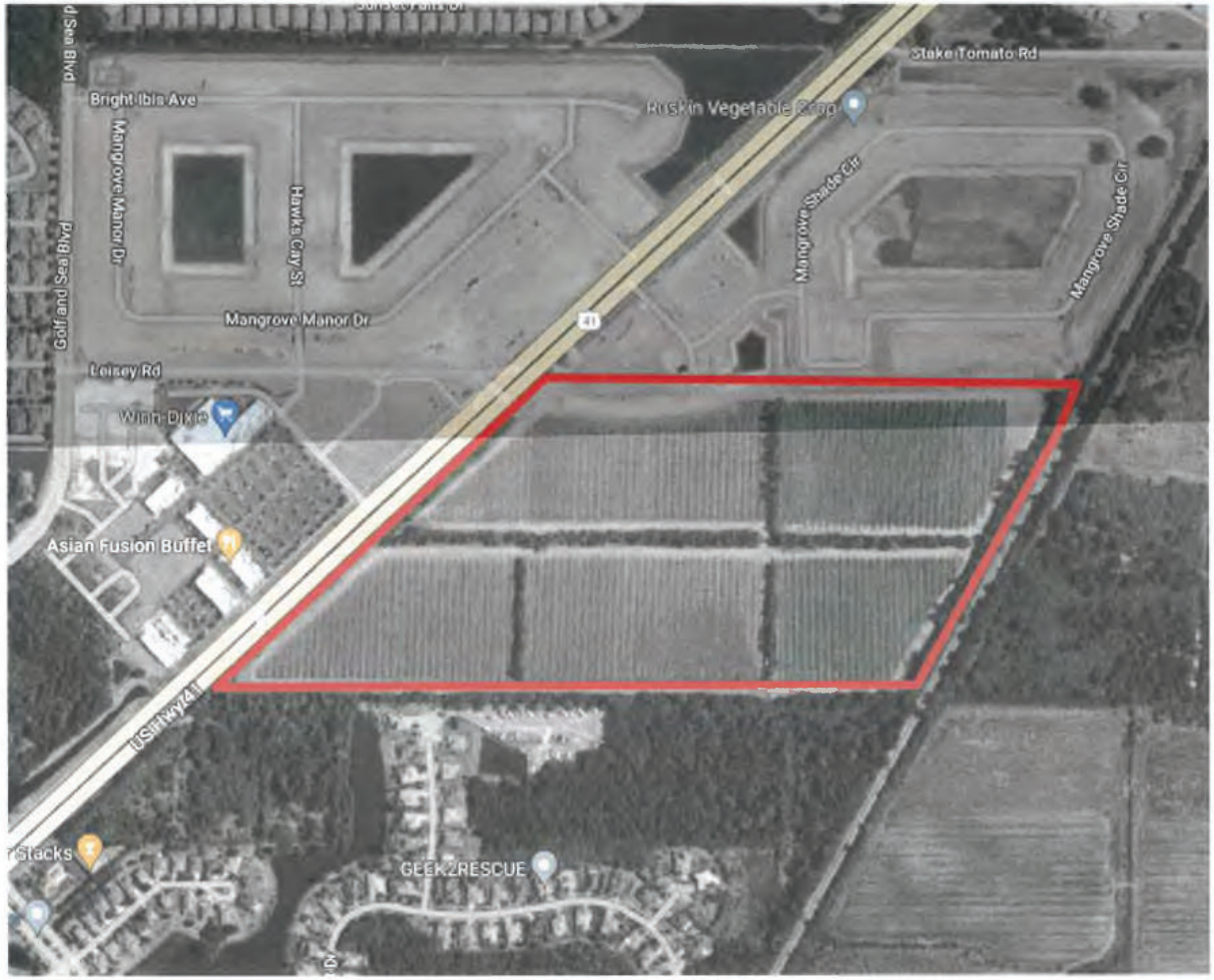


Surrounding Uses

- Entire area currently Zoned PD

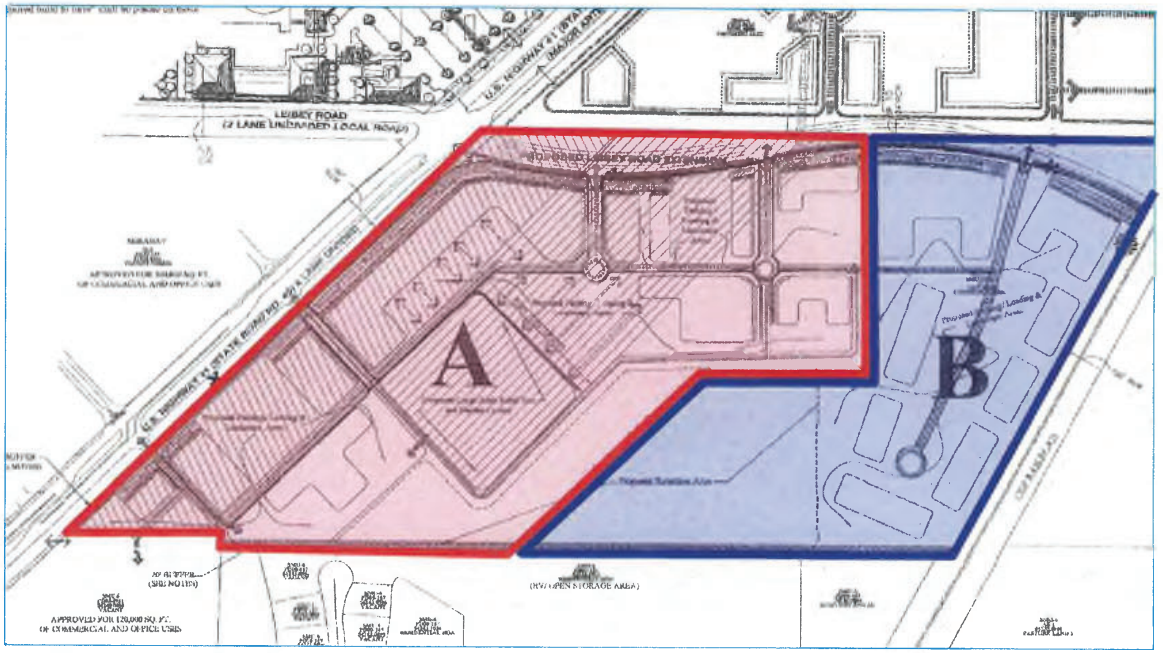
<u>Neighboring Uses</u>

- North – Townhomes
- West – Commercial
- South – Single-Family & Open Storage
- East – CSX & Future Residential (Waterset)



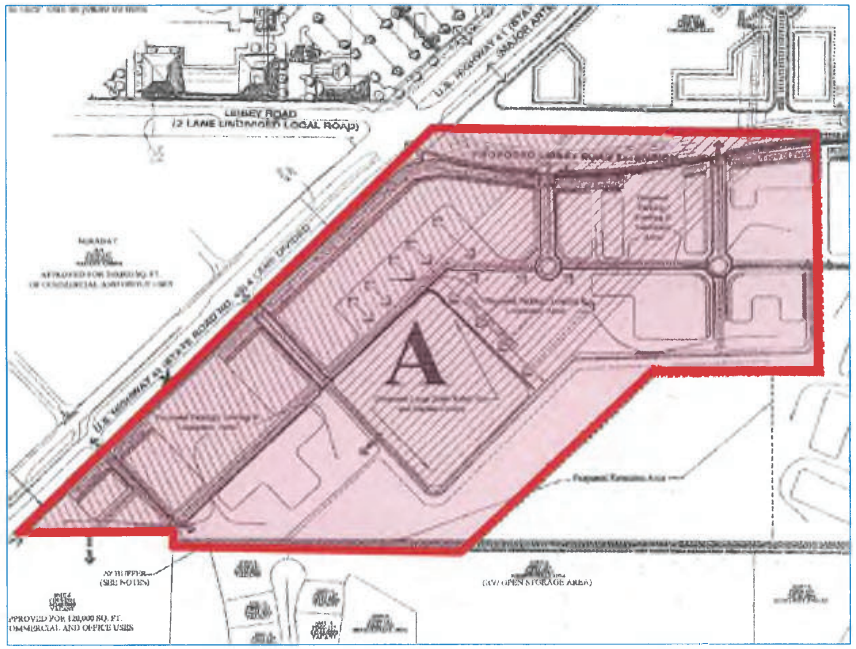
Current Approval Overview

- Separated into two development "Pockets"
- Pocket A
  - along US-41
  - approved for 300,000 square feet
- Pocket B
  - set back from US-41
  - approved for 335,000 square feet



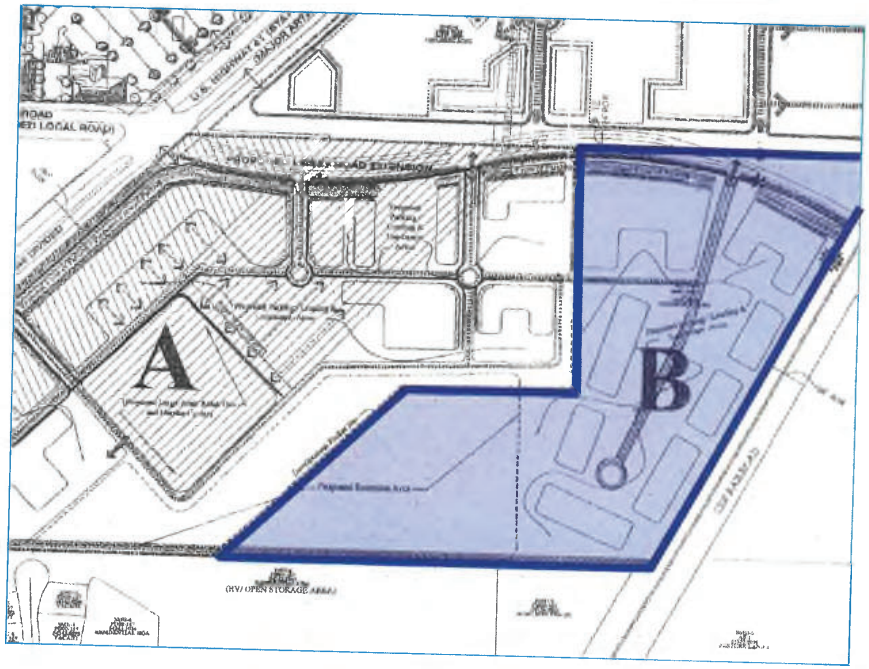
Current Approval – Pocket A

- Approved for 300,000 square feet of Commercial Intensive uses
  - Retail
  - Big Box
  - Other general commercial
- Relies on "flex" for additional square footage
  - flex is comparable to a bonus



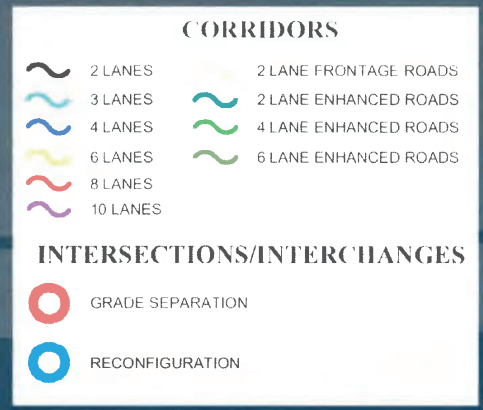
Current Approval – Pocket B

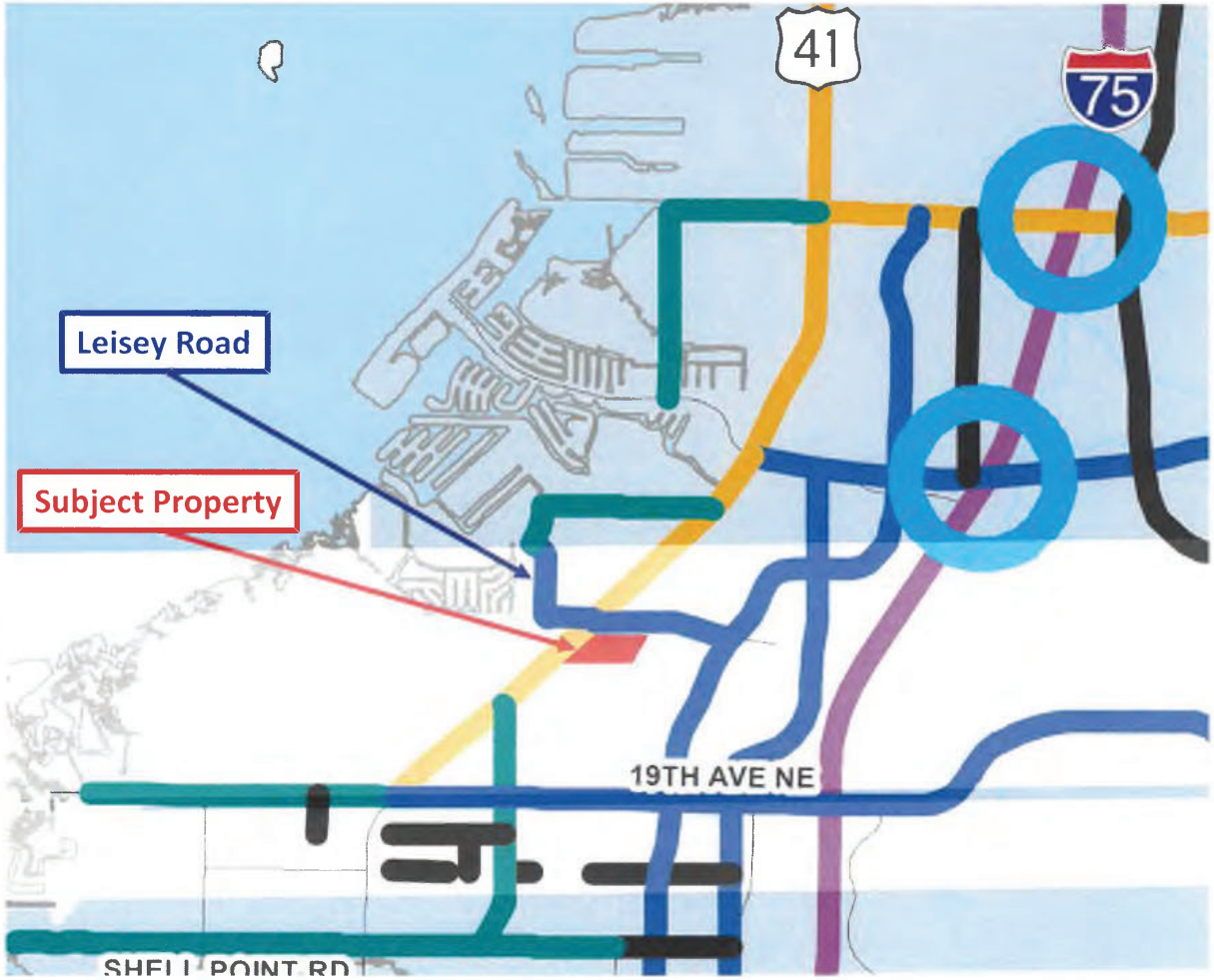
- Approved for 335,000 square feet of
  - Office,
  - Personal Service,
  - Minor Industry,
  - Research Corporate Park,
  - Warehousing, and
  - Open Storage



Corridor Preservation Plan

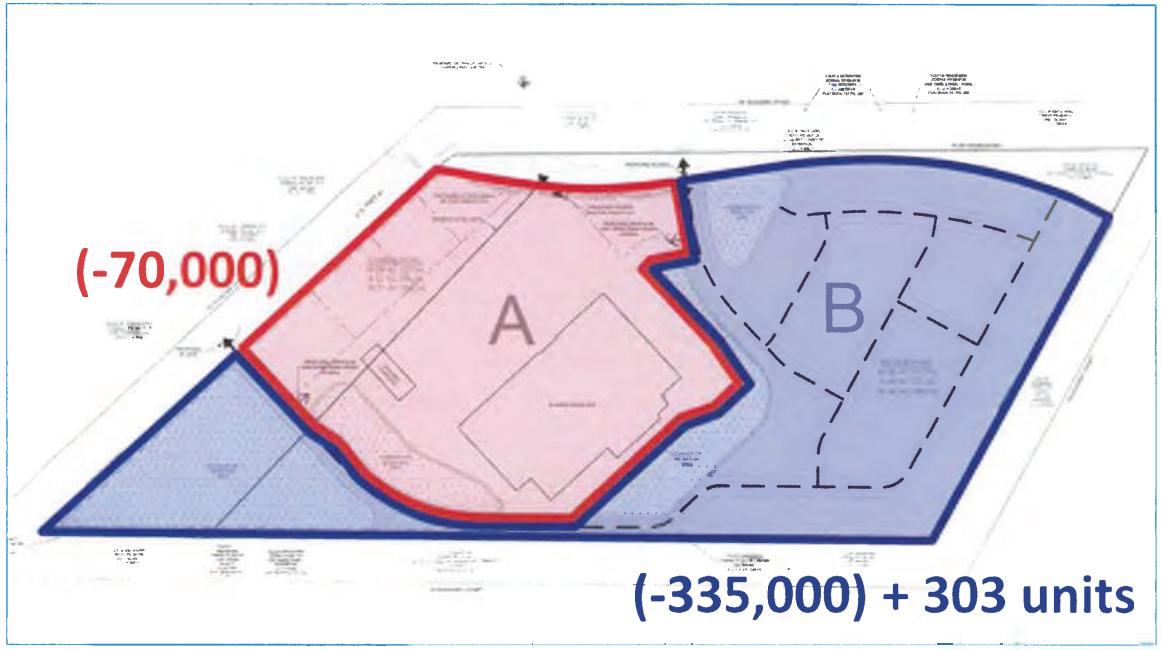
- Leisey (Brandermill) Road preserved and planned at four lanes
- Right-of-way dedicated





Request: Reduction in Entitlements

- **Reduce** Commercial Intensive uses in Pocket A from 300,000 s.f. to 230,000 s.f.
- **Eliminate and replace** approved 335,000 s.f. Pocket B uses with 303 multi-family dwellings
- **Remove** the request for a flex of the FLU category
- Modify the boundaries between Pocket A and Pocket B



Entitlement Comparison

EXISTING

Pocket A
- 300,000 s.f.
- Commercial Intensive

Pocket B
- 335,000 s.f.
- Office, Personal Service, Minor Industry, Research Corporate Park, Warehousing, and Open Storage

(-70,000 s.f.) →

(-335,000 s.f.) + 303 units →

PROPOSED

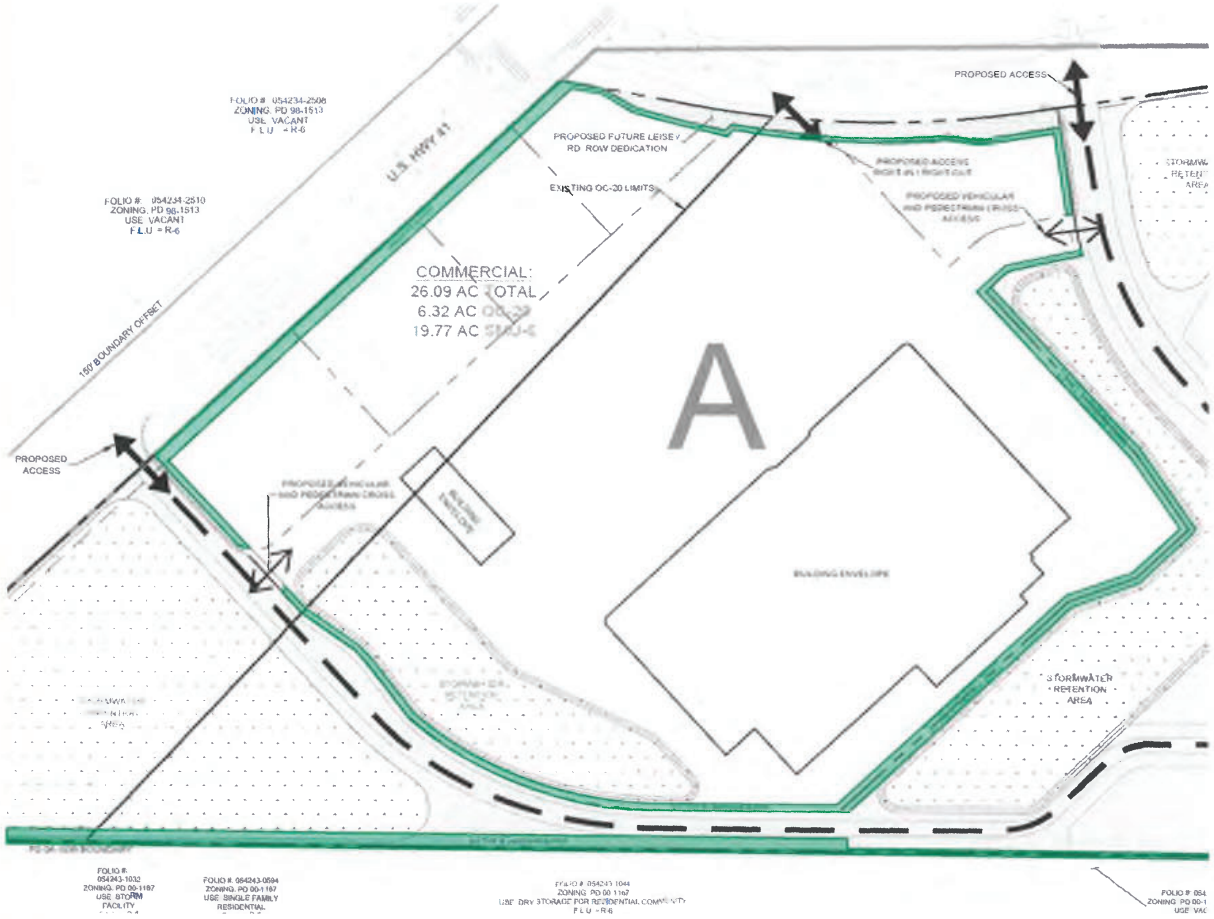
Pocket A
- 230,000 s.f.
- Commercial Intensive

Pocket B
- 303 units
- Multi-Family

The Project

Pocket A

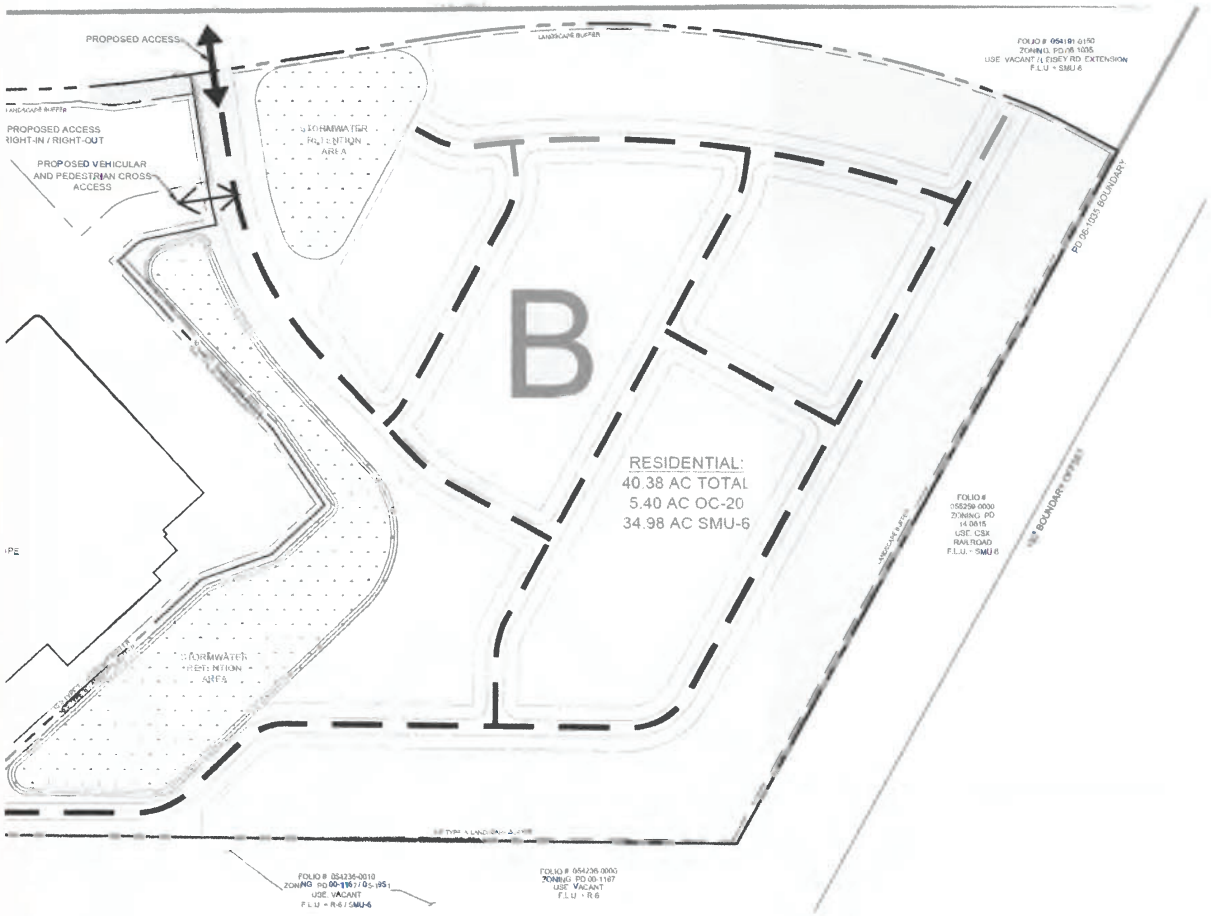
- 230,000 square feet of commercial
- Access to US-41 and Leisey Road
- Buffered from Pocket B
- Buffered to south by Pocket A (retention, roadway, and buffers)



The Project

Pocket B

- 303 Unit Multi-Family Community with amenities
- Access to US-41 and Leisey Road
- Buffered from Pocket A
- Reduction in Height from 50’ to 35’ in Pocket B



Informational Meeting

- 1/12/22
- 25 Attendees

STEARNS WEAVER MILLER

Invites You To An:

Informational Meeting

discussing

Council Bay Farms Major Modification to a Planned Development

(5591 North Highway 41, Apollo Beach, Florida)

(Parcel Identification Number: 054191.0100)

REGISTER HERE FOR WEBINAR

Date: Thursday, January 12, 2023
Time: 5:30 PM – 6:30 PM
Location: Virtual Webinar. **Register here.**

For Additional Information, Please Contact:

- Elise Batsel, Esq. – Stearns Weaver Miller – (813) 222-5057
- Kevin Reali, Esq. – Stearns Weaver Miller – (813) 222-5059

Neighboring HOA meeting

- Met with Harbour Isles HOA 'Committee' and counsel
- Discussed existing buffer conditions
- Agreed to additional buffer condition
- The developer shall provide a six foot (6') masonry wall in lieu of a six foot (6') opaque PVC fence within a portion of the required buffer adjacent to Folio number 054243-1044. The wall shall be required from the northwest corner of Folio number 054243-1044, north of the cul-de-sac of Conch Shell Place, eastward to the terminus of the open storage actually improved within Folio number 054243-1044. The remaining buffer adjacent to Folio number 054243-1044 east of the existing open storage may be constructed with a six foot (6') opaque PVC fence.

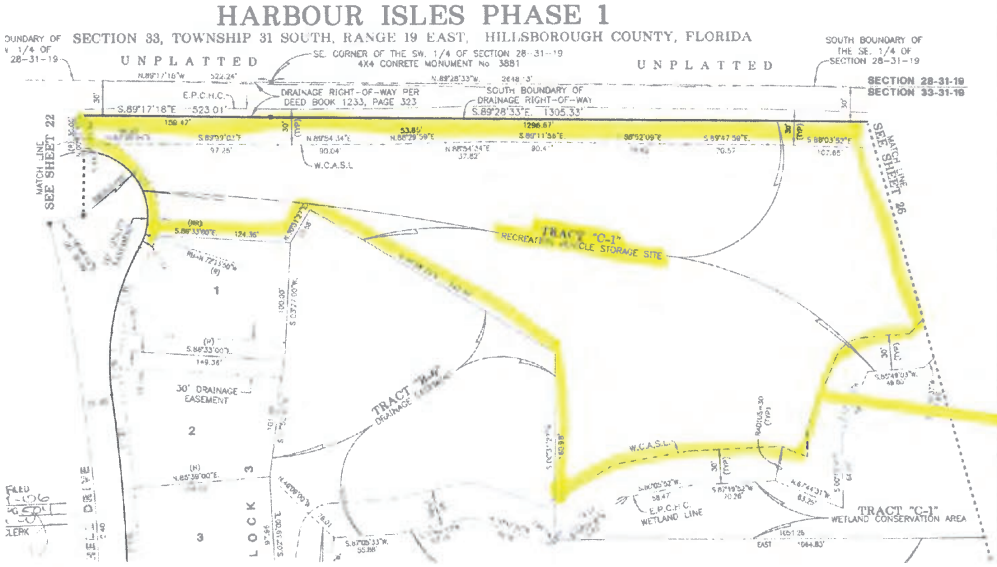
Increased Compatibility

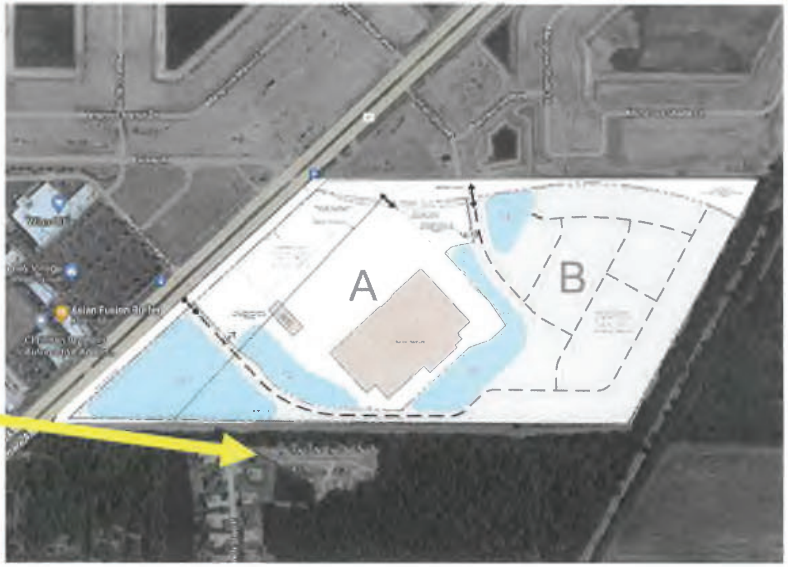
- Pocket A = More Compatible
  - Reduce Pocket A entitlements
  - Buffer Pocket B from Pocket A
  - Add additional buffer along southern boundary
  - Locate stormwater along project boundary for increased buffering

Increased Compatibility

- Multi-Family more compatible than existing commercial to north, east, and south
- Pocket B height reduced from 50’ to 35’ (single story)

Increased Compatibility

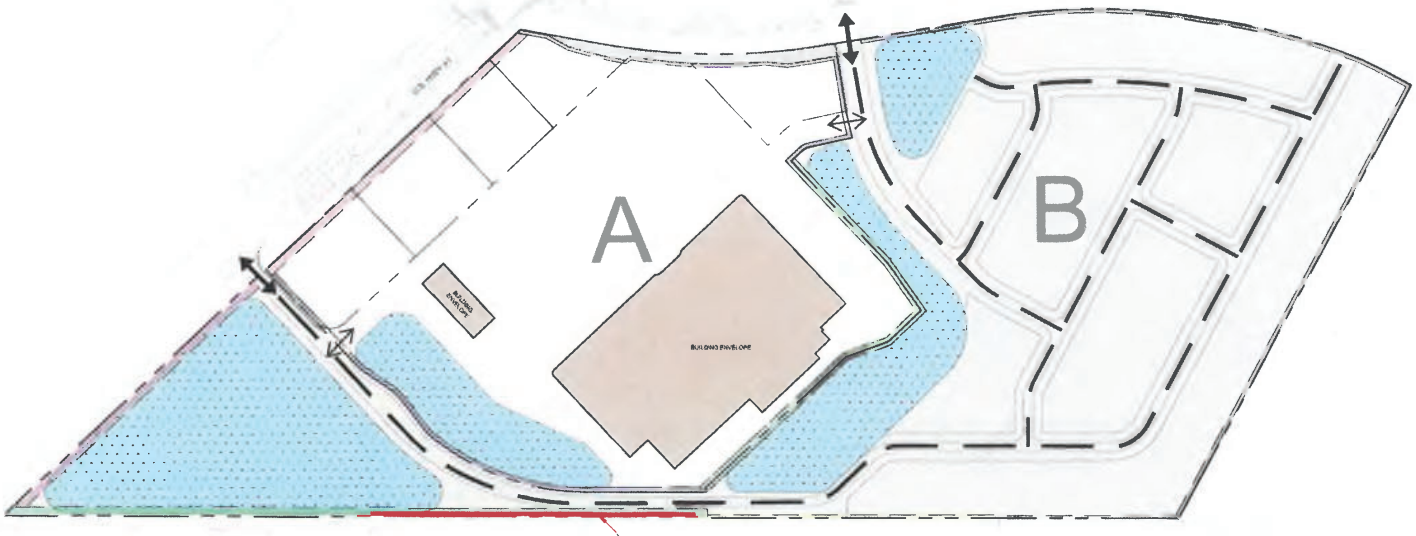




PROPOSED 20.0' TYPE 'B' LANDSCAPE BUFFER - INCLUSIVE OF THE FOLLOWING: A SOLID OPAQUE PVC FENCE SIX (6.0') FEET IN HEIGHT, AND EVERGREEN SHADE TREES TEN (10.0') FEET IN HEIGHT MINIMUM 2" CALIPER, SPACED NO MORE THAN 20' APART ON CENTER	PROPOSED 10.0' (INTERNAL) AND 8.0' (EXTERNAL: EASTERN & NORTHERN) TYPE 'B' LANDSCAPE BUFFER - INCLUSIVE OF THE FOLLOWING. A SOLID OPAQUE PVC FENCE SIX (6.0') FEET IN HEIGHT, AND EVERGREEN SHADE TREES TEN (10.0') FEET IN HEIGHT MINIMUM 2" CALIPER, SPACED NO MORE THAN 20' APART ON CENTER	PROPOSED 5.0' TYPE 'A' LANDSCAPE BUFFER - INCLUSIVE OF THE FOLLOWING: A SOLID OPAQUE PVC FENCE SIX (6.0') FEET IN HEIGHT	PROPOSED 20.0' TYPE LANDSCAPE BUFFER - INCLUSIVE OF THE FOLLOWING: A DECORATIVE (NON-P VC) FENCE SIX (4.0') FEET IN HEIGHT, SHADE TREES 8.0' - 10.0' IN HEIGHT SPACED 20.0' FEET ON CENTER, HEDGES MEASURING 30" IN HEIGHT, PLANTED 36" ON CENTER

NORTH

GRAPHIC SCALE IN FEET
0 125 250 500



PROPOSED SCREEN 6.0' MASONRY WALL

COUNCIL BAY MM 22-1228

BUFFERING EXHIBIT

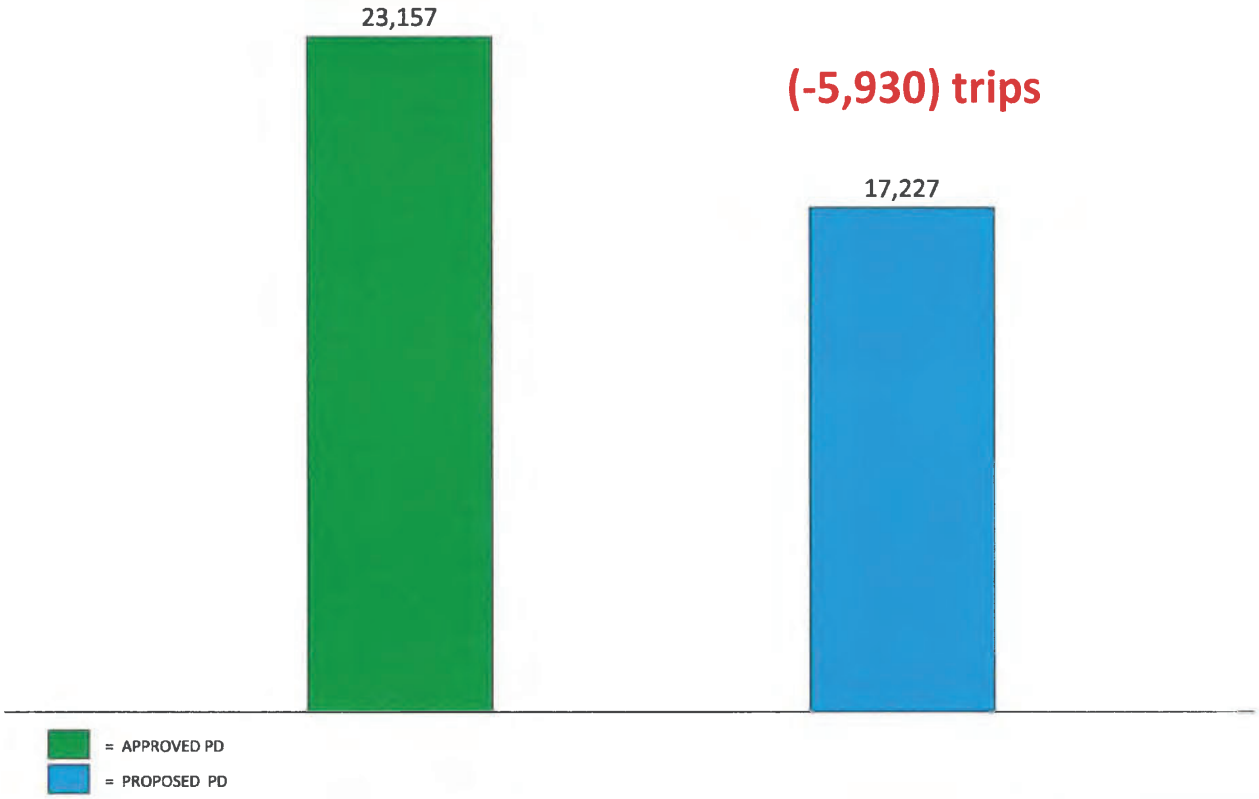
01/12/2023 CONTACT ARTIE CINTRON (813) 620-1460

Kimley»Horn

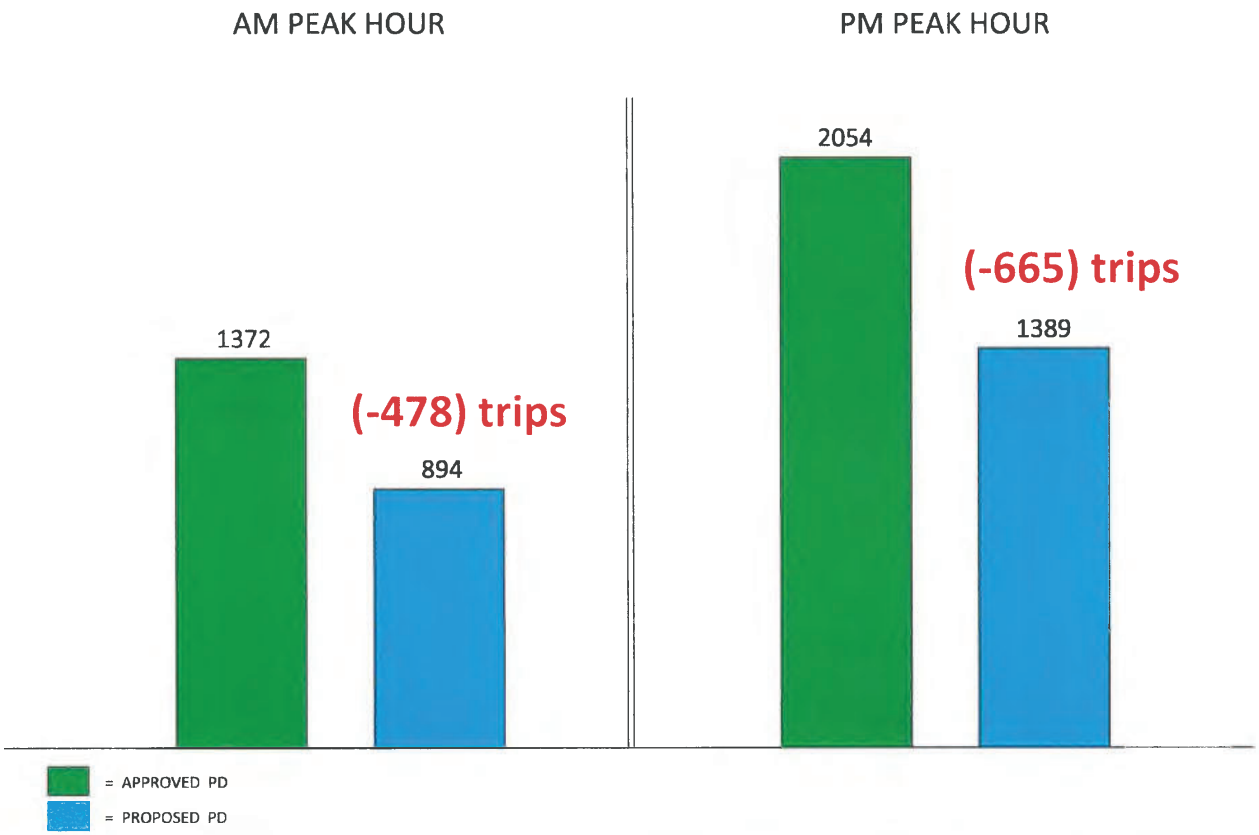
Comprehensive Plan Consistency

- Supports FLUE Objective 1 and Policy 1.4
  - Within Urban Service Area
  - "Proposed intensity of development would be comparable to the scale of non-residential development occurring in this segment of US 41."
- Supports FLUE Objective 7, Policy 7.1 and Objective 8
  - Consistent with OC-20 and SMU-6 categories
  - Blends density properly
- Supports FLUE Objective 16 and Policies 16.1, 16.2, 16.3, and 16.5
  - Places more compatible multi-family use closer to adjacent residential uses
  - Places commercial uses near US-41
- "[C]onsistent with . . . the goals found in the Apollo Beach and Southshore Community Plan."

TRIP GENERATION COMPARISON
DAILY



TRIP GENERATION COMPARISON



Transportation Mitigation

MOBILITY FEES

- Based on transportation study assumptions, which limit maximum traffic impacts
- Commercial ≈ $4.48 MM
- Residential ≈ $2.01 MM

Transportation: Developer Improvements

6.1 Construct a second westbound to southbound left turn lane on Leisey Rd. onto US 41;

6.2 Construct a raised concrete separator between the westbound dual left turn lanes on Leisey Rd. and the eastbound travel/turn lanes on Leisey Road.;

6.3 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed right-in only

6.4 Construct an eastbound to southbound right turn lane on Leisey Rd. at the project's proposed full access connection;

6.5 Construct a northbound to eastbound right turn lane on US 41 at the project access;

6.6 Construct a southbound to eastbound left turn lane on US 41 at the project access;

Transportation: Developer Improvements

6.7 Lengthen the existing northbound to westbound left turn lane on US 41 onto Leisey Road.;

6.8 Lengthen the existing southbound to eastbound left turn lane on US 41 onto Leisey Road.;

6.9 Construct a northbound to southbound exclusive U-turn lane between the northbound left turn and southbound through lanes on US 41 at its intersection with Leisey Road.;

6.10 Construct a southbound to northbound exclusive U-turn lane between the southbound left turn and northbound through lanes on US 41 at its intersection with Leisey Road.;

6.11 Construct raised concrete separators between the U-turn/turn lanes and the opposing travel lanes; and

6.12 Modify the traffic signal at US 41 and Leisey Rd. in order to accommodate the above improvements.

Comprehensive Plan – Property Rights

✓**Policy 1.1**: The County must consider the right of a property owner to physically possess and control his/her interests in property.

✓**Policy 1.2**: The County must consider the right of a property owner to use, maintain, develop and improve his or her property.

✓**Objective 3**: People rely on the comprehensive plan and zoning designations when deciding how to use property and the County's decision-making must be reliable and predictable to promote long-term investments in the community.

Conclusion

Development Services: **approvable**

Planning Commission: **consistent**

- Respectfully request your recommendation of approval of MM 22-1228.

REBUTTAL

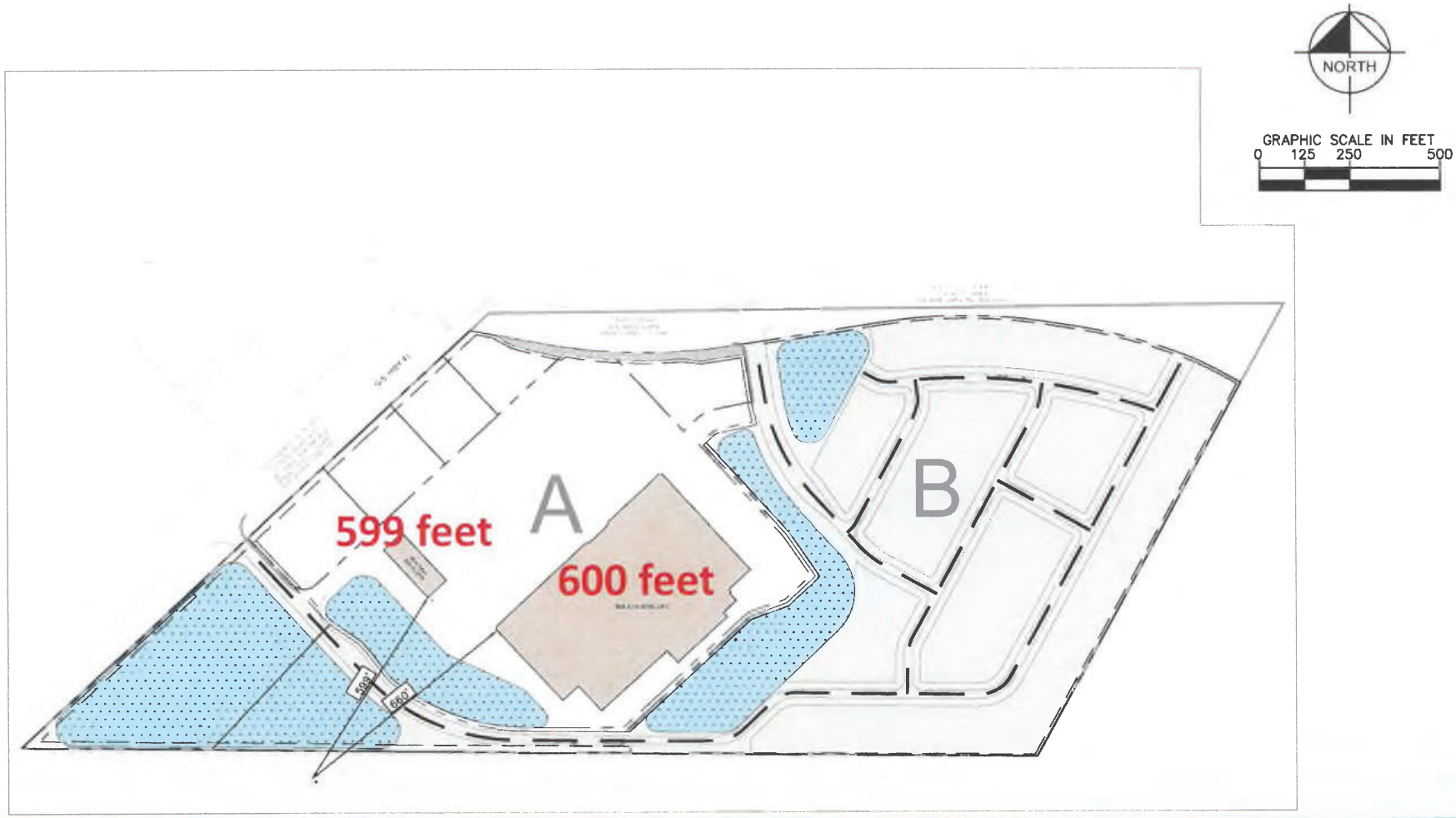
1. Burden Shifting
2. Traffic – Reduction in Daily and AM, PM Peak Hour trips
3. Not Clean Slate – Developer Private Property Rights
4. Use Not Determined for Commercial
5. Nexmetro Single Family for Rent Communities (not traditional multi-family)

NEXmetro Communities

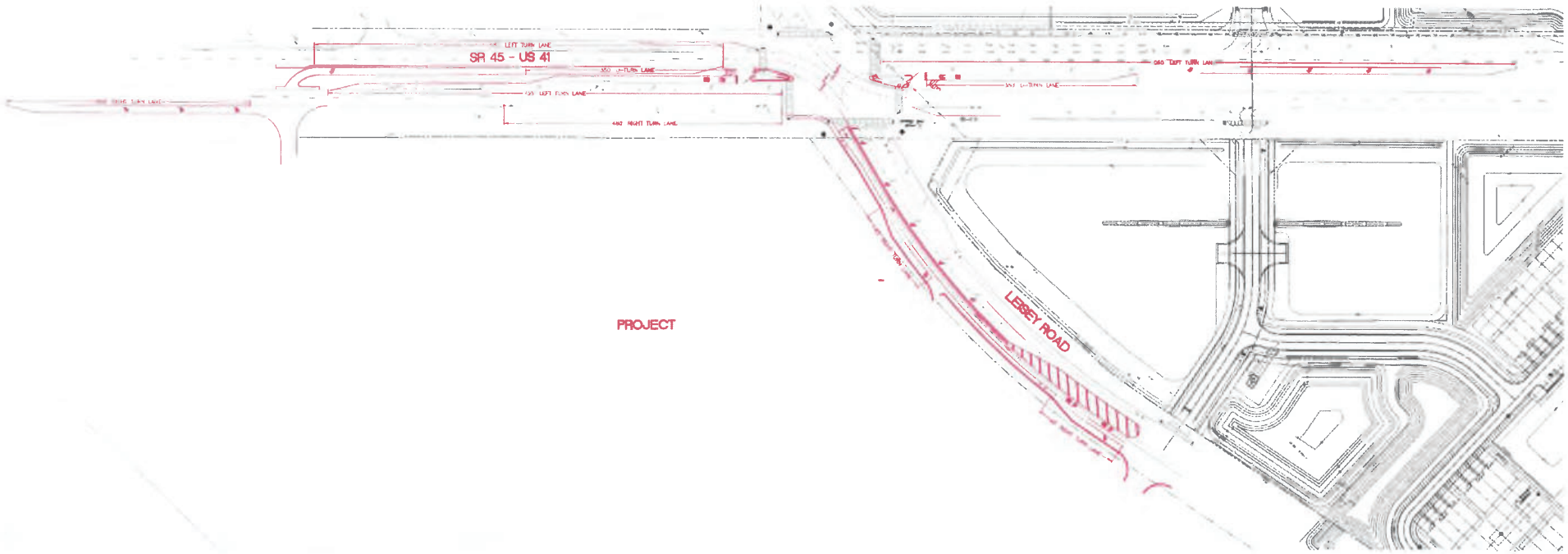
Luxury Rental Homes

NEXmetro Communities

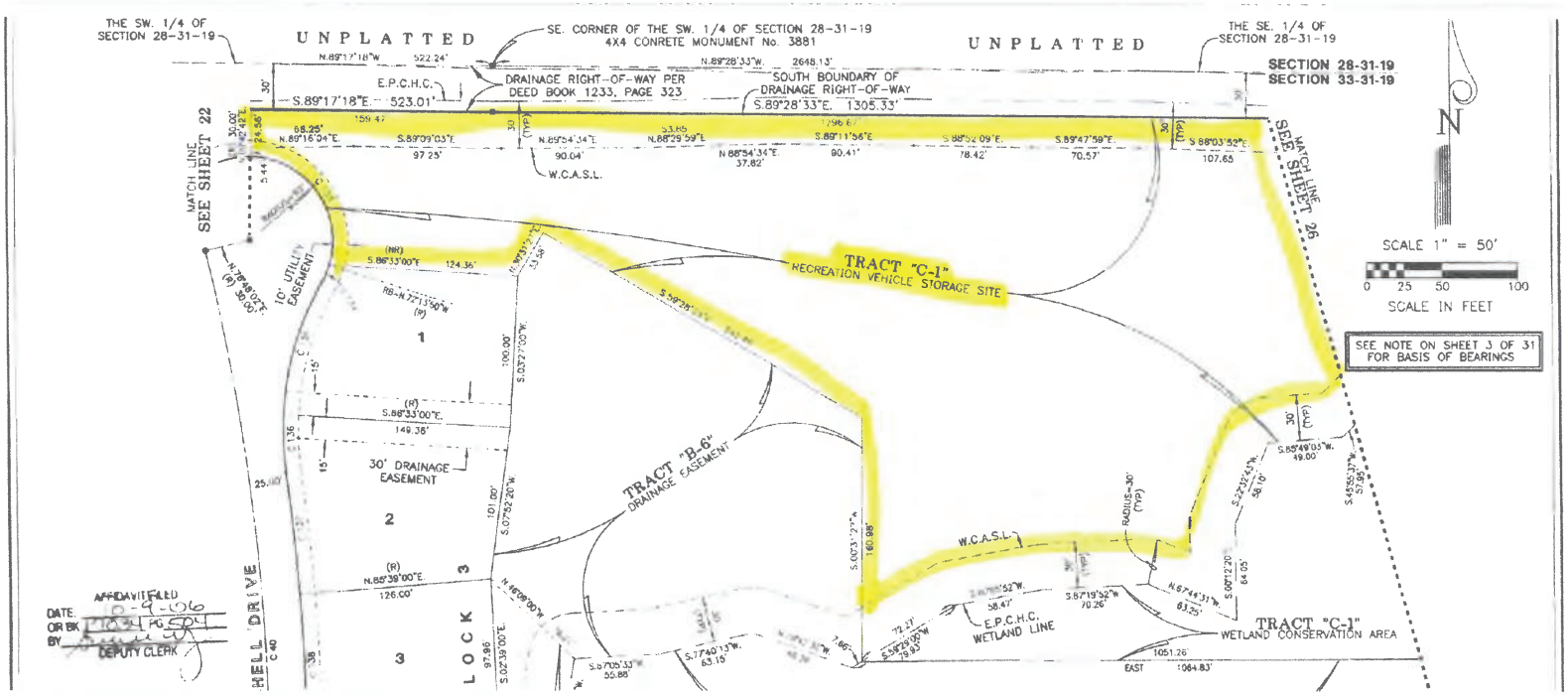
Luxury Rental Homes


NORTH
GRAPHIC SCALE IN FEET
0 125 250 500
599 feet
A
600 feet
B
599'
660'

Transportation: Developer Improvements

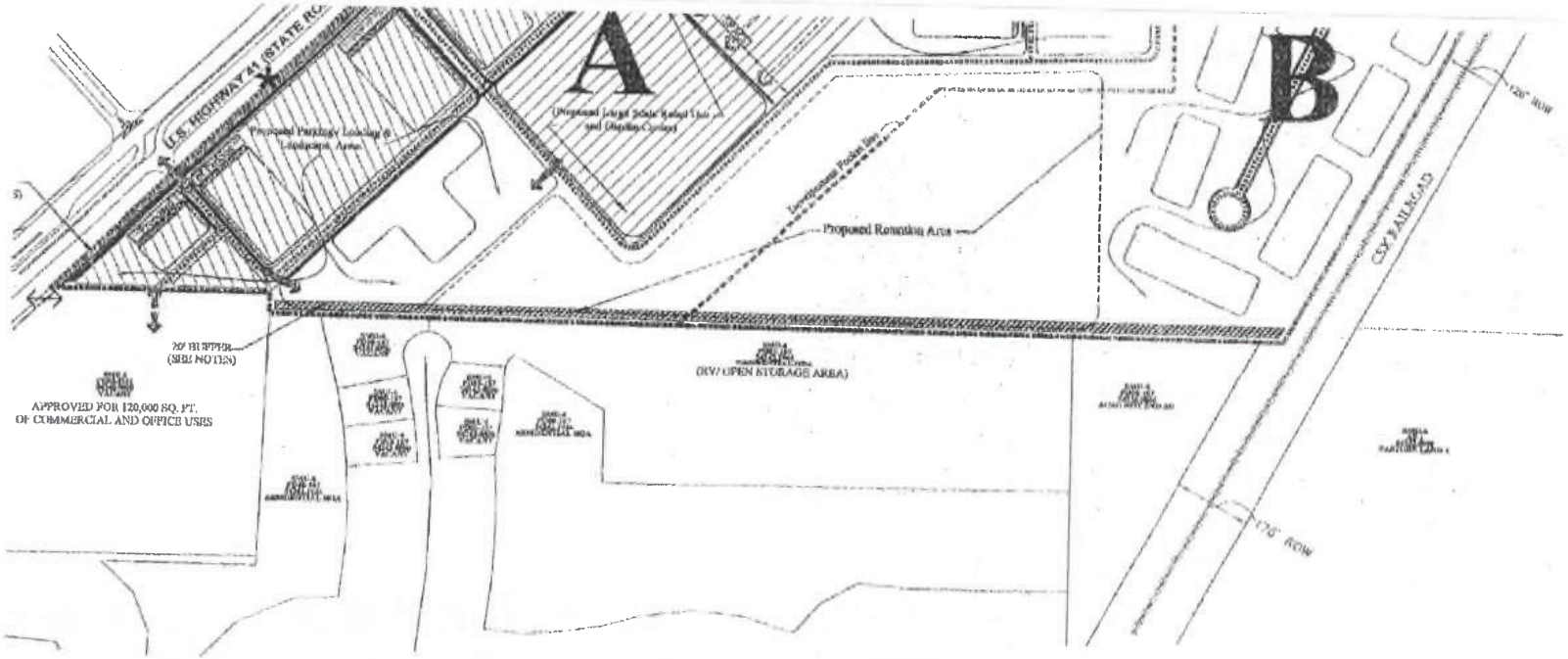


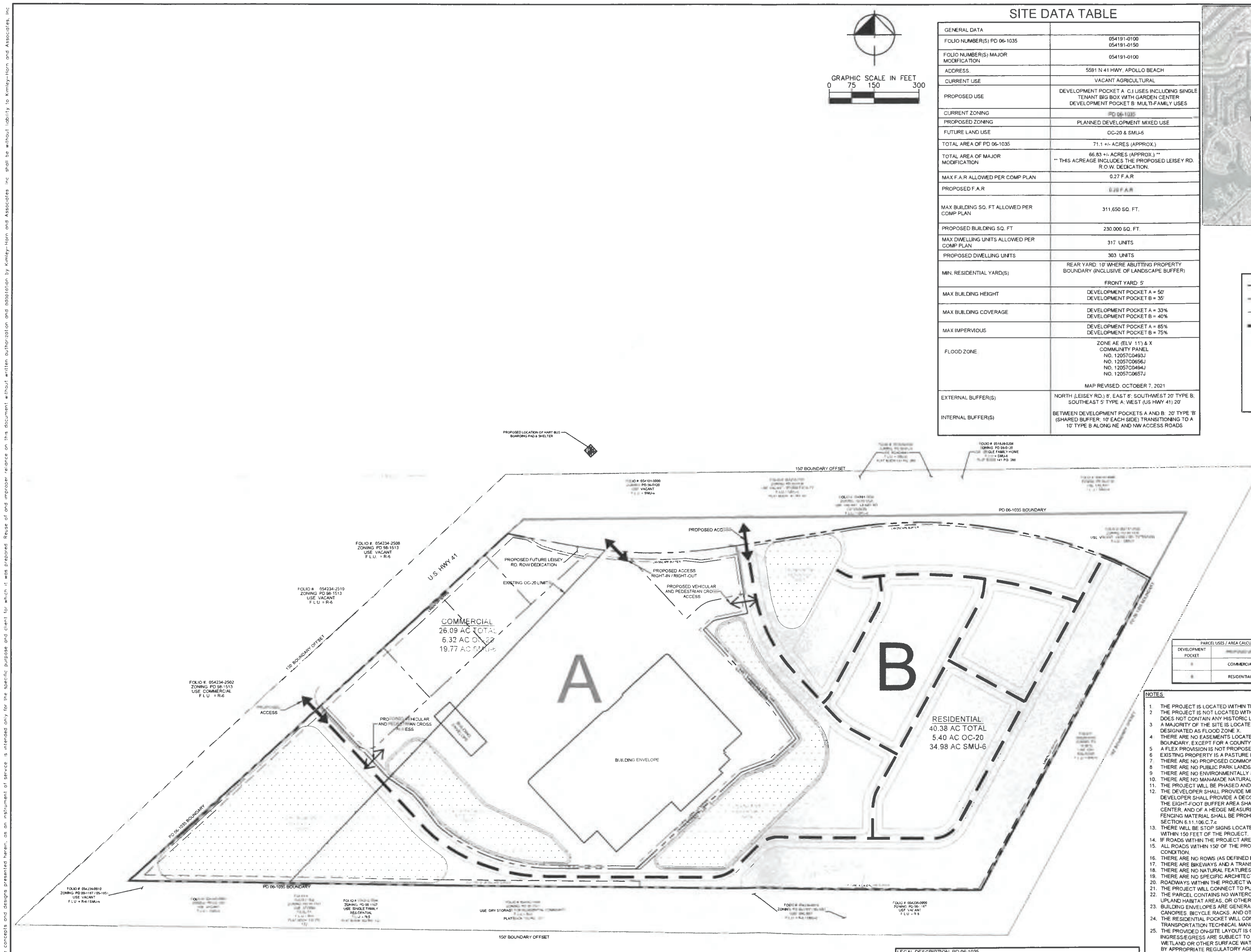
Buffer to South – Plat



Buffer to South – Aerial

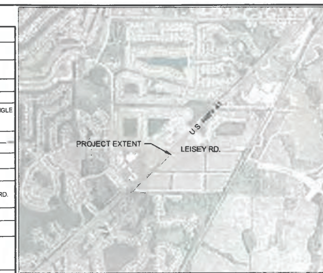
Buffer to South – Zoning





SITE DATA TABLE

GENERAL DATA	
FOLIO NUMBER(S) PD 06-1035	054191-0100 054191-0150
FOLIO NUMBER(S) MAJOR MODIFICATION	054191-0100
ADDRESS.	5591 N 41 HWY, APOLLO BEACH
CURRENT USE	VACANT AGRICULTURAL
PROPOSED USE	DEVELOPMENT POCKET A: C.I USES INCLUDING SINGLE TENANT BIG BOX WITH GARDEN CENTER DEVELOPMENT POCKET B: MULTI-FAMILY USES
CURRENT ZONING	PD 06-1035
PROPOSED ZONING	PLANNED DEVELOPMENT MIXED USE
FUTURE LAND USE	OC-20 & SMU-6
TOTAL AREA OF PD 06-1035	71.1 +/- ACRES (APPROX.)
TOTAL AREA OF MAJOR MODIFICATION	66.83 +/- ACRES (APPROX.) ** ** THIS ACREAGE INCLUDES THE PROPOSED LEISEY RD. R.O.W. DEDICATION.
MAX F.A.R ALLOWED PER COMP PLAN	0.27 F.A.R
PROPOSED F.A.R	[illegible] F.A.R
MAX BUILDING SQ. FT ALLOWED PER COMP PLAN	311,650 SQ. FT.
PROPOSED BUILDING SQ. FT	230,000 SQ. FT.
MAX DWELLING UNITS ALLOWED PER COMP PLAN	317 UNITS
PROPOSED DWELLING UNITS	303 UNITS
MIN. RESIDENTIAL YARD(S)	REAR YARD: 10' WHERE ABUTTING PROPERTY BOUNDARY (INCLUSIVE OF LANDSCAPE BUFFER) FRONT YARD: 5'
MAX BUILDING HEIGHT	DEVELOPMENT POCKET A = 50' DEVELOPMENT POCKET B = 35'
MAX BUILDING COVERAGE	DEVELOPMENT POCKET A = 33% DEVELOPMENT POCKET B = 40%
MAX IMPERVIOUS	DEVELOPMENT POCKET A = 85% DEVELOPMENT POCKET B = 75%
FLOOD ZONE	ZONE AE (ELV 11') & X COMMUNITY PANEL NO. 12057C0493J NO. 12057C0656J NO. 12057C0494J NO. 12057C0657J MAP REVISED: OCTOBER 7, 2021
EXTERNAL BUFFER(S)	NORTH (LEISEY RD.) 8', EAST 8'; SOUTHWEST 20' TYPE B; SOUTHEAST 5' TYPE A; WEST (US HWY 41) 20'
INTERNAL BUFFER(S)	BETWEEN DEVELOPMENT POCKETS A AND B: 20' TYPE 'B' (SHARED BUFFER; 10' EACH SIDE) TRANSITIONING TO A 10' TYPE B ALONG NE AND NW ACCESS ROADS



VICINITY MAP
N.T.S.

SITE LEGEND

— · — · —	EXISTING PROPERTY LINE
———	PD 06-1035 EXTENT
— — —	LANDSCAPE BUFFER
▬ ▬ ▬	PROPOSED CIRCULATION
⟷ (solid)	PROPOSED ACCESS
⟷ (outline)	PROPOSED CROSS-ACCESS
A B	PROPOSED DEVELOPMENT POCKET

PROPOSED TRAFFIC CONDITION:

THE ANALYSIS CONDUCTED FOR THE MAJOR MODIFICATION OF THE PLANNED DEVELOPMENT WAS BASED ON THE FOLLOWING LAND USES.

- MULTI-FAMILY (ITE LUC 220) - 303 DWELLING UNITS
- DISCOUNT SUPERSTORE (ITE LUC 813) - 208,000 SF
- DISCOUNT GAS (ITE LUC 945) - 16 FUELING POSITIONS
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- HIGH TURNOVER RESTAURANT (ITE LUC 932) - 6,000 SF
- CAR WASH (ITE LUC 948) - 1 TUNNEL

AT SITE CONSTRUCTION PLANS SUBMITTAL, THE DEVELOPER SHALL PROVIDE A TRIP GENERATION SUMMARY OF THE EXISTING AND PROPOSED LAND USES WITHIN THE PLANNED DEVELOPMENT. IF THE TOTAL DAILY, AM OR PM PEAK HOUR TRIP ENDS EXCEED THE FOLLOWING TRIP ENDS UTILIZED IN THE ANALYSIS, A MODIFICATION OF THE PD WILL BE REQUIRED

- DAILY - 21,540 TRIP ENDS
- AM PEAK HOUR - 1,258 TRIP ENDS
- PM PEAK HOUR - 1,777 TRIP ENDS

PROPOSED DEVELOPMENT MATRIX

PROPOSED COMMERCIAL SQUARE-FOOTAGE - 230,000 S.F (0.20 FAR)

PROPOSED MULTI-FAMILY RESIDENTIAL UNITS - 303 UNITS (7.5 UNITS / AC.)

PARCEL USES / AREA CALCULATION PER COMPREHENSIVE PLAN (EXCLUDING PROPOSED LEISEY RD ROW DEDICATION ACERAGE)

DEVELOPMENT POCKET	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	COMMERCIAL	SMU-6	[illegible]	[illegible]	215,295	
		OC-20	6.32	0.35	96,355	
[illegible]	RESIDENTIAL	SMU-6	34.98			[illegible]
		OC 20	5.40			[illegible]

NOTES

1. THE PROJECT IS LOCATED WITHIN THE APOLLO BEACH PLANNING AREA.
2. THE PROJECT IS NOT LOCATED WITHIN AN OVERLAY DISTRICT OR A DESIGNATED SCENIC ROADWAY CORRIDOR AND DOES NOT CONTAIN ANY HISTORIC LANDMARKS OR OTHER HISTORICAL OR ARCHEOLOGICAL SITES OR STRUCTURES.
3. A MAJORITY OF THE SITE IS LOCATED WITHIN COASTAL HIGH-HAZARD AREA, WITH SMALL PORTIONS AT ELEVATIONS DESIGNATED AS FLOOD ZONE X.
4. THERE ARE NO EASEMENTS LOCATED WITHIN THE PROJECT BOUNDARY OR WITHIN 150 FEET OF THE PROJECT BOUNDARY, EXCEPT FOR A COUNTY DRAINAGE EASEMENT JUST SOUTH OF THE SOUTHERN PROJECT BOUNDARY.
5. A FLEX PROVISION IS NOT PROPOSED FOR THIS PROJECT.
6. EXISTING PROPERTY IS A PASTURE LAND THERE ARE NO EXISTING STRUCTURES PROPOSED TO BE REMOVED.
7. THERE ARE NO PROPOSED COMMON OPEN SPACE OR RECREATION AREAS PROPOSED WITHIN THE PROJECT.
8. THERE ARE NO PUBLIC PARK LANDS OR SCHOOL SITE PROPOSED WITHIN THE PROPERTY.
9. THERE ARE NO ENVIRONMENTALLY SENSITIVE AREAS ON SITE.
10. THERE ARE NO MAN-MADE NATURAL WATER BODIES ONSITE.
11. THE PROJECT WILL BE PHASED AND CROSS ACCESS WILL BE PROVIDED BETWEEN PHASES.
12. THE DEVELOPER SHALL PROVIDE MINIMUM EIGHT-FOOT BUFFER ALONG US 41 AND LEISEY ROAD. WITHIN SAID AREA THE DEVELOPER SHALL PROVIDE A DECORATIVE FENCE A MINIMUM OF 4 FEET IN HEIGHT. LANDSCAPING TREATMENT WITHIN THE EIGHT-FOOT BUFFER AREA SHALL CONSIST OF EIGHT TO TEN FOOT HIGH SHADE TREES SPACED 20 FEET ON CENTER, AND OF A HEDGE MEASURING 30 INCHES HIGH AT THE TIME OF PLANTING, SPACED 36 INCHES ON CENTER. PVC FENCING MATERIAL SHALL BE PROHIBITED. THIS BUFFERING SHALL BE PROVIDED INSTEAD OF THE BUFFER IN LDC SECTION 6.11.106.C.7.c
13. THERE WILL BE STOP SIGNS LOCATED AT THE INTERSECTIONS WITHIN THE PROJECT AND THERE ARE STOP SIGNS WITHIN 150 FEET OF THE PROJECT.
14. IF ROADS WITHIN THE PROJECT ARE PRIVATE, THEY MAY BE GATED
15. ALL ROADS WITHIN 150' OF THE PROJECT ARE ASPHALT PAVEMENT, AT LEAST 22 FT +/- IN WIDTH AND ARE IN ADEQUATE CONDITION.
16. THERE ARE NO ROWS (AS DEFINED IN SECTION 12 OF THE LDC) WITHIN THE PROJECT BOUNDARY.
17. THERE ARE BIKEWAYS AND A TRANSIT STOP WITHIN 150 FEET OF THE PROJECT ALONG US HWY 41.
18. THERE ARE NO NATURAL FEATURES ON SITE OR WITHIN 150 FEET OF THE PROJECT.
19. THERE ARE NO SPECIFIC ARCHITECTURAL DESIGNS PROPOSED FOR THIS PROJECT.
20. ROADWAYS WITHIN THE PROJECT WILL BE A MINIMUM 24 FEET IN WIDTH.
21. THE PROJECT WILL CONNECT TO PUBLIC WATER AND SEWER.
22. THE PARCEL CONTAINS NO WATERCOURSES, LAKES, CONSERVATION AREAS, PRESERVATION AREAS, WOODED AREAS UPLAND HABITAT AREAS, OR OTHER SUCH NATURAL PHYSICAL FEATURES.
23. BUILDING ENVELOPES ARE GENERALIZED AND CAN ALSO BE USED FOR PARKING, LOADING, LANDSCAPING, SIDEWALKS, CANOPIES, BICYCLE RACKS, AND OTHER SUCH ITEMS.
24. THE RESIDENTIAL POCKET WILL CONTAIN GATED ACCESS THAT WILL COMPLY WITH HILLSBOROUGH COUNTY TRANSPORTATION TECHNICAL MANUAL.
25. THE PROVIDED ON-SITE LAYOUT IS CONCEPTUAL; FINAL DESIGN OF BUILDINGS, STORMWATER RETENTION AREAS, AND INGRESS/EGRESS ARE SUBJECT TO CHANGE PENDING FORMAL AGENCY JURISDICTIONAL DETERMINATIONS OF WETLAND OR OTHER SURFACE WATER BOUNDARIES, AND AS REQUIRED BY SUBSEQUENT ENGINEERING AND APPROVAL BY APPROPRIATE REGULATORY AGENCIES.
26. VEHICULAR AND PEDESTRIAN INTER-CONNECTIVITY SHALL BE PROVIDED BETWEEN DEVELOPMENT PARCEL A AND B AND THE ABUTTING ROADWAYS. PEDESTRIAN CONNECTIONS WITHIN PARCEL A SHALL PROVIDE FOR PEDESTRIAN CONNECTIONS INTERNAL TO PARCEL A PROVIDING LARGE SCALE RETAIL CONNECTIVITY TO THE RESIDENTIAL PARCEL, OUT PARCELS AND CONNECTIONS TO THE PUBLIC ROW. SUCH VEHICULAR AND PEDESTRIAN CONNECTIONS SHALL BE APPROVED AT CONSTRUCTION PLAN APPROVAL FOR EACH PHASE OF DEVELOPMENT. INTERNAL PEDESTRIAN CONNECTIVITY WITHIN PARCEL B AND BETWEEN PARCEL A AND B SHALL BE INCLUDED IN THE CONSTRUCTION PLAN APPROVAL FOR THE FIRST RESIDENTIAL PHASE.

LEGAL DESCRIPTION: PD 06-1035

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF US HWY 41 (SR 45) WITH THE SOUTHERLY LINE OF SECTION 28, TOWNSHIP 31 SOUTH, RANGE 15 EAST, HILLSBOROUGH COUNTY, FLORIDA, THENCE N.47°16'43"E., ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE (SAID LINE BEING 132.00 FEET PERPENDICULAR TO THE CENTERLINE OF SURVEY) 1274.67 FEET TO THE POINT OF INTERSECTION ON SAID RIGHT-OF-WAY LINE; THENCE CONTINUING ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, N.47°12'45"E., 499.93 FEET, THENCE N.89°23'27"E., 2202.60 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD, THENCE S. 28° 35'35"W., ALONG SAID RIGHT-OF-WAY LINE, (SAID LINE BEING 65.00 FEET PERPENDICULAR TO THE CENTERLINE OF SAID RAILROAD), 1434.38 FEET TO THE SOUTHERLY LINE OF SAID SECTION 28; THENCE N.89°21'25"W. ALONG SAID SOUTHERLY LINE, 2819.49 FEET TO THE POINT OF BEGINNING. (CONTAINING 71.10 ACRES)

WAIVER UNDER MM-22-1228

WAIVER FROM SEC. 6.05.02. PERMITTING THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES FOR LARGE SCALE RETAIL DEVELOPMENT, AS DEFINED BY SEC. 6.11.106 AND/OR PART 12.01.00, TO BE 4.0 PER 1,000 SQ. FT GFA.

NO.	REVISIONS	DATE

Kimley»Horn

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PHONE: 813-620-1460
WWW.KIMLEY-HORN.COM CA 00000696

FOR EXHIBIT PURPOSES ONLY

SCALE AS NOTED
DESIGNED BY
DRAWN BY
CHECKED BY

MM-22-1228

NEXMETRO COUNCIL BAY FARMS

HILLSBOROUGH COUNTY FLORIDA

DATE 06/28/2022
PROJECT NO.

SHEET NUMBER
1 OF 1

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

- Apollo Beach DRI - Transportation Analysis (2,500 acre planned unit development), Hillsborough County, Florida.
- Trinity Communities DRI - Transportation Analysis (4,000 acre planned unit development), Pasco County, Florida.
- Meadow Point DRI - Transportation Analysis (1,800 acre planned unit development), Pasco County, Florida.
- Lakeview DRI - Transportation Analysis (3,500 acre planned unit development), Polk County, Florida.
- North Palms Village DRI - Transportation Analysis (124 acre planned unit development), Hillsborough County, Florida
- Tri-County Business Park DRI - Transportation Analysis (Industrial Park), Hillsborough County, Florida
- Tampa Palms - Transportation Analysis (8,500 acre planned unit development), Tampa, Florida.
- Polk Power Station - Transportation Analysis (4,000 acre new power station).
- State Road 39 Project Development & Environmental Study.

PROFESSIONAL AFFILIATIONS:

Institute of Transportation Engineers
American Planning Association
Tampa Bay FSUTMS Users Group

PROFESSIONAL ENGAGEMENTS:

1991-Date	Lincks & Associates, Inc. Tampa, Florida
1990-1991	Skorman-Waxman Development Corp. Tampa, Florida
1987-1991	Lincks & Associates, Inc. Tampa, Florida
1985-1987	DSA Group, Inc. Tampa, Florida

STEARNS WEAVER MILLER

David M. Smith

Director of Development & Zoning
Tampa Office
dsmith@stearnsweaver.com
Phone: 813-222-5010

PRACTICE AREAS

- Land Development
- Litigation- Land Use, Environmental & Property Rights
- Environmental
- Real Estate
- Construction
- Planning/GIS Services
- Transportation

OVERVIEW

*Non-Lawyer

David M. Smith serves as an in-house consultant in the Land Use and Environmental Department. David's background is in permitting, planning, development, growth management and governmental regulation. He came to the Firm in 1990 from the Hillsborough County Government, where he worked for fourteen and a half years in community development, planning, zoning, and permitting. During his employment with Hillsborough County, he was Manager of Administration and Planning for the County's Community Development Block Grant program, South County Planning Manager and was the County Planning Department representative during all public hearings on the 1989 amendment of the County Comprehensive Plan under the State's Growth Management Act.

He received his undergraduate degree from Furman University and his MBA from the University of South Florida. David's role at the Firm is that of in-house consultant regarding planning, zoning, permitting, and governmental regulation. His involvement spans all practice areas of the Firm ranging from litigation to transaction. David has also been involved extensively in comprehensive planning, rezoning and land use, as well as eminent domain takings and property rights issues ranging from road widenings and school sites to height restrictions. His expertise and knowledge of zoning, planning, development, and permitting, and his experience managing planners and engineers, provides the Firm with an in-house capability to conduct real estate due diligence, address code enforcement, zoning and development issues, expedite permitting and to assess takings and property rights issues. David provides in-house capability to not only identify key issues but to effectively deal with land use and permitting issues directly or as needed, assemble and coordinate a team of experts to address issues and process a case through the system to conclusion.

REPRESENTATIVE EXPERIENCE

Obtained a zoning modification on behalf of Piedmont Companies, a developer of Goodwill Industries projects across the country. The 212,000 square foot facility in Hillsborough County will serve a 10-county area, employing over 100 individuals with disabilities and special needs. It is Goodwill Industries-Suncoast, Inc.'s first "build to suit" distribution center in its central Florida territory and will be used as a model for future facilities.

Negotiated development agreement and zoned 26 acre Housing Authority property for redevelopment into 1,500 units, 180,000 s.f. office, hotel and 85,000 s.f. of retail.

Obtained zoning approval for mixed use residential property in Hillsborough County for 2,200 units.

Performed due diligence on Florida properties in association with multi-state portfolio purchase.

Obtained zoning for the first residential tower on the west coast of Florida exceeding fifty stories.

Coordination of due diligence on numerous hotel and residential project acquisitions and dispositions.

Appear before local government and regional planning councils as developer applicant representative seeking residential, commercial and mixed use development approvals.

Represent developers and investors in acquisition, zoning and development of commercial, hotel, residential and mixed use projects

Represent developers and operators in permitting, code compliance and enforcement matters.

Represent land owners and developers in annexations and comprehensive plan amendments.

Represent developers in the Development of Regional Impact process.

PROFESSIONAL & COMMUNITY INVOLVEMENT

American Planning Association (APA)

Tampa Bay Builder's Association (TBBA)

PUBLICATIONS & PRESENTATIONS

Land Development News Update, Publications: **Hillsborough County Studying Comprehensive Plan Updates to Facilitate Affordable Housing**
Stearns Weaver Miller News Update | July 2021

Land Development News Update, Publications: **Update: Tampa Bay Local Governments Continue to Enact Burdensome Moratoria**
Stearns Weaver Miller News Update | April 2021

Land Development News Update, Publications: **Hillsborough County Moving Quickly in Proposal to Take Away Density from Rural and Agricultural Landowners**
Stearns Weaver Miller News Update | March 2021

Land Development News Update, Publications: **City of Tampa Holds Important Workshop on Changes in Land Use and Development Policies**

Stearns Weaver Miller News Update | November 2020

COVID News Update, **Government & Administrative News Update**, **Government Affairs News Update**, **Land Development News Update**, **Publications**: **COVID-19 Legal Compass | Timely and Significant COVID-19 Updates**
Stearns Weaver MIller News Update | March 2020

Land Development News Update, **Publications**: **Hillsborough County Sets Aggressive Twelve Program to Remake Development Policies - and Increase Fees**
Stearns Weaver Miller News Update | February 2020

Land Development News Update, **Publications**: **Hillsborough County Continues Discussion on Changes in Land Use and Development Policies to Prepare for Smart and Sustainable Growth**
Stearns Weaver Miller News Update | January 2020

Land Development News Update, **Publications**: **Major Land Use and Development Policies Discussions Continue in Hillsborough County**
Stearns Weaver Miller News Update | January 2020

Land Development News Update, **Publications**: **Friday Deadline for Hillsborough County's Final Impact Fee Buyback Solicitation**
Stearns Weaver Miller News Update | July 2019

Land Development News Update, **Publications**: **What's Developing | Spring 2019**
Stearns Weaver Miller News Update | April 2019

Land Development News Update, **Publications**: **Why Developers and Landowners Should Engage in the U.S. Census Bureau's Designation of Places and Census Tracts Over the Next Three Months**
Stearns Weaver Miller News Update | February 2019

Land Development News Update, **Publications**: **Opportunities to Reduce Mobility Fees and Monetize Impact Fee Credits as Hillsborough County's Mobility Fee Takes Effect**
Stearns Weaver Miller News Update | January 2017

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Stearns Weaver Miller News Update | December 2015

Land Development News Update, **Publications**: **New Mobility Fees on the Horizon in Hillsborough County**
Stearns Weaver Miller News Update | November 2015

EDUCATION

M.B.A., Muma College of Business, University of South Florida, 1984

B.A., Furman University, 1975

Artie Cintron

Project Manager

As a Kimley-Horn Tampa Office Practice Builder, Artie has over 12 combined years of land development experience, managing both private commercial, multifamily, local municipal, and transit projects in the Tampa Bay Area. Artie's project expertise extends through utility design, stormwater management, overall site design, and construction observation. His experience serving both private and public sector clients has equipped him with extensive knowledge of local permitting agencies and processes, including but not limited to: City of Tampa, City of St. Petersburg, Hillsborough County, Florida Department of Environmental Protection (FDEP), Department of Health (DOH), Southwest Florida Water Management District (SWFWMD), and Florida Department of Transportation (FDOT). Artie's adaptive nature and exceptional client service has contributed to the success of both small and large-scale developments that enhance municipal infrastructure and support the rapid growth of numerous communities.

Professional Credentials

- Bachelor of Science, Civil Engineering, University of Central Florida

Professional Affiliations

- American Society of Civil Engineers (ASCE)
- Commercial Real Estate Development Association (NAIOP)
- Tampa Real Estate Investment Council (REIC)

PROJECT EXPERIENCE

- Bay Oaks Bayshore Development, Tampa, FL
- The Watermark, Pasco County, FL
- Patel High School, Tampa, FL
- Crescent Westshore, Tampa, FL
- Sparkman Wharf, Tampa, FL
- Tampa Premium Outlets, Tampa, FL
- Summerfield Commerce Center, Riverview, FL
- Anclote Harbor, Tarpon Springs, FL
- Build-to-Suit Medium Delivery Station, Gibsonton, FL
- Summerfield Commerce Center Phase II, Riverview, FL
- Miller's Ale House, Wesley Chapel, FL
- Hernando Storage Center, Spring Hill, FL
- Apollo Beach Retail, Apollo Beach, FL
- Confidential Warehouse Development, Hillsborough County, FL
- CarMax, Clearwater, FL
- HART Bus Transit Infrastructure Projects, Hillsborough County, FL
- HART Various City of Tampa Sidewalk Improvement Projects, Hillsborough County, FL
- HART Various Bus Shelters/Bays, Hillsborough County, FL
- HART Fletcher Avenue Park and Ride, Hillsborough County, FL

Haley Skinner, E.I.

Project Analyst

Haley has more than two years of experience as a civil engineering analyst. Her experience with a diverse group of clients, ranging from local municipal to high-end commercial, has laid the foundation for her knowledge in land development and site civil design. Her project expertise includes: utility design, stormwater design and modeling, roadway and site improvements, ADA compliance, construction phase services, and permitting through various water management districts and municipal agencies. She has contributed to numerous commercial, residential, and high-end mixed-use developments in Southwest Florida and throughout the entire state.

PROJECT EXPERIENCE

- Bay Oaks Bayshore Development, Tampa, FL
- Nexmetro Apollo Beach, Tampa, FL
- Nexmetro Cypress Creek, Sun City, FL
- Confidential Warehouse Development, Hillsborough County, FL
- Dania Point, Dania, FL
- LTC Ranch Industrial Park, Store Space Self Storage Facility, Port St. Lucie, FL
- Storm Pipe Relocation and Easement Coordination, Tampa, FL
- Anclote Harbor, Tarpon Springs, FL
- Portillo's Restaurant, St. Petersburg, FL

Professional Credentials

- Bachelor of Science, Civil Engineering, University of Florida
- Engineering Intern in Florida

Professional Affiliations

- American Society of Civil Engineers (ASCE)

Kimley»Horn

APPLICANT AND OWNER:
COUNCIL BAY FARMS, LTD.
Major Modification Application
MM 22-1228

Hillsborough County – Zoning Hearing Master
January 17, 2023

BURDEN SHIFTING FRAMEWORK IN QUASI-JUDICIAL ZONING HEARINGS

- The Florida Supreme Court set forth the proper framework in *Board of County Commissioners of Brevard County v. Snyder*, 627 So. 2d 469, 476 (Fla. 1993):
  - [A] landowner seeking to rezone property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural requirements of the zoning ordinance. At this point, the burden shifts to the governmental board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose. In effect, the landowners' traditional remedies will be subsumed within this rule, and the board will now have the burden of showing that the refusal to rezone the property is not arbitrary, discriminatory, or unreasonable. If the board carries its burden, the application should be denied.

* * *

  - . . . . [I]n order to sustain the board's action, upon review by certiorari in the circuit court it must be shown that there was competent substantial evidence presented to the board to support its ruling.
- This framework is critical to the protections of private property rights, since "the effect of labeling rezoning decisions as quasi-judicial is to refer them to an independent forum that is isolated as far as is possible from the more politicized activities of local government, much as the judiciary is constitutionally independent of the legislative and executive branches." *Lee County v. Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996, 1001 (Fla. 2d DCA 1993).

I. The applicant has the burden of demonstrating consistency with the Comprehensive Plan and satisfaction of all procedural requirements in the Land Development Code with competent substantial evidence.

- A rezoning applicant must demonstrate that the application is consistent with the comprehensive plan and all procedural requirements of the zoning ordinance with competent substantial evidence. *Snyder*, 627 So. 2d at 476.

- An initial demonstration by the applicant of consistency with the relevant Comprehensive Plan Future Land Use category is enough to shift the burden to the local government. *Sunbelt Equities*, 619 So. 2d 996, 1007–08 (Fla. 2d DCA 1993).

- Florida courts have held that a prima facie case is established by either government staff reports or the findings of an independent expert reviewer of the application finding that a project is consistent with the comprehensive plan. *Balm Rd. Inv., LLC v. Hillsborough Cty. Bd. of Cty. Comm'rs*, No. 2D21-1033, 2022 WL 413683, at *2 (Fla. 2d DCA Feb. 11, 2022); *ABG Real Estate Dev. Co. of Fla., Inc. v. St. Johns County*, 608 So. 2d 59, 63 (Fla. 5th DCA 1992).

II. If the applicant satisfies their burden, the local government has the burden of showing there is competent substantial evidence in the record supporting denial of the rezoning application.

- "Competent, substantial evidence" has been described by the Florida Supreme Court:

  - "Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion....[T]he evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." *Pollard v. Palm Beach County,* 560 So. 2d 1358, 1359-60 (Fla. 4th DCA 1990) (per curiam) (quoting *DeGroot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957)).

  - And while the facts presented by objectors may be considered, any "subjective" materials may not, and objectors' materials cannot be given a cumulative effect simply because a large number of people agree with those facts or opinions. *Sunbelt Equities*, 619 So. 2d at 999 n.1; *Pollard,* 560 So. 2d at 1360; *Conetta v. City of Sarasota*, 400 So. 2d 1051, 1052 (Fla. 2d DCA 1981).

  - Similarly, speculative concerns about the future zoning of an area or a general desire to maintain the status quo are not allowable. *Apopka v. Orange County*, 299 So. 2d 657 (Fla. 4th DCA 1974).

- *Snyder* places the burden on the County to show "that the refusal to rezone the property is not arbitrary, discriminatory, or unreasonable." 627 So. 2d at 476.

- Such a refusal would be arbitrary if it relies upon criteria absent from its comprehensive plan or land development code. *City of Naples v. Cent. Plaza of Naples, Inc.*, 303 So. 2d 423, 425 (Fla. 2d DCA 1974).

III. If the local government fails to provide competent substantial evidence in support of denial, then the local government must provide competent substantial evidence supporting its legitimate public purpose.

- A legitimate public purpose must be supported by competent substantial evidence. *William F. Sutton Family LLP v. Hillsborough Cty. Bd. of Cty. Comm'rs*, 27 Fla. L. Weekly Supp. 29a (Fla. 13th Cir. Ct. Nov. 29, 2018), *per curiam aff'd*, 273 So. 3d 972 (Fla. 2d DCA 2019).

    - In *Sutton*, which was per curiam affirmed by the Second District Court of Appeal, the Thirteenth Judicial Circuit shifted the burden "to the County to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose" after the circuit court found the County's decision to deny the rezoning application was not supported by competent substantial evidence.

    - In the County's response to the Petition, "the County ma[de] vague allegations as to its desire to prevent urban sprawl, and protect water and other natural resources." *Id.* The circuit court nevertheless determined that these stated "legitimate public purposes" lacked evidentiary support. *Id.*

APPLICANT AND OWNER:
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627 So.2d 469
Supreme Court of Florida.

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, Florida, Petitioner,
v.
Jack R. SNYDER, et ux., Respondents.

No. 79720.
|
Oct. 7, 1993.
|
Rehearing Denied Dec. 23, 1993.

Synopsis

Property owners brought original action seeking writ of certiorari after county board denied their application for rezoning of property from general use to medium density multiple-family dwelling use. The District Court of Appeal, 595 So.2d 65, granted petition. On review for direct conflict of decisions, the Supreme Court, Grimes, J., held that: (1) rezoning action which entails application of general rule or policy to specific individuals, interests or activities is quasi-judicial in nature, subject to strict scrutiny on certiorari review; (2) landowner who demonstrates that proposed use of property is consistent with comprehensive plan is not presumptively entitled to such use; (3) landowner seeking to rezone property has burden of proving that proposal is consistent with comprehensive plan, and burden thereupon shifts to zoning board to demonstrate that maintaining existing zoning classification accomplishes legitimate public purpose; and (4) although board is not required to make findings of fact in denying application of rezoning, upon review by certiorari in the circuit court it must be shown there was competent substantial evidence presented to board to support its ruling.

Decision of District Court of Appeal quashed.

Shaw, J., dissented.

Attorneys and Law Firms

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Nancy Stuparich, Asst. Gen. Counsel, and Jane C. Hayman, Deputy Gen. Counsel, Tallahassee, amicus curiae, for FL League of Cities, Inc.

Paul R. Gougelman, III, and Maureen M. Matheson, Reinman, Harrell, Graham, Mitchell & Wattwood, P.A., Melbourne, amicus curiae, for Space Coast League of Cities, Inc., City of Melbourne, and Town of Indialantic.

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David La Croix, Pennington, Wilkinson & Dunlap, P.A., and William J. Roberts, Roberts and Eagan, P.A., Tallahassee, amicus curiae, for FL Ass'n of Counties.

David J. Russ and Karen Brodeen, Asst. Gen. Counsels, Tallahassee, amicus curiae, for FL Dept. of Community Affairs.

Richard Grosso, Legal Director, Tallahassee, and C. Allen Watts, Cobb, Cole and Bell, Daytona Beach, amicus curiae, for 1000 Friends of FL.

Neal D. Bowen, County Atty., Kissimmee, amicus curiae, for Osceola County.

M. Stephen Turner and David K. Miller, Broad and Cassel, Tallahassee, amicus curiae, for Monticello Drug Co.

John J. Copelan, Jr., County Atty., and Barbara S. Monahan, Asst. County Atty. for Broward County, Fort Lauderdale, and Emeline Acton, County Atty. for Hillsborough County, Tampa, amici curiae, for Broward County, Hillsborough County and FL Ass'n of County Attys., Inc.

Thomas G. Pelham, Holland & Knight, Tallahassee, amicus curiae, pro se.

Opinion

GRIMES, Justice.

We review *Snyder v. Board of County Commissioners,* 595 So.2d 65 (Fla. 5th DCA1991), because of its conflict with *Schauer v. City of Miami Beach,* 112 So.2d 838 (Fla.1959); *City of Jacksonville Beach v. Grubbs,* 461 So.2d 160 (Fla. 1st DCA1984), *review denied,* 469 So.2d 749 (Fla.1985); and *Palm Beach County v. Tinnerman,* 517 So.2d 699 (Fla. 4th DCA1987), *review denied,* ***471** 528 So.2d 1183 (Fla.1988). We have jurisdiction under article V, section 3(b)(3) of the Florida

Constitution. Jack and Gail Snyder owned a one-half acre parcel of property on Merritt Island in the unincorporated area of Brevard County. The property is zoned GU (general use) which allows construction of a single-family residence. The Snyders filed an application to rezone their property to the RU-2-15 zoning classification which allows the construction of fifteen units per acre. The area is designated for residential use under the 1988 Brevard County Comprehensive Plan Future Land Use Map. Twenty-nine zoning classifications are considered potentially consistent with this land use designation, including both the GU and the RU-2-15 classifications.

After the application for rezoning was filed, the Brevard County Planning and Zoning staff reviewed the application and completed the county's standard "rezoning review worksheet." The worksheet indicated that the proposed multifamily use of the Snyders' property was consistent with all aspects of the comprehensive plan except for the fact that it was located in the one-hundred-year flood plain in which a maximum of only two units per acre was permitted. For this reason, the staff recommended that the request be denied.

At the planning and zoning board meeting, the county planning and zoning director indicated that when the property was developed the land elevation would be raised to the point where the one-hundred-year-flood plain restriction would no longer be applicable. Thus, the director stated that the staff no longer opposed the application. The planning and zoning board voted to approve the Snyders' rezoning request.

When the matter came before the board of county commissioners, Snyder stated that he intended to build only five or six units on the property. However, a number of citizens spoke in opposition to the rezoning request. Their primary concern was the increase in traffic which would be caused by the development. Ultimately, the commission voted to deny the rezoning request without stating a reason for the denial.

The Snyders filed a petition for certiorari in the circuit court. Three circuit judges, sitting en banc, reviewed the petition and denied it by a two-to-one decision. The Snyders then filed a petition for certiorari in the Fifth District Court of Appeal.

The district court of appeal acknowledged that zoning decisions have traditionally been considered legislative in nature. Therefore, courts were required to uphold them if they could be justified as being "fairly debatable." Drawing heavily on *Fasano v. Board of County Commissioners*, 264 Or. 574, 507 P.2d 23 (1973), however, the court concluded that, unlike initial zoning enactments and comprehensive rezonings or rezonings affecting a large portion of the public, a rezoning action which entails the application of a general rule or policy to specific individuals, interests, or activities is quasi-judicial in nature. Under the latter circumstances, the court reasoned that a stricter standard of judicial review of the rezoning decision was required. The court went on to hold:

(4) Since a property owner's right to own and use his property is constitutionally protected, review of any governmental action denying or abridging that right is subject to close judicial scrutiny. Effective judicial review, constitutional due process and other essential requirements of law, all necessitate that the governmental agency (by whatever name it may be characterized) applying legislated land use restrictions to particular parcels of privately owned lands, must state reasons for action that denies the owner the use of his land and must make findings of fact and a record of its proceedings, sufficient for judicial review of: the legal sufficiency of the evidence to support the findings of fact made, the legal sufficiency of the findings of fact supporting the reasons given and the legal adequacy, under applicable law (*i.e.,* under general comprehensive zoning ordinances, applicable state and case law and state and federal constitutional provisions) of the reasons given for the result of the action taken.

(5) The initial burden is upon the landowner to demonstrate that his petition or application for use of privately owned ***472** lands, (rezoning, special exception, conditional use permit, variance, site plan approval, etc.) complies with the reasonable procedural requirements of the ordinance and that the use sought is consistent with the applicable comprehensive zoning plan. Upon such a showing the landowner is presumptively entitled to use his property in the manner he seeks unless the opposing governmental agency asserts and proves by clear and convincing evidence that a specifically stated public necessity requires a specified, more restrictive, use. After such a showing the burden shifts to the landowner to assert and prove that such specified more restrictive land use constitutes a taking of his property for public use for which he is entitled to compensation under the taking provisions of the state or federal constitutions.

Snyder v. Board of County Commissioners, 595 So.2d at 81 (footnotes omitted).

Applying these principles to the facts of the case, the court found (1) that the Snyders' petition for rezoning was consistent with the comprehensive plan; (2) that there was no assertion or evidence that a more restrictive zoning classification was necessary to protect the health, safety, morals, or welfare of the general public; and (3) that the denial of the requested zoning classification without reasons supported by facts was, as a matter of law, arbitrary and unreasonable. The court granted the petition for certiorari.

Before this Court, the county contends that the standard of review for the county's denial of the Snyders' rezoning application is whether or not the decision was fairly debatable. The county further argues that the opinion below eliminates a local government's ability to operate in a legislative context and impairs its ability to respond to public comment. The county refers to *Jennings v. Dade County,* 589 So.2d 1337 (Fla. 3d DCA1991), *review denied,* 598 So.2d 75 (Fla.1992), for the proposition that if its rezoning decision is quasi-judicial, the commissioners will be prohibited from obtaining community input by way of ex parte communications from its citizens. In addition, the county suggests that the requirement to make findings in support of its

rezoning decision will place an insurmountable burden on the zoning authorities. The county also asserts that the salutary purpose of the comprehensive plan to provide controlled growth will be thwarted by the court's ruling that the maximum use permitted by the plan must be approved once the rezoning application is determined to be consistent with it.

The Snyders respond that the decision below should be upheld in all of its major premises. They argue that the rationale for the early decisions that rezonings are legislative in nature has been changed by the enactment of the Growth Management Act. Thus, in order to ensure that local governments follow the principles enunciated in their comprehensive plans, it is necessary for the courts to exercise stricter scrutiny than would be provided under the fairly debatable rule. The Snyders contend that their rezoning application was consistent with the comprehensive plan. Because there are no findings of fact or reasons given for the denial by the board of county commissioners, there is no basis upon which the denial could be upheld. Various amici curiae have also submitted briefs in support of their several positions.

Historically, local governments have exercised the zoning power pursuant to a broad delegation of state legislative power subject only to constitutional limitations. Both federal and state courts adopted a highly deferential standard of judicial review early in the history of local zoning. In *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926), the United States Supreme Court held that "[i]f the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control." 272 U.S. at 388, 47 S.Ct. at 118. This Court expressly adopted the fairly debatable principle in *City of Miami Beach v. Ocean & Inland Co.*, 147 Fla. 480, 3 So.2d 364 (1941).

Inhibited only by the loose judicial scrutiny afforded by the fairly debatable rule, local zoning systems developed in a markedly inconsistent manner. Many land use experts and practitioners have been critical of the local zoning system. Richard Babcock deplored the effect of "neighborhoodism" and ***473** rank political influence on the local decision-making process. Richard F. Babcock, *The Zoning Game* (1966). Mandelker and Tarlock recently stated that "zoning decisions are too often ad hoc, sloppy and self-serving decisions with well-defined adverse consequences without off-setting benefits." Daniel R. Mandelker and A. Dan Tarlock, *Shifting the Presumption of Constitutionality in Land-Use Law,* 24 Urb.Law. 1, 2 (1992).

Professor Charles Harr, a leading proponent of zoning reform, was an early advocate of requiring that local land use regulation be consistent with a legally binding comprehensive plan which would serve long range goals, counteract local pressures for preferential treatment, and provide courts with a meaningful standard of review. Charles M. Harr, "*In Accordance With A Comprehensive Plan,*" 68 Harv.L.Rev. 1154 (1955). In 1975, the American Law Institute adopted the Model Land Development Code, which provided for procedural and planning reforms at the local level and

increased state participation in land use decision-making for developments of regional impact and areas of critical state concern.

Reacting to the increasing calls for reform, numerous states have adopted legislation to change the local land use decision-making process. As one of the leaders of this national reform, Florida adopted the Local Government Comprehensive Planning Act of 1975. Ch. 75-257, Laws of Fla. This law was substantially strengthened in 1985 by the Growth Management Act. Ch. 85-55, Laws of Fla.

Pursuant to the Growth Management Act, each county and municipality is required to prepare a comprehensive plan for approval by the Department of Community Affairs. The adopted local plan must include "principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development" of the local government's jurisdictional area. Section 163.3177(1), Fla.Stat. (1991). At the minimum, the local plan must include elements covering future land use; capital improvements generally; sanitary sewer, solid waste, drainage, potable water, and natural ground water aquifer protection specifically; conservation; recreation and open space; housing; traffic circulation; intergovernmental coordination; coastal management (for local government in the coastal zone); and mass transit (for local jurisdictions with 50,000 or more people). *Id.*, § 163.3177(6).

Of special relevance to local rezoning actions, the future land use plan element of the local plan must contain both a future land use map and goals, policies, and measurable objectives to guide future land use decisions. This plan element must designate the "proposed future general distribution, location, and extent of the uses of land" for various purposes. *Id.*, § 163.3177(6)(a). It must include standards to be utilized in the control and distribution of densities and intensities of development. In addition, the future land use plan must be based on adequate data and analysis concerning the local jurisdiction, including the projected population, the amount of land needed to accommodate the estimated population, the availability of public services and facilities, and the character of undeveloped land. *Id.*, § 163.3177(6)(a).

The local plan must be implemented through the adoption of land development regulations that are consistent with the plan. *Id.* § 163.3202. In addition, all development, both public and private, and all development orders approved by local governments must be consistent with the adopted local plan. *Id.*, § 163.3194(1)(a). Section 163.3194(3), Florida Statutes (1991), explains consistency as follows:

> (a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation 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.

Section 163.3164, Florida Statutes (1991), reads in pertinent part:

> (6) "Development order" means any order granting, denying, or granting with conditions an application for a development permit.
>
> ***474** (7) "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

Because an order granting or denying rezoning constitutes a development order and development orders must be consistent with the comprehensive plan, it is clear that orders on rezoning applications must be consistent with the comprehensive plan.

The first issue we must decide is whether the Board's action on Snyder's rezoning application was legislative or quasi-judicial. A board's legislative action is subject to attack in circuit court. *Hirt v. Polk County Bd. of County Comm'rs,* 578 So.2d 415 (Fla. 2d DCA1991). However, in deference to the policy-making function of a board when acting in a legislative capacity, its actions will be sustained as long as they are fairly debatable. *Nance v. Town of Indialantic,* 419 So.2d 1041 (Fla.1982). On the other hand, the rulings of a board acting in its quasi-judicial capacity are subject to review by certiorari and will be upheld only if they are supported by substantial competent evidence. *De Groot v. Sheffield,* 95 So.2d 912 (Fla.1957).

Enactments of original zoning ordinances have always been considered legislative. *Gulf & Eastern Dev. Corp. v. City of Fort Lauderdale,* 354 So.2d 57 (Fla.1978); *County of Pasco v. J. Dico, Inc.,* 343 So.2d 83 (Fla. 2d DCA1977). In *Schauer v. City of Miami Beach,* this Court held that the passage of an amending zoning ordinance was the exercise of a legislative function. 112 So.2d at 839. However, the amendment in that case was comprehensive in nature in that it effected a change in the zoning of a large area so as to permit it to be used as locations for multiple family buildings and hotels. *Id.* In *City of Jacksonville Beach v. Grubbs* and *Palm Beach County v. Tinnerman,* the district courts of appeal went further and held that board action on specific rezoning applications of individual property owners was also legislative. *Grubbs,* 461 So.2d at 163; *Tinnerman,* 517 So.2d at 700.

It is the character of the hearing that determines whether or not board action is legislative or quasi-judicial. *Coral Reef Nurseries, Inc. v. Babcock Co.,* 410 So.2d 648 (Fla. 3d DCA1982). Generally speaking, legislative action results in the *formulation* of a general rule of policy, whereas judicial

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action results in the *application* of a general rule of policy. Carl J. Peckingpaugh, Jr., Comment, *Burden of Proof in Land Use Regulations: A Unified Approach and Application to Florida,* 8 Fla.St.U.L.Rev. 499, 504 (1980). In *West Flagler Amusement Co. v. State Racing Commission,* 122 Fla. 222, 225, 165 So. 64, 65 (1935), we explained:

> A judicial or quasi-judicial act determines the rules of law applicable, and the rights affected by them, in relation to past transactions. On the other hand, a quasi-legislative or administrative order prescribes what the rule or requirement of administratively determined duty shall be with respect to transactions to be executed in the future, in order that same shall be considered lawful. But even so, quasi-legislative and quasi-executive orders, after they have already been entered, may have a quasi-judicial attribute if capable of being arrived at and provided by law to be declared by the administrative agency only after express statutory notice, hearing and consideration of evidence to be adduced as a basis for the making thereof.

Applying this criterion, it is evident that comprehensive rezonings affecting a large portion of the public are legislative in nature. However, we agree with the court below when it said:

> [R]ezoning actions which have an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at a hearing, and where the decision can be functionally viewed as policy application, rather than policy setting, are in the nature of ... quasi-judicial action....

Snyder, 595 So.2d at 78. Therefore, the board's action on Snyder's application was in the nature of a quasi-judicial proceeding and ***475** properly reviewable by petition for certiorari. [1]

We also agree with the court below that the review is subject to strict scrutiny. In practical effect, the review by strict scrutiny in zoning cases appears to be the same as that given in the review of other quasi-judicial decisions. *See Lee County v. Sunbelt Equities, II, Ltd. Partnership,* 619 So.2d 996 (Fla. 2d DCA1993) (The term "strict scrutiny" arises from the necessity of strict compliance with comprehensive plan.). This term as used in the review of land use decisions must be distinguished from the type of strict scrutiny review afforded in some constitutional cases. *Compare Snyder v. Board of County Comm'rs,* 595 So.2d 65, 75-76 (Fla. 5th DCA1991) (land use), *and Machado v. Musgrove,* 519 So.2d 629, 632 (Fla. 3d DCA1987), *review denied,* 529 So.2d 693 (Fla.1988),

and *review denied,* 529 So.2d 694 (Fla.1988) (land use), *with In re Estate of Greenberg,* 390 So.2d 40, 42-43 (Fla.1980) (general discussion of strict scrutiny review in context of fundamental rights), *appeal dismissed,* 450 U.S. 961, 101 S.Ct. 1475, 67 L.Ed.2d 610 (1981), *Florida High Sch. Activities Ass'n v. Thomas,* 434 So.2d 306 (Fla.1983) (equal protection), *and Department of Revenue v. Magazine Publishers of America, Inc.,* 604 So.2d 459 (Fla.1992) (First Amendment).

At this point, we depart from the rationale of the court below. In the first place, the opinion overlooks the premise that the comprehensive plan is intended to provide for the *future* use of land, which contemplates a gradual and ordered growth. *See City of Jacksonville Beach,* 461 So.2d at 163, in which the following statement from *Marracci v. City of Scappoose,* 552 P.2d 552, 553 (Or.Ct.App.1976), was approved:

> [A] comprehensive plan only establishes a long-range maximum limit on the possible intensity of land use; a plan does not simultaneously establish an immediate minimum limit on the possible intensity of land use. The present use of land may, by zoning ordinance, continue to be more limited than the future use contemplated by the comprehensive plan.

Even where a denial of a zoning application would be inconsistent with the plan, the local government should have the discretion to decide that the maximum development density should not be allowed provided the governmental body approves some development that is consistent with the plan and the government's decision is supported by substantial, competent evidence.

Further, we cannot accept the proposition that once the landowner demonstrates that the proposed use is consistent with the comprehensive plan, he is presumptively entitled to this use unless the opposing governmental agency proves by clear and convincing evidence that specifically stated public necessity requires a more restricted use. We do not believe that a property owner is necessarily entitled to relief by proving consistency when the board action is also consistent with the plan. As noted in *Lee County v. Sunbelt Equities II, Limited Partnership:*

> [A]bsent the assertion of some enforceable property right, an application for rezoning appeals at least in part to local officials' discretion to accept or reject the applicant's argument that change is desirable. The *right* of judicial review does not *ipso facto* ease the burden on a party seeking to overturn a decision made by a local government, and certainly does not confer any property-based right upon the owner where none previously existed.
>
> ....

> Moreover, when it is the zoning classification that is challenged, the comprehensive plan is relevant only when the suggested use is inconsistent with that plan. Where any of several zoning classifications is consistent with the plan, the applicant seeking a change from one to the other is not entitled to judicial relief absent proof the *status quo* is no longer reasonable. It is not enough simply to be "consistent"; the proposed change cannot be *inconsistent,* and will be subject to the "strict ***476** scrutiny" of *Machado* to insure this does not happen.

619 So.2d at 1005-06.

This raises a question of whether the Growth Management Act provides any comfort to the landowner when the denial of the rezoning request is consistent with the comprehensive plan. It could be argued that the only recourse is to pursue the traditional remedy of attempting to prove that the denial of the application was arbitrary, discriminatory, or unreasonable. *Burritt v. Harris,* 172 So.2d 820 (Fla.1965); *City of Naples v. Central Plaza of Naples, Inc.,* 303 So.2d 423 (Fla. 2d DCA1974). Yet, the fact that a proposed use is consistent with the plan means that the planners contemplated that that use would be acceptable at some point in the future. We do not believe the Growth Management Act was intended to preclude development but only to insure that it proceed in an orderly manner.

Upon consideration, we hold that a landowner seeking to rezone property has the burden of proving that the proposal is consistent with the comprehensive plan and complies with all procedural requirements of the zoning ordinance. At this point, the burden shifts to the governmental board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose. In effect, the landowners' traditional remedies will be subsumed within this rule, and the board will now have the burden of showing that the refusal to rezone the property is not arbitrary, discriminatory, or unreasonable. If the board carries its burden, the application should be denied.

While they may be useful, the board will not be required to make findings of fact. However, in order to sustain the board's action, upon review by certiorari in the circuit court it must be shown that there was competent substantial evidence presented to the board to support its ruling. Further review in the district court of appeal will continue to be governed by the principles of *City of Deerfield Beach v. Vaillant,* 419 So.2d 624 (Fla.1982).

Based on the foregoing, we quash the decision below and disapprove *City of Jacksonville Beach v. Grubbs* and *Palm Beach County v. Tinnerman,* to the extent they are inconsistent with this opinion. However, in the posture of this case, we are reluctant to preclude the Snyders from any avenue of relief. Because of the possibility that conditions have changed during the extended lapse of time since their original application was filed, we believe that justice would be best served by permitting them to file a new application for rezoning of the property. The application will be

without prejudice of the result reached by this decision and will allow the process to begin anew according to the procedure outlined in our opinion.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, KOGAN and HARDING, JJ., concur.

SHAW, J., dissents.

All Citations

627 So.2d 469, 18 Fla. L. Weekly S522

Footnotes

1 One or more of the amicus briefs suggests that Snyder's remedy was to bring a de novo action in circuit court pursuant to section 163.3215, Florida Statutes (1991). However, in *Parker v. Leon County,* 627 So.2d 476 (Fla.1993), we explained that this statute only provides a remedy for third parties to challenge the consistency of development orders.

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619 So.2d 996
District Court of Appeal of Florida,
Second District.

LEE COUNTY, a political subdivision of the State of Florida, Petitioner,
v.
SUNBELT EQUITIES, II, LIMITED PARTNERSHIP,
a Pennsylvania limited partnership, Respondent.

No. 92–03948.
|
May 14, 1993.
|
Rehearing Denied June 16, 1993.

Synopsis

Property owner sought to have property currently zoned for agricultural use rezoned for purposes of constructing commercial/office development. Although proposal was apparently consistent with future land use projections as embodied in county comprehensive plan, county commission overruled recommendation of planning staff and hearing examiner and denied rezoning. Owner sought judicial review. The Circuit Court for Lee County, James R. Thompson, J., granted certiorari and found that denial of application was not supported by evidence. County sought further certiorari review. The District Court of Appeal held that: (1) site-specific, owner-initiated rezoning request was sufficiently judicial in character that final administrative order was appropriate for appellate review, and (2) it was not sufficient for property owner to show that proposed use was consistent with comprehensive plan, and decision to deny could be sustained if record reflected substantial competent evidence favoring continuation of status quo.

Petition granted, order quashed, case remanded.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***998** James G. Yaeger, County Atty., and Thomas L. Wright, Asst. County Atty., Fort Myers, for petitioner.

Steven C. Hartsell, Pavese, Garner, Haverfield, Dalton, Harrison & Jensen, Fort Myers, for respondent.

Opinion

PER CURIAM.

We review Lee County's petition for writ of certiorari pursuant to *Education Development Center, Inc. v. City of West Palm Beach Zoning Board of Appeals,* 541 So.2d 106 (Fla.1989) and *City of Deerfield Beach v. Vaillant,* 419 So.2d 624 (Fla.1982). Finding that the circuit court did not apply the correct law to the facts and issues presented in this case, we grant the petition.

I. BACKGROUND

This action stems from a request for rezoning submitted by respondent Sunbelt Equities II (hereafter "Sunbelt"). Sunbelt owns a parcel currently zoned for agricultural use, upon which it wishes to construct a commercial/office development. Apparently the proposal is consistent with future land use projections as embodied in the Lee County comprehensive plan. However, opponents of the proposal have asserted that continuing the present zoning classification is preferable, at least for the time being. [1] Although county planning staff and a hearing examiner recommended approval of the ***999** proposal with changes, the county commission overruled that recommendation and denied the rezoning. In so doing the commission issued a written resolution which made three separate findings of fact: [2]

> (1) The proposal is inconsistent with the site location standards for Neighborhood Commercial Development as set forth in ... the Lee County Comprehensive Land Use Plan ... which requires Neighborhood Commercial Developments to be located at the intersection of a collector and arterial or an arterial and arterial road so as to allow access to two roads.
>
> (2) The proposal would result in unreasonable development expectations which may not be achievable because of commercial acreage limitations on the "Year 2010 Overlay [map]" for the subdistrict in question in violation of.... the Lee County Comprehensive Land Use Plan.
>
> (3) The proposal would permit a commercial development to locate in such a way as to open new areas to premature, scattered, or strip development....

Sunbelt then sought relief in circuit court via a proceeding the county aptly describes as a "hybrid." [3] The circuit court granted certiorari, "find [ing] that there was no substantial, competent evidence to support the decision of the Lee County Board of County Commissioners in ... denying [Sunbelt]'s application for rezoning." The county now asks us to review that decision.

II. REZONING: LEGISLATIVE OR JUDICIAL PROCEEDING?

The circuit court, in asserting its power to review the matter via certiorari, appears to have relied upon *Snyder v. Board of County Commissioners of Brevard County,* 595 So.2d 65 (Fla. 5th DCA 1991), *jdn. accepted,* 605 So.2d 1262 (Fla.1992), which states that owner-initiated, site-specific rezoning proceedings are quasi-judicial in nature. The county had moved to dismiss Sunbelt's petition because, in its view, all zoning decisions are legislative rather than judicial. The difference between these concepts affects both the accepted method of subsequent judicial review and the scope of that review.

(a) Is there conflict between *Snyder v. Brevard County* and prior holdings of this court?

The county contends that *Snyder* conflicts with cases from this court describing rezoning as a legislative activity. *See, e.g., Lee County v. Morales,* 557 So.2d 652 (Fla. 2d DCA), *rev. denied,* 564 So.2d 1086 (Fla.1990); *Hirt v. Polk County Board of County Commissioners,* 578 So.2d 415 (Fla. 2d DCA 1991). [4] Sunbelt disputes that conflict exists, and notes that our court has employed certiorari review in settings factually similar to the present case. *Manatee County v. Kuehnel,* 542 So.2d 1356 (Fla. 2d DCA), *rev. denied,* 548 So.2d 663 (Fla.1989).

We agree that no material conflict arises between *Lee County v. Morales* and *Snyder. Morales* involved a comprehensive downzoning of an environmentally sensitive barrier island initiated by the county, and did not involve an owner-initiated zoning change. Moreover, any conflict between *Snyder* and *Hirt v. Polk County* exists only in dicta. *Hirt* was not a rezoning, but rather a neighboring property owner's challenge to approval of a Planned Unit Development. The case was disposed of on procedural grounds—the circuit court had dismissed Hirt's certiorari petition, and ***1000** this court, finding the county's construction of applicable rules to have been a "judicial" undertaking, ordered the petition reinstated and decided on its merits.

In *Hirt* Judge Scheb engaged in a functional analysis of the underlying administrative proceedings quite similar to that in *Snyder* (and which was cited with approval in *Snyder). Hirt* states that the legislative *versus* judicial determination turns on (1) the nature of the challenge; and (2) the manner in which the zoning authority went about making its decision. *Snyder,* Sunbelt urges, is "the logical culmination of [this] functional analysis." However, Judge Scheb did remark in passing that rezonings were "legislative." 578 So.2d at 417. He did not distinguish between a county-initiated, broad-based rezoning, as in *Morales,* and a site-specific, owner-initiated rezoning as in *Kuehnel.*

(b) When, if ever, is rezoning a "judicial" matter?

Florida's appellate courts are neither unanimous nor consistent on the question whether rezonings are legislative or quasi-judicial. [5] Neither are they consistent about the method or scope of review. For example, in *St. Johns County v. Owings,* 554 So.2d 535 (Fla. 5th DCA 1989), *rev. denied,* 564 So.2d 488 (Fla.1990), and *Palm Beach County v. Tinnerman,* 517 So.2d 699 (Fla. 4th DCA 1987), *rev. denied,* 528 So.2d 1183 (Fla.1988), the courts applied the "fairly debatable" standard appropriate for legislative decisions, but reviewed the proceedings by certiorari as if they were judicial in nature.

"A judicial inquiry investigates, declares, and enforces liabilities as they stand on present facts and under laws supposed already to exist ... Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power." *Prentis v. Atlantic Coast Line Co.,* 211 U.S. 210, 226, 29 S.Ct. 67, 69, 53 L.Ed. 150, 158 (1908), quoted in *Jennings v. Dade County,* 589 So.2d 1337, 1343 (Fla. 3d DCA 1991), *rev. denied,* 598 So.2d 75 (Fla.1992) (Ferguson, J., concurring). A judicial decision involves a controversy over how *existing* law affects a set of facts—what Judge Scheb called "enforcing" the current ordinance. 578 So.2d at 417. Placed in the zoning/code enforcement context, the court or agency asks: "Has the party done something in violation of the law?" or "Will the law allow the party to do what it wants?" By contrast, legislation *changes* the existing law. Arguably, it is immaterial whether such change stems from the fiat of the governing body (*e.g.* a comprehensive rezoning) or from an individual request to "change the law for me" (the *Snyder*/Sunbelt rezonings).

Snyder, in concluding that owner-initiated rezoning proceedings are nevertheless quasi-judicial in character, borrows heavily from two sources. One, *Coral Reef Nurseries, Inc. v. Babcock Co.,* 410 So.2d 648, 652 (Fla.3d DCA 1982), declares that "it is the character of the administrative hearing leading to the action of the administrative body that determines the label to be attached to the action...." The court in *Coral Reef* was deciding whether "administrative *res judicata*" operated to bar a second rezoning application; though they eventually determined that the nature of these rezoning hearings made them "judicial," the court went on to afford considerable deference to the local government in deciding whether circumstances had sufficiently changed to defeat application of the *res judicata* principle.

Another source is the widely-cited opinion of the Oregon Supreme Court, *Fasano v. Board of County Commissioners of Washington County,* 264 Or. 574, 507 P.2d 23 (1973). The plaintiffs in *Fasano* had unsuccessfully opposed a zoning change before their county commission, but prevailed at all levels of the Oregon court ***1001** system because the rezoning was not shown to be consistent with the local comprehensive plan. The supreme court began its analysis by stating, "Any meaningful decision as to the proper scope of judicial review of a zoning decision must

start with a characterization of the nature of that decision." 507 P.2d at 25–26. Most jurisdictions, including Oregon itself, heretofore had "state[d] that a zoning ordinance is a legislative act and is thereby entitled to presumptive validity." 507 P.2d at 26. This approach, however, may have been "ignoring reality." *Id.*

> Ordinances laying down general policies without regard to a specific piece of property are usually an exercise of legislative authority, are subject to limited review and may only be attacked upon constitutional grounds for an arbitrary use of authority. On the other hand, a determination whether the permissible use of a specific piece of property should be changed is usually an exercise of judicial authority and its propriety is subject to an altogether different test.

Id. [6]

It is notable that *Fasano,* like most of the "consistency" cases we will discuss, involved a challenge to a rezoning that (initially) was successfully obtained despite a claim it was not only bad policy but not in compliance with the law. That is, *Fasano* (like *Hirt*) asked the question, unarguably judicial in character, "Does the existing law permit it?"

> The fact remains, however, that many rezoning decisions *are* properly reviewable by certiorari. While legislative authority (that is, the discretion to determine what the law should be) may not be delegated, a legislative body may delegate to a board or official the authority to apply the law if sufficient standards and procedural safeguards are adopted to ensure a proper application of legislative intent. Most zoning ordinances delegate, with standards, the authority to decide such things as variances or conditional use approvals, and these quasi-judicial determinations are reviewable by certiorari. Similarly, the authority to decide what zoning district to apply to each property could, with adequate standards, become a delegated, quasi-judicial determination. Far more often, however, rezoning decisions are held to be reviewable by certiorari merely because a zoning ordinance, charter or special act provides that they shall be.

LaCroix, *The Applicability of Certiorari Review to Decisions on Rezoning,* Fla.B.J., June 1991, at 105 (*footnotes omitted*).

We believe a fair and workable solution is to adopt the functional analysis of *Snyder,* which is consistent procedurally with our prior decision in *Manatee County v. Kuehnel.* That is, we agree that site-specific, owner-initiated rezoning requests are sufficiently judicial in character that final administrative orders are thereafter appropriate for appellate review.

(c) What Does It Mean to Label a Proceeding "Judicial"?

Our decision to adopt this portion of the *Snyder* opinion will measurably affect those local governments who, in continuing to regard *Snyder*-type rezonings as purely legislative, may utilize overly informal procedures when considering such requests. "When acting in a truly legislative function, a legislative body ... is not required to make findings of fact and statement of reasons supporting its decision as is necessary in order for the courts to effectively review governmental action for compliance with constitutional and statutory rights and limitations." *Snyder,* 595 So.2d at 68.

The effect of labeling rezoning decisions as quasi-judicial is to refer them to an independent forum that is isolated as far as is possible from the more politicized activities of local government, much as the judiciary is constitutionally independent of the legislative and executive branches. Because ***1002** these decisions today are inextricably linked with property rights-related claims, we view this shift toward enforced neutrality as salutary. The evolving law of property rights, exemplified by *Lucas v. South Carolina Coastal Council,* 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992), does not augur well for local governments who are reluctant to justify their decisions with explicit references to evidence and public policy. If reached under a veil of silence, even honest land-use decisions are vulnerable to charges of arbitrariness or improper motive.

Moreover, it is debatable whether the new procedural requirements implicit in our adoption of *Snyder* should be viewed either as onerous or as infringing upon powers traditionally reserved for local elected officials.

> [W]e note that the quality of due process required in a quasi-judicial hearing is not the same as that to which a party to a full judicial hearing is entitled. Quasi-judicial proceedings are not controlled by strict rules of evidence and procedure. Nonetheless, certain standards of basic fairness must be adhered to in order to afford due process.... A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to

> present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts.

Jennings v. Dade County, 589 So.2d at 1340.

III. THE SCOPE OF REVIEW AT THE CIRCUIT AND D.C.A. LEVELS

It necessarily follows that any party adversely affected by a rezoning decision is entitled to some form of direct appellate review. Therefore, we turn to the standard of review that should be employed by the circuit and district courts when presented with such cases. At the outset we acknowledge the existence of several terms of art which warrant (and may sometimes lack) clear definition, among them "fairly debatable," "substantial competent evidence," and, in the wake of mandatory statewide comprehensive planning, "consistency" and "strict scrutiny." All come into play in *Snyder* and in the present case.

(a) "Fairly debatable" and "substantial competent evidence"

The terms "fairly debatable"—generally applied to sustain actions thought of as legislative—and "substantial competent evidence"—which must exist to support quasi-judicial determinations—may in fact be more similar than some decisional and textual authorities suggest.

> The "fairly debatable" rule is a rule of reasonableness; it answers the question of whether, upon the evidence presented to the municipal body, the municipality's action is reasonably based. The primary purpose of the "fairly debatable" test is to allocate decision-making authority over zoning matters between the legislative municipal body and the judiciary. The test purports to prevent the court from substituting its judgment *with regard to zoning ordinance enactments* for that of the zoning authority. In other words, the "fairly debatable" test was created to review the *legislative*-type enactments of zoning ordinances.

Town of Indialantic v. Nance, 400 So.2d 37, 39 (Fla.5th DCA 1981), *approved,* 419 So.2d 1041 (Fla.1982) (*citations omitted; emphasis in original*).

> At issue in *DeGroot [v. Sheffield,* 95 So.2d 912 (Fla.1957),] was the proper method and scope of review of a quasi-judicial county board determination. The *DeGroot* court held that where ... notice and hearing are required and the judgment of the board is contingent on the showing made at the hearing, the action is judicial or quasi-judicial ... The court then explained that "competent substantial evidence" was evidence a reasonable mind would accept as adequate to support a conclusion. The *DeGroot* "competent substantial evidence" standard of review of quasi-judicial action effectively provides the same standard the "fairly debatable" test provides for review of legislative municipal zoning action: For ***1003** the action to be sustained, it must be reasonably based in the evidence presented."

400 So.2d at 40 (*citations omitted*). [7]

(b) "Consistency" and "Strict Scrutiny"

In Florida, all zoning and development permitting must now be consistent with the comprehensive plan of the city or county in question. *See* § 163.3161(5), Fla.Stat. (1991). The comprehensive plan has been likened to a "constitution" and has been described as "a limitation on a local government's otherwise broad zoning powers." *Machado v. Musgrove,* 519 So.2d 629, 632 (Fla.3d DCA 1987), *rev. denied,* 529 So.2d 693 (Fla.1988). [8] *See also, Hillsborough County v. Putney,* 495 So.2d 224 (Fla.2d DCA 1986). *And cf. City of Cape Canaveral v. Mosher,* 467 So.2d 468, 471 (Cowart, J., concurring specially).

According to *Machado,* "where a zoning action is challenged as violative of the comprehensive land use plan, the burden of proof is on the one seeking a change to show by competent and substantial evidence that the proposed development conforms strictly to the comprehensive plan and its elements." *Id.* Thus arises the term "strict scrutiny." Apparently there is conflict, between *Machado* and *Southwest Ranches Homeowners Association, Inc. v. Broward County,* 502 So.2d 931 (Fla.4th DCA), *rev. denied,* 511 So.2d 999 (Fla.1987), as to when "strict scrutiny" should be employed. *See* Mitchell, "In Accordance With a Comprehensive Plan: The Rise of Strict Scrutiny in Florida," 6 Fla.St.U.J.Land Use & Envtl.L. 79 (1990). [9]

(c) Scope of judicial review

The standards for judicial review of local government administrative actions were established by our supreme court in *Education Development Center v. West Palm Beach* and *Deerfield Beach v. Vaillant.*

At the circuit level, three questions are asked: whether due process was afforded, whether the administrative body applied the correct law, and whether its findings are supported by competent substantial evidence. This last requirement is susceptible to misunderstanding. It involves a purely legal question: whether the record contains the necessary quantum of evidence. The circuit court is not permitted to go farther and reweigh that evidence (*e.g.,* where there may be conflicts in the evidence), or to substitute its judgment about what should be done for that of the administrative agency. *Bell v. City of Sarasota,* 371 So.2d 525 (Fla.2d DCA 1979).

On further review by certiorari in the District Courts of Appeal, only the first two questions are considered. Where (as in the present case) there is no suggestion of a due process violation in the initial appeal, the district court determines only whether the circuit court "applied an incorrect principle of law." *Education Development Center,* 541 So.2d at 108. We may not exceed these extremely restrictive parameters and "disagree[ ] with the circuit court's evaluation of the evidence." 541 So.2d at 108–9. Thus, if the correct rule of law for a circuit court to apply were the "substantial competent evidence" standard, ***1004** and the court did apply that standard, its decision should be sustained. Our power of review would entitle us to quash the circuit court's decision only if it imposed a *different* standard upon the parties than that required by law. *Kuehnel.*

Our reading of *Snyder* convinces us that the district court in that case, having reached a supportable conclusion that site-specific rezonings are quasi-judicial proceedings, thereafter embarked upon a considerable departure from prior holdings in the realm of land use law. We decline to adopt the remainder of the *Snyder* decision, for reasons we will explain in due course. Accordingly, by imposing upon Lee County certain burdens of proof required by *Snyder,* the circuit court did apply the incorrect law to the dispute between the county and Sunbelt, justifying our issuance of a writ of certiorari.

IV. WHERE *SNYDER* HAS DEPARTED FROM PRECEDENT

(a) What Must Be Shown Under *Snyder*

After a lengthy discussion of related legal issues ranging from the legislative/judicial distinction to private property rights, the *Snyder* court stated its conclusions, beginning with the statement that "[t]he initial burden is on the landowner to demonstrate that ... the use sought is consistent with the applicable comprehensive zoning plan." 595 So.2d at 81. Assuming this can be done,

> the landowner is presumptively entitled to use his property in the manner he seeks unless the opposing governmental agency asserts and proves *by clear and convincing evidence* that a specifically stated public necessity requires a specified, more restrictive use. After such a showing the burden shifts to the landowner to assert and prove that such specified more restrictive land use constitutes a taking of his property for public use for which he is entitled to compensation....

Id. (*emphasis ours; footnote omitted*).

(b) The Distinction Between Zoning and Comprehensive Planning

Perhaps we read too much into the use, in *Snyder,* of the term "comprehensive zoning plan," but it gives us pause. As is made clear in *Machado* and other "consistency" cases, comprehensive planning and zoning are interrelated but different functions of local government. "As the court in [*Jacksonville Beach v.*] *Grubbs* noted, the purpose of a comprehensive plan is to set general guidelines for future development, and not necessarily to accomplish immediate land use changes." *Southwest Ranches,* 502 So.2d at 936. A comprehensive plan might accommodate a range of permissible zoning categories for a given area. In a case decided after the advent of comprehensive planning but before the 1985 Growth Management Act mandated such planning statewide, the Third District Court of Appeal held that it is within the discretion of a local government to impose a zoning category at the low end of that range. *Dade County v. Inversiones Rafamar, S.A.,* 360 So.2d 1130 (Fla.3d DCA 1978). Until *Snyder* there was no reason to suspect this was not still a correct statement of law. [10]

In contrast to *Inversiones Rafamar, Snyder* seems to place little credence in zoning classifications, as opposed to the broader land use projections embodied in a comprehensive plan, particularly where the zoning in question would allow only low-intensity uses of the land. Perhaps this skepticism might be supportable based on record evidence presented in the *Snyder* hearings and circuit court proceedings, but we find the district court's pronouncements unacceptably overbroad if intended for general application to all jurisdictions statewide:

> Most communities in actual practice have zoned their undeveloped land under a highly restrictive classification such as ***1005** "general use" and agriculture.... The original intent was not to permanently preclude more intensive development but to adopt a "wait and see attitude toward the direction of future development. Most government officials have little motivation to incur the "wrath of neighbors by zoning vacant land for industrial, commercial, or intensive residential development in advance of an actual proposal for development."
>
> In reality, therefore, at the inception of zoning most land was zoned according to its then use, exceptions were grandfathered in and most vacant land was under-zoned or "short-zoned." In order for development to proceed, rezoning becomes not the exception, but the rule ... [R]ezoning is granted not solely on the basis of the land's suitability to the new zoning classification and compatibility with the use of surrounding acreage, but, also and perhaps foremost, on local political considerations including who the owner is, who the objectors are, the particular and exact land improvement and use that is intended to be made and whose ox is being fattened or gored by the granting or denial of the rezoning request.

595 So.2d at 72–3 (*citations omitted*). [11]

It has long been the law that when the applicant makes a threshold showing that existing zoning is unreasonable, the local government must prove otherwise. *See, e.g., City of St. Petersburg v. Aikin,* 217 So.2d 315 (Fla.1968); *City of Jacksonville Beach v. Grubbs,* 461 So.2d 160 (Fla.1st DCA 1984), *rev. denied,* 469 So.2d 749 (Fla.1985). However, absent the assertion of some enforceable property right, an application for rezoning appeals at least in part to local officials' discretion to accept or reject the applicant's argument that change is desirable. The *right* of judicial review does not *ipso facto* ease the burden on a party seeking to overturn a decision made by a local government, and certainly does not confer any property-based right upon the owner where none previously existed.

An old saying has it, "If you bought a swamp, there is some presumption you wanted a swamp." Put another way, there must be some presumption, even if only an easily rebuttable one, that land zoned for agricultural use is best suited for that purpose. This does not mean that comprehensive planners, with an eye toward conditions years hence, might not expect that same land someday to be crowded with houses, industrial plants, or commercial establishments. Nor does it mean that zoning authorities, during their initial (and truly "legislative") attempts to classify properties, always act wisely or fairly in designating low-intensity uses. However, implicit in *Snyder* is a suggestion that the future-oriented comprehensive planning process [12] always will result in a more accurate and appropriate use designation than will the more immediate act of zoning a specific parcel. We believe that *both* a comprehensive plan and a zoning classification are presumptively valid, and that one seeking a change in either has the burden of showing its invalidity.

Moreover, when it is the zoning classification that is challenged, the comprehensive plan is relevant only when the ***1006** suggested use is inconsistent with that plan. Where any of several zoning classifications is consistent with the plan, the applicant seeking a change from one to the other is not entitled to judicial relief absent proof the *status quo* is no longer reasonable. It is not enough simply to be "consistent"; the proposed change cannot be *inconsistent,* and will be subject to the "strict scrutiny" of *Machado* to insure this does not happen.

(c) "Clear and Convincing Evidence"

The use, in *Snyder,* of the term "clear and convincing evidence" (as opposed to "substantial competent evidence") is derived from *Department of Law Enforcement v. Real Property,* 588 So.2d 957 (Fla.1991), and numerous other cases, all of which involve a clear and acknowledged deprivation of property or other fundamental legal rights. *See* 595 So.2d at 81 n. 70. Heretofore it has never been a requirement in zoning cases that an existing classification be substantiated to this degree. [13] We believe this shift in the burden of proof derives from an incorrect assumption about the nature and extent of a landowner's property rights.

It has never been the law that a landowner is always entitled to the "highest and best" use of his land. *See Penn Central Transportation Co. v. City of New York,* 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978). This is not to suggest that a local government, in enacting land use codes, may disregard the landowner's rights. First of all, land use restrictions must substantially advance some legitimate state interest, or they are invalid. *Nollan v. California Coastal Commission,* 483 U.S. 825, 107 S.Ct. 3141, 97 L.Ed.2d 677 (1987). Second, they cannot be so intrusive as to deprive the landowner of reasonable economic use of the property, nor should previously permissible or "grandfathered" uses be incautiously rescinded. *Lucas.* However, assuming a regulation is necessary for the welfare of the public, and is not physically invasive or confiscatory of some existing property right, it is probably within the government's "police power" to enact it. *Village of Euclid, Ohio v. Ambler Realty Co.,* 272 U.S. 365, 47 S.Ct. 114, 71 L.Ed. 303 (1926).

It must be remembered that zoning ordinances, comprehensive plans, and similar enactments are (or should be) debated in a public forum with all affected parties having the right to be heard. Thereafter, the dissatisfied landowner has several avenues of redress, including injunctive relief against the enforcement of the offending ordinance or a suit for inverse condemnation. Even the landowner who is temporarily satisfied with the *status quo* is not without options when conditions change and undercut what once were reasonable expectations of fruitful use. This is the occasion for the *Snyder*-type individualized rezoning application, which we now declare to be quasi-judicial and therefore subject to procedural safeguards.

That such a system is not flawless is to be expected—repairing the errors that sometimes occur may expend resources and judicial labor. The alternative, however, is to reject or at least fundamentally undercut the power of local governments to superintend the use of real property. The Supreme Court, whose most "conservative" statement may have come in *Lucas,* has never interpreted the Fifth Amendment ***1007** "just compensation" clause (the source of "takings jurisprudence") as demanding this. In the wake of *Lucas, Nollan,* and related cases, those favoring land use restrictions may find their activities the subject of heightened scrutiny into their reasonableness and intrusiveness. However, and despite the apprehensions (or hopes) of some observers, more fundamental change than this did not occur in *Lucas.* [14]

(d) Reconciling Our Views with the Procedure Adopted in *Snyder*

The courts, reviewing a rezoning application, should not presume the landowner does or can assert an enforceable property right, one which triggers application of the "clear and convincing evidence" standard, every time a more intensive use of the property is sought. Instead, the landowner must prove the existence of such a right, not just consistency with a comprehensive plan, before so rigorous a burden will be imposed upon the local government. The question arises, however, just how much the landowner must prove before the burden shifts.

In this regard, we have no quarrel with the procedure adopted in *Snyder* up to a point. *Snyder* accepts, for example, that the initial burden is still upon the applicant, who must demonstrate something more than that a rezoning is subjectively desirable. Before the advent of mandatory statewide comprehensive planning, that "something" was whether "the existing ordinance was confiscatory in effect." *St. Petersburg v. Aikin,* 217 So.2d at 317. For the most part *Snyder* can be interpreted as easing this burden without actually changing the law. Its emphasis on "consistency" means that wherever planners have determined a particular use is *someday* acceptable, the local government must now prove that the present zoning *is not* confiscatory rather than requiring the landowner to prove it *is* confiscatory.

So far this shifting of burdens, which emphasizes that governments must bear some responsibility to act carefully when restricting property rights, can be accommodated without abandoning traditional notions about the "police power" that underlies all zoning ordinances. It is at this point that *Snyder* most clearly departs from precedent. According to *Snyder,* once a rezoning proposal is shown to be "consistent," the local government must prove *by clear and convincing evidence,* that "public necessity requires a ... more restrictive use." Instead, we believe that the local government is required only to show *by substantial competent evidence* that the existing (obviously more restrictive) zoning classification was enacted in furtherance of some legitimate public purpose and that the public interest is legitimately served by continuing that classification. If the zoning ordinance was constitutional *ab initio,* and it remains constitutional in the face of whatever changes

have prompted the landowner to request rezoning, the rezoning may be refused provided the local government can justify this conclusion with evidence on the record. Assuming it can do that, *Snyder* thereafter correctly shifts the burden back to the landowner "to assert and prove ... a taking"—that is, that the ordinance is confiscatory.

V. RESOLVING THE SUNBELT REZONING APPLICATION

Implicit in the circuit court's holding is an acceptance of Sunbelt's argument that its design is consistent with the Lee County comprehensive plan. There is evidence to support this argument, albeit contradicted by the county commission ordinance. Although Sunbelt's property is currently zoned "agricultural," a Future Land Use Map depicts the surrounding area as "suburban." Such a designation limits commercial development to "neighborhood centers," which in turn are limited to a maximum of 100,000 square feet. Sunbelt ***1008** has projected only 65,000 square feet of commercial space. [15] A hearing officer did find that a final development order cannot be issued until after certain amendments are made to the Sunbelt application; Sunbelt "is fully aware of this impediment," and the mere acts of rezoning and approval of the "master concept plan" do not *ipso facto* "bestow or vest any development rights."

However, if (as we believe) *Snyder* is incorrect, it is not enough that Sunbelt's proposal is consistent with what Lee County planners envision as the eventual buildout of this area. One must also look to the *present* character of the area, which is reflected in the existing zoning classification. This aspect of the comprehensive plan represents, in effect, a future ceiling above which development should not proceed. It does not give developers *carte blanche* to approach that ceiling immediately, or on their private timetable, any more than a city or county is entitled to view its planning and zoning responsibilities as mere make-work.

Nothing in this opinion is intended to imply that Sunbelt, after remand, cannot establish a present right to the rezoning it desires. However, the mere fact of consistency with the comprehensive plan, even if undisputed by the county, would not mandate such a result. To sustain the county's decision to deny, it is sufficient that the record reflect substantial competent evidence favoring continuation of the *status quo.* [16] This decision likely will require analysis of the reasons underlying the present zoning classification—whether it represents a considered belief that agriculture is the most appropriate use, or was idly chosen as the court suggested had occurred in *Snyder.*

The petition for writ of certiorari is hereby granted, the order of the circuit court is quashed, and this case is remanded for further proceedings consistent with this opinion.

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HALL, A.C.J., and THREADGILL and BLUE, JJ., concur.

All Citations

619 So.2d 996, 18 Fla. L. Weekly D1260

Footnotes

1 A collateral issue in the proceedings below was Sunbelt's contention that "the real reason the application was denied" was the vocal opposition of residents of a neighboring development. Clearly, such opposition, to the extent it reflects a subjective "polling" rather than a discrete legal argument, is not a valid basis for denying a permit or rezoning application. *Pollard v. Palm Beach County,* 560 So.2d 1358 (Fla.4th DCA 1990). However, accepting the notion that rezonings are quasi-judicial does not operate to exclude the public from those proceedings where such applications are considered on their merits. The need to allow such public access, which includes the right to voice objections (at least on the part of those claiming to be substantially affected by the pending action), points out the difficulty in completely depoliticizing such proceedings. The requirement of providing specific reasons for a ruling, in accord with the characterization of such proceedings as quasi-judicial, should diminish (if not altogether eliminate) the likelihood those mandatory findings will only mask the "real reason [an] application was denied."

2 Sunbelt attempts to depict all three of these findings as "erroneous." It may be that the circuit court agreed with Sunbelt's evaluation. If this were the only issue before us, we would be compelled to uphold the circuit court so long as it otherwise applied the correct principle of law. That is, we would not reweigh the circuit court's determination whether or not adequate evidence was presented.

3 In addition to a petition for certiorari, Sunbelt filed an original action pursuant to § 163.3215, Fla.Stat. (1991). The county claims that certain statutory prerequisites were overlooked which require dismissal of the civil action. Because the circuit court addressed the certiorari petition on its merits, the second case is not before us at this time.

4 *But see Grady v. Lee County,* 458 So.2d 1211 (Fla.2d DCA 1984) (discussing the effect of a Lee County zoning ordinance which prescribes review by certiorari).

5 If, indeed, such distinction can be clearly drawn. As one commentator concluded, after a lengthy analysis of the functional approach of *Fasano v. Washington County, infra,* "some zoning decisions are difficult to characterize as distinctly legislative or quasi-

judicial." Peckingpaugh, "Burden of Proof in Land Use Regulation: A Unified Approach and Application to Florida," 8 Fla.St.U.L.R. 499 (1980).

6 *Fasano* is not universally accepted as a correct statement of law or desirable judicial policy. One commentator, comparing decisions from "major comprehensive planning states," notes that California continues to adhere to the "legislative" option, and describes *Fasano* as "significantly discredited." Gougelman, *The Death of Zoning As We Know It,* Fla.B.J., March 1993, at 31 n. 35.

7 In fact the terms were employed virtually interchangeably in *Shaughnessy v. Metropolitan Dade County,* 238 So.2d 466, 469 (Fla.3d DCA 1970), wherein the court found "competent, substantial evidence that the granting of the unusual or special use was at least fairly debatable."

8 *But see* § 163.3161(8), Fla.Stat. (1991): "It is the intent of the legislature that [this Act] shall not be interpreted to limit or restrict the powers of municipal or county officials, but shall be interpreted as a recognition of their broad statutory and constitutional powers to plan for and regulate the use of land."

9 In *Southwest Ranches,* neighbors of a proposed solid waste facility objected that the rezoning which permitted the facility was more intensive than, and therefore inconsistent with, the comprehensive plan. The district court held that "[w]here the zoning authority approves a use *more intensive than that proposed by the plan* ... the decision must be subject to stricter scrutiny than the fairly debatable standard contemplates." 502 So.2d at 936 (*emphasis ours*). *See also Jacksonville Beach v. Grubbs,* 461 So.2d 160, 163 n. 2 (Fla.1st DCA). By contrast, *Machado* holds that strict scrutiny applies "to [all] cases addressing the consistency of a development order with a comprehensive plan, regardless of the direction of the change." Mitchell, at 89.

10 For example, § 163.3164(22), Fla.Stat. (1991), defining "land development regulations," implies the persistence of legislative recognition of the separate concept of zoning.

11 Contrast such timid politics as described in *Snyder* with the reaction of the *Fasano* court to suggestions that "planning authorities be vested with the ability to adjust more freely to changed conditions": "[H]aving weighed the dangers of making desirable change more difficult against the dangers of the almost irresistible pressures that can be asserted by private economic interests on local government, we believe that the latter dangers are more to be feared." 507 P.2d at 29–30. And see *Machado* at 519 So.2d 634: "[T]he opponents, neighboring landowners, contend that conditions change in rapid and uncontrolled fashion in Dade County, increasing the need for costly public services and facilities, due to loose enforcement of the land use planning scheme." As we have elsewhere implied, most "strict scrutiny" cases prior to *Snyder* have invoked "consistency" to place brakes on development some thought too intensive, rather than to enforce a right to more intensive development than

has been allowed. Reassessing site-specific rezonings as quasi-judicial should help place limits both on questionable runaway development *and* on intransigent, unrealistic under-zoning of developable property.

12 *See, e.g.,* §§ 163.3167(1), 163.3177(1), and 163.3177(6)(a), Fla.Stat. (1991), all of which are distinctly future-oriented.

13 Definitions of "clear and convincing evidence" abound. For example, the supreme court, in *The Florida Bar v. Rayman,* 238 So.2d 594 (Fla.1970), appears to have contemplated something stronger than the "preponderance of evidence" standard ordinarily seen in civil cases, but less than the criminal "reasonable doubt" standard. Perhaps the best-known attempt to define the term occurs in *Slomowitz v. Walker,* 429 So.2d 797, 800 (Fla.4th DCA 1983), wherein the court spoke of evidence or testimony that is "credible," "distinctly remembered," "precise," and "explicit"—evidence which "must be of such weight that it produces in the mind of the trier of fact a firm belief and conviction, without hesitancy, as to the truth of the allegation sought to be established." This would appear to us to be considerably more rigorous a standard of proof than the relatively deferential "competent substantial evidence" test applied to the quasi-judicial decisions of administrative bodies. This test requires "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion." *DeGroot v. Sheffield,* 95 So.2d 912, 916 (Fla.1957).

14 This portion of our opinion analyzes the tension between regulation and property rights in light of decisions interpreting relevant portions of the United States Constitution. The test for "takings" under the Florida Constitution is substantially the same. *See Graham v. Estuary Properties,* 399 So.2d 1374 (Fla.), *cert. denied sub nom. Taylor v. Graham,* 454 U.S. 1083, 102 S.Ct. 640, 70 L.Ed.2d 618 (1981).

15 Sunbelt also wants to construct an additional 85,000 square feet for offices. Opponents of the project argued that the office space should be counted when calculating the total square footage, but a hearing officer found that the county's planning policy clearly dictates otherwise.

16 Though the circuit court's order states that no such evidence was presented to support denial of the rezoning, the record suggests that the court did hold the county to the more rigorous burden of proof required by *Snyder.* There appears to have been no examination or consideration of the reasonableness of the existing zoning classification.

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336 So.3d 776
District Court of Appeal of Florida, Second District.

BALM ROAD INVESTMENT, LLC; Cassidy Holdings, LLC; Ballen Investment, LLC; Highway 301 Investors, LLC; and McGrady Road Investment, LLC, Petitioners,
v.
HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS, Respondent.

No. 2D21-1033
|
February 11, 2022

Synopsis
Background: Property owners sought first-tier certiorari relief from county commission's denial of rezoning application. The Circuit Court, 13th Judicial Circuit, Hillsborough County, denied petition, and property owners petitioned for second-tier certiorari relief.

The District Court of Appeal, Lucas, J., held that property owners were not entitled to relief on second-tier certiorari review.

Petition denied.

Northcutt, J., concurred in result only.

Procedural Posture(s): Petition for Writ of Certiorari; Review of Administrative Decision.

*777 Petition for Writ of Certiorari to the Circuit Court for the Thirteenth Judicial Circuit for Hillsborough County; sitting in its appellate capacity.

Attorneys and Law Firms

Hala Sandridge of Buchanan Ingersoll & Rooney PC, Tampa, for Petitioners.

Carly J. Schrader, Gregory T. Stewart, and Elizabeth Desloge Ellis of Nabors, Giblin & Nickerson, P.A., Tallahassee, for Respondent.

Jacob T. Cremer and Nicole A. Neugebauer of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., Tampa, for Amici Curiae Hillsborough County Farm Bureau, Inc., and Florida Farm Bureau Federation.

Clayton T. Osteen, Anthony D. Tilton, Patrick S. Bickford, and Benjamin B. Bush of Ausley & McMullen, P.A., Tallahassee, for Amicus Curiae Florida Home Builders Association.

Opinion

LUCAS, Judge.

****1** Balm Road Investment, LLC; Cassidy Holdings, LLC; Ballen Investment, LLC; Highway 301 Investors, LLC; and McGrady Road Investment, LLC, have filed a second-tier petition for certiorari challenging the Hillsborough County Board of County Commissioners' denial of their development application. Because of the narrow scope of second-tier review, we must deny their petition.

The petitioners in this case, a group of landowners, hoped to develop a "planned village" community [1] in a rural area of southern Hillsborough County. Not one county agency, office, or adjacent governmental entity that reviewed the petitioners' rezoning application—whether it was the county's transportation staff, Development Services Department, Water Resource Services, the Hillsborough County School Board, the Hillsborough Area Regional Transit Authority, the Conservation and Environmental Lands Management Department, or the Environmental Protection Commission—had any objection to the planned development. The Hillsborough County Planning Commission reviewed the application and concluded that it complied with the requirements of the county's comprehensive plan, as well as "the vision of the Balm Community Plan" and that it met all the zoning requirements for this type of designation. The zoning hearing master who considered the application and the evidence recommended the application's approval.

When the application came before the Hillsborough County Commission at a public hearing, four local residents spoke out against it. [2] After hearing their objections ***778** and the petitioners' presentation, a divided Hillsborough County Commission voted to reject the application outright.

The petitioners then sought first-tier certiorari relief in the circuit court. The court below rendered an extensive written order denying the petition. The court acknowledged that the petitioners' application "appears to approach stated goals in terms of the clustering ratios, buffers, and land dedicated for commercial and servicer-oriented uses." Nevertheless, according to the court, the landowners failed to meet their initial burden of showing their proposed rezoning was consistent with the county's comprehensive plan. *Accord Bd. of Cnty. Comm'rs of Brevard Cnty. v. Snyder*, 627 So. 2d 469, 476 (Fla. 1993).

****2** With all due respect to the circuit court, that conclusion simply cannot be justified. These petitioners met their evidentiary burden. Indeed, the evidence below was overwhelming that this proposed development was consistent with the requirements of the planned development zoning

classification and the comprehensive plan.[3] The circuit court concluded to the contrary only because it plucked one point of data from the petitioners' traffic study about anticipated car trips on a county road, looked at an aerial picture of the area around the proposed development, and remarked that "the project shows heavy reliance on the automobile for transportation."[4]

We are of the opinion that the court below erred in its assessment of the evidence. But our court cannot give relief to the petitioners despite that error. *See Custer Med. Ctr. v. United Auto. Ins. Co.*, 62 So. 3d 1086, 1092 (Fla. 2010) ("[W]hen a district court considers a petition for second-tier certiorari review, the 'inquiry is limited to whether the circuit court afforded procedural due process and whether the ***779** circuit court applied the correct law,' or, as otherwise stated, departed from the essential requirements of law." (quoting *Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995))); *Biscayne Marine Partners LLC v. City of Miami*, 273 So. 3d 97, 101 (Fla. 3d DCA 2019) ("Our review on second-tier certiorari is extremely limited."); *Alvey v. City of North Miami Beach*, 206 So. 3d 67, 70 (Fla. 3d DCA 2016) (granting second-tier certiorari but noting "we are not reweighing the evidence—which we cannot do"). "[I]t is not the function of this Court on second-tier certiorari to correct error or reweigh the evidence." *City of Miami v. Hervis*, 65 So. 3d 1110, 1115 (Fla. 3d DCA 2011).

****3** This extreme deference is grounded in part upon the historic nature of certiorari relief, *see Custer Med. Ctr.*, 62 So. 3d at 1092-93, and in part upon the purported expertise of agency fact-finding in zoning determinations, *see Wiggins v. Fla. Dep't of Highway Safety & Motor Vehicles*, 209 So. 3d 1165, 1171 (Fla. 2017) ("This Court has deferred to the findings of an agency fact-finder in the context of zoning and policy determinations, as the agency fact-finder in theory has the requisite experience, skill, and perspective to adequately adjudicate specialized proceedings.").[5] We recognize that certiorari review of zoning decisions can sometimes lead to troubling and anomalous results. *See generally Evans Rowing Club, LLC v. City of Jacksonville*, 300 So. 3d 1249, 1250-56 (Fla. 1st DCA 2020) (B.L. Thomas, J., concurring specially) (Makar, J., concurring). It certainly seems so in the case at bar. The petitioners' private property rights have been curtailed for what appears to be simply a general distaste for development rather than any codified standards. But because these landowners cannot obtain a plenary review of the Commission's decision, we are constrained by the highly deferential standard of second-tier certiorari review to deny this petition.

Petition denied.

SILBERMAN, J., Concurs.

NORTHCUTT, J., Concurs in result only.

All Citations

336 So.3d 776, 2022 WL 413683, 47 Fla. L. Weekly D395

Footnotes

1 The property is zoned Residential Planned-2 (RP-2), a land use category that would permit a planned village designed development.

2 One other resident submitted a written objection. It was appropriate for the Commission to hear and consider their presentations—which pertained to generalized concerns about the development's impact on traffic, the overall rural character of the area, and their ability to see the stars at night—but the statements of the neighbors did not provide competent, substantial evidence that would have supported denial of the application. *See Katherine's Bay, LLC v. Fagan*, 52 So. 3d 19, 30-31 (Fla. 1st DCA 2010) (concluding that where the "County Staff's report indicates that the traffic issue was studied by an expert and determined that increased traffic would not unduly burden the area," that cannot be overcome by generalized complaints about increased traffic); *Pollard v. Palm Beach County*, 560 So. 2d 1358, 1360 (Fla. 4th DCA 1990) ("[O]pinions of residents are not factual evidence and not a sound basis for denial of a zoning change application." (citing *City of Apopka v. Orange County*, 299 So. 2d 657, 660 (Fla. 4th DCA 1974))).

3 The court went on to rule that even if the petitioners had met their initial burden, the commission would have been justified denying the application because "maintaining the existing zoning classification" would have been consistent with "preserving the land for agricultural use, discouraging development outside the Urban Service Area, and protecting the rural character of the community." *Accord Sarasota County v. BDR Invs., LLC*, 867 So. 2d 605, 607 (Fla. 2d DCA 2004) (noting that once a landowner meets its initial burden to prove consistency with the comprehensive plan and compliance with the applicable zoning ordinances, the burden shifts to the government to show there is "a legitimate public purpose behind maintaining the existing zoning classification" (citing *Snyder*, 627 So. 2d at 476)). The same evidentiary shortcomings belie the court's alternative finding. Moreover, based on the zoning classification, the comprehensive plan, and this record, the "public purpose" the circuit court identified is not a legitimate one because what it amounts to is, at bottom, a moratorium on "planned village" developments in this area. *Cf. City of Sanibel v. Buntrock*, 409 So. 2d 1073, 1075 (Fla. 2d DCA 1981) ("If an ordinance substantially affects land use, it must be enacted under the procedures which govern zoning and rezoning. To entirely prohibit a person from building upon his property even temporarily is a substantial restriction upon land use."); *City of Gainesville v. GNV Invs., Inc.*, 413 So. 2d 770, 771-72 (Fla. 1st DCA

1982) (holding that city's adoption of a moratorium on skating centers without complying with specific notice requirements for the adoption of new zoning ordinances was invalid). Perhaps not coincidentally, not long after the denial of the petitioners' application, the County Commission adopted an ordinance imposing just such a moratorium.

4 This last point would be true for any residential development, of any size, in Florida, since the vast majority of commuting in Florida is by automobile. *See* Fla. Dep't of Transp., 2019 Commuting Trends in Florida: A Special Report from FDOT Forecasting and Trends Office (2020).

5 This case gives the lie to the expertise justification by turning it on its head. The decision before us is *contrary* to the recommendations of all the professionals who reviewed the application, and yet we are constrained in our consideration to defer to it as if it were otherwise.

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608 So.2d 59
District Court of Appeal of Florida,
Fifth District.

ABG REAL ESTATE DEVELOPMENT COMPANY
OF FLORIDA, INC., a Florida corporation, Petitioner,
v.
ST. JOHNS COUNTY, Florida, etc., Respondent.

No. 92–1297.
|
Sept. 25, 1992.
|
Rehearing Denied Nov. 13, 1992.

Synopsis

Property owner brought petition for writ of common-law certiorari seeking review of decision of order which had upheld decision of Board of County Commissioners which denied application by owner to modify development plan for commercial village within Planned Unit Development (PUD). The District Court of Appeal, Cobb, J., held that: (1) property owner presented prima facie case of its entitlement to modification of the final development plan; (2) circuit court applied incorrect standard of law; and (3) owner's petition would be granted, but Board would not be directed to grant the application.

Petition for certiorari granted; order of circuit court quashed.

W. Sharp, J., concurred in result only.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***60** Terry A. Moore, Sidney F. Ansbacher and Robert M. Murphy, Brant, Moore, Sapp, MacDonald & Wells, P.A., Jacksonville, for petitioner.

James G. Sisco, County Atty. and Linda R. Hurst, Asst. County Atty., St. Augustine, for respondent.

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Opinion

COBB, Judge.

This petition for writ of common law certiorari seeks review of the circuit court acting in its appellate capacity in a zoning matter. The circuit court's order upheld a decision of the St. Johns Board of County Commissioners ("Board"), which denied an application by ABG Real Estate Development Company of Florida ("ABG") to modify a final development plan for a commercial village within a Planned Unit Development ("PUD").

In 1986, the Board approved a final development plan for Sawgrass Village, a commercial area (shopping center) which includes the site herein at issue. It is agreed that a McDonald's restaurant is a "permitted use by exception" at the proposed ***61** site. Therefore, denial of the application required a finding by the Board that the proposed restaurant would be contrary to public health, safety or welfare. ABG already had been allocated commercial retail space under the PUD, and the modification would have permitted it to relocate that space within the shopping complex so as to allow development of the restaurant in an area previously designated as "future parking." In exchange for the relocation space, ABG offered to relinquish 7,325 square feet of its remaining unused commercial development rights under the PUD.

The Planning and Zoning Advisory Board ("PZAB") considered ABG's application at a public hearing and denied the application. The resolution of denial found that the request was "contrary to public health, safety and welfare and incompatible with the neighborhood in that development...." The St. Johns County Planning and Zoning Department ("Staff") issued its report and recommendations to the Board after the PZAB decision. The Staff report supported approval of ABG's application without making an outright recommendation. The report found that the reduction in total square footage which ABG proposed would negate any traffic increase created by the fast food restaurant. The report went on to say that the PUD development order did not appear to preclude the applicant's request:

> [T]he original PUD Ordinance 75–15 stated that the Sawgrass Village Center 'shall be developed under the CG district regulations,' and ... the Board of County Commissioners has previously interpreted (*i.e.,* Jax Liquors) that the PUD permitted all CG uses including those by exceptions, including fast food or drive-in restaurants.

The Staff report noted that there did not appear to be substantial evidence that a fast food establishment would be detrimental to the public welfare; on the contrary, such a restaurant would provide supportive service to lower income personnel of the shopping center and visitors. Accompanying the report was a Traffic Impact Analysis prepared for the applicant by a Jacksonville corporation. It mentioned that Sawgrass Village already included a Publix, an

Eckerds, an ABC/Jax Liquors with a drive-through lane, a bank with three drive-through lanes, two restaurants, retail stores, and professional offices. The analysis concluded that, based on square footage measurements, traffic counts, and projections of future traffic volumes, the requested location of the McDonald's restaurant would produce no greater traffic impact than if the shopping center were completed with retail stores only. A Traffic Impact Review prepared by the County's Transportation Planner found that acceptable levels of service would continue if the McDonald's restaurant were built.

The matter then moved to the Board on appeal from the PZAB denial, and the Board held a public hearing. At that hearing, local residents voiced generalized complaints regarding increased traffic, declination of property values, noise, litter and aesthetic concerns. However, no specific evidence was offered to support these apprehensions. Nevertheless, the Board unanimously upheld the PZAB's denial of the application "on the basis of incompatibility with the neighborhood and that it seriously interferes with the health, safety and welfare of the people in the community." The Board made no findings of fact and gave no additional reasons for upholding the denial. In a lengthy order, the circuit court denied ABG's petition for certiorari review, and the instant petition for review was filed with this court.

The controlling case is *Snyder v. Board of County Commissioners of Brevard County, Florida,* 595 So.2d 65 (Fla. 5th DCA 1991), wherein we emphasized the requirement that a zoning authority must produce clear and convincing evidence in order to defeat a landowner's prima facie showing of entitlement to a particular use of his land. In that case the landowner sought to rezone a parcel of "general use" land to a "medium density multiple-family dwelling" zoning classification. The Zoning Department staff found that the rezoning application was consistent with the Brevard County Comprehensive Plan and Future Land Use Designation and was not ***62** objectionable for other reasons, but denied the application because the rezoning would create a density greater than that allowed in the 100–year flood plain. The Planning and Zoning Board subsequently recommended approval when it was shown that the area was not within the flood plain. After a public hearing, however, the Board of County Commissioners denied the zoning request without giving any reason.

The landowners then filed a petition for writ of certiorari in the circuit court, alleging that the rezoning was consistent with the County Comprehensive Zoning Plan and that its denial was arbitrary and unreasonable. In its response, the County did not argue that the denial was proper because the subject land was in a flood plain or that the rezoning application was inconsistent with the Comprehensive Plan, but instead rather summarily stated that the existing general use zoning was consistent with the Comprehensive Plan and the denial of the rezoning was proper. Just as in this case, the circuit court in *Snyder* denied the petition, and the landowners filed a petition for writ of certiorari in this court, arguing that the circuit court had departed from the essential

requirements of law in failing to require the County Commission to make findings of fact and give reasons for disapproving the rezoning application.

The *Snyder* opinion stated that when the rezoning question was before the Commission, the burden was on the landowners initially to present a prima facie case that the application for use of privately owned land complied with the reasonable procedural requirements of the zoning ordinance and with the applicable Comprehensive Zoning Plan. ABG's application complied with the procedural requirements in the instant case, and no one has ever argued that the modification sought would conflict in any way with the Comprehensive Zoning Plan.

The circuit court's order in this case indicates a misunderstanding of *Snyder* when it says:

> There is no necessity to have PUD, if major modifications as here found by the court can be readily available to the owner, upon a mere prima facie showing of the desired change being consistent with existing usage.

Pursuant to *Snyder,* after ABG had presented a prima facie case, the burden shifted to the zoning authority to prove by clear and convincing evidence that a specifically stated public necessity required a more restrictive use. Moreover, *Snyder* placed the burden on the zoning authority to assure that an adequate record of this evidence is prepared. Judicial review of quasi-judicial actions denying or abridging landowners' constitutionally protected rights to use of their land should involve close judicial scrutiny of this record.

Here, the record fails to show clear and convincing evidence of any public necessity which would justify restricting the owner's use of his land. Although an adverse traffic impact attributable to the proposed McDonald's restaurant initially may have been a concern, the staff report is strong evidence that the addition of the McDonald's would not significantly increase traffic already generated by the shopping center alone. The circuit court apparently did not recognize that "clear and convincing" evidence of some public necessity was required to overcome ABG's prima facie case. Moreover, the court did not even find that there was "competent substantial evidence" to support the Board's decision, a standard required by cases preceding *Snyder. Educ. Dev. Center, Inc. v. City of West Palm Beach Zoning Bd. of Appeals,* 541 So.2d 106 (Fla.1989); *BML Inv. v. City of Casselberry,* 476 So.2d 713 (Fla. 5th DCA 1985), *rev. den.,* 486 So.2d 595 (Fla.1986). In addition, there was no compliance with *Snyder's* mandate that a zoning agency

> must state reasons for action that denies the owner the use of his land and must make findings of fact and a record of its proceedings, sufficient for judicial

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> review of: the legal sufficiency of the evidence to support the findings of fact made, the legal sufficiency of the findings of fact supporting the reasons given and the legal adequacy, under applicable law (*i.e.,* under general comprehensive zoning ordinances, ***63** applicable state and case law and state and federal constitutional provisions) of the reasons given for the result of the action taken.

Snyder at 81. The Board in the instant case made no findings of fact, oral or written; it offered only a vague statement that the requested modification would be incompatible with the neighborhood and that "the proposed use seriously interferes with the health, safety, and welfare of the people in the community."

In *Snyder* we found that the landowners had met their burden of proving that their proposed use was consistent with the county ordinance and that the Commission had not met its burden of proving by clear and convincing evidence that a public necessity mandated that the landowners' use of the property be restricted. This court therefore concluded that "the petitioning landowners were entitled to the zoning classification sought and its denial without written reasons supported by facts was, as a matter of law, arbitrary and unreasonable and judicially reviewable and reversible." *Snyder* at 81.

The circuit court's apparent use in the instant case of a "fairly debatable" standard was clearly erroneous. The "fairly debatable" standard is used only for the review of legislative-type enactments of zoning ordinances, and not acts of a judicial or quasi-judicial nature such as those involved in the instant case (the granting of exceptions or variances). *See Snyder; Bernard v. Town Council of Palm Beach,* 569 So.2d 853 (Fla. 4th DCA 1990) (proper standard of review of a variance decision is whether there was competent substantial evidence to support the agency's determination, and not a "fairly debatable" standard); *Metro. Dade County v. Betancourt,* 559 So.2d 1237 (Fla. 3d DCA 1990); *Town of Indialantic v. Nance,* 400 So.2d 37 (Fla. 5th DCA 1982), *aff'd,* 419 So.2d 1041 (Fla.1982).

The problems inherent in the circuit court's reasoning are further spotlighted by the following paragraph taken from its order:

> If the case under review ... involved the mere shift within a commercially zoned area, no basis could be sustained by the governing agency to deny the request. McDonald's is certainly no more or less of an impact than Publix, the bank, a liquor store or restaurant. Under that circumstance the owner should prevail.

Those words are, in effect, an affirmation that ABG was entitled to the "mere shift within a commercially zoned area"—which is what it requested in the first place. We remind the trial court that:

> A zoning authority's insistence on considering the owner's specific use of a parcel of land constitutes not zoning but direct governmental control of the actual use of each parcel of land which is inconsistent with constitutionally guaranteed private property rights.

Porpoise Point Partnership v. St. Johns County, 470 So.2d 850, 851 (Fla. 5th DCA 1985).

In summary, the property owner presented a prima facie case that the requested use of its land was consistent with the County's Comprehensive Plan and complied with the procedural requirements of the zoning ordinance. All conceded that the requested modification was a permitted use by exception. The prima facie case is shown not only by the application and the existing ordinances, but also by the staff report and by the undisputed finding of the PZAB that there was no conflict with the Comprehensive Plan. The burden then shifted to the zoning authority to show, based on clear and convincing evidence shown by an adequate record, that a specifically stated public necessity required a more restrictive use. *See Snyder* at 80, 81. The parties appear to agree on the "health, safety and welfare" standard for granting or denying the requested exception, but the mere parroting of this standard, without sufficient specific reasons supported by findings of fact, is "as a matter of law, arbitrary and unreasonable and judicially reviewable and reversible." *Snyder* at 82.

Because the Board's decision was arbitrary and unreasonable, and because the circuit court applied incorrect law to ***64** approve the Board's decision, we grant ABG's petition for certiorari, and quash the order of the circuit court. However, we cannot grant ABG's request that we direct the Board to grant ABG's application. A court's certiorari review power does not extend to directing that any particular action be taken, but is limited to quashing the order reviewed. *See City of Miramar v. Amoco Oil Company,* 524 So.2d 506 (Fla. 4th DCA 1988); *Gulf Oil Realty Co. v. Windover Ass'n,* 403 So.2d 476 (Fla. 5th DCA 1981).

PETITION FOR CERTIORARI GRANTED; ORDER OF CIRCUIT COURT QUASHED.

GOSHORN, C.J., concurs.

W. SHARP, J., concurs in result only.

All Citations

608 So.2d 59, 17 Fla. L. Weekly D2226

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560 So.2d 1358
District Court of Appeal of Florida,
Fourth District.

Patricia POLLARD, Petitioner,
v.
PALM BEACH COUNTY, a political subdivision of the State of Florida, Respondent.

No. 88-1827.
|
May 9, 1990.

Synopsis

Owner of residential property applied for special exception to use property as adult congregate living facility for elderly. The Circuit Court for Palm Beach County, William C. Williams, III, J., denied owner's petition for writ of certiorari to review denial of application, and owner petitioned for review. The District Court of Appeal held that opinions of neighbors that proposed use would cause traffic problems, would cause light and noise pollution, and would generally have unfavorable impact on area provided no competent substantial evidence to support denial of petition.

Certiorari granted, order quashed, and matter remanded with instructions.

Stone, J., dissented with opinion.

Attorneys and Law Firms

***1359** Bruce G. Kaleita, West Palm Beach, for petitioner.

Richard W. Carlson, Jr. and Thomas P. Callan, Asst. County Attys., West Palm Beach, for respondent.

Opinion

PER CURIAM.

This is a petition to review denial of an application for a special exception. The real property in question is located in an area zoned residential. The use for which a special exception was requested is an adult congregate living facility for the elderly, a use permitted by special exception in a residential area.

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Certain procedural shortcomings having been remedied, we now treat only the merits, being satisfied that this court has jurisdiction.

After making appropriate application, petitioner obtained approval of the County Zoning Department and, subsequently, the approval of the County Planning Commission. Approval was based upon documentary evidence and expert opinion.

In public hearings before the County Commission, various neighbors expressed their opinion that the proposed use would cause traffic problems, light and noise pollution and generally would impact unfavorably on the area. The County Commission denied the application and the circuit court denied certiorari to review that denial. We grant the writ and quash the order under review.

We explained the respective burdens of an applicant for a special exception and the zoning authority in *Rural New Town, Inc. v. Palm Beach County,* 315 So.2d 478, 480 (Fla. 4th DCA 1975), as follows:

> In rezoning, the burden is upon the *applicant* to clearly establish such right (as hereinabove indicated). In the case of a special exception, where the applicant has otherwise complied with those conditions set forth in the zoning code, the burden is upon the *zoning authority* to demonstrate by competent substantial evidence that the special exception *is adverse to the public interest.* Yokley on Zoning, vol. 2, p. 124. A special exception is a permitted use to which the applicant is entitled *unless* the zoning authority determines according to the standards of the zoning ordinance that such use would adversely affect the public interest.

(Emphasis in original; some citations omitted.)

The supreme court, in *De Groot v. Sheffield,* 95 So.2d 912, 916 (Fla.1957), explained in the following language what is meant by the term "competent substantial evidence" in the context of certiorari review:

> Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. *Becker v. Merrill,* 155 Fla. 379, 20

> So.2d 912; *Laney v. Board of Public Instruction,* 153 Fla. 728, 15 So.2d 748. In employing the adjective "competent" to modify the word "substantial," we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. *Jenkins v. Curry,* 154 Fla. 617, 18 So.2d 521. We are of the view, however, that the evidence relied upon to ***1360** sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the "substantial" evidence should also be "competent."

(Some citations omitted.)

In *City of Apopka v. Orange County,* 299 So.2d 657, 660 (Fla. 4th DCA 1974), the "evidence" in opposition to petitioner's application for special exception consisted, as in the present case, of the opinions of neighbors, and in that case we explained:

> The evidence in opposition to the request for exception was in the main laymen's opinions unsubstantiated by any competent facts. Witnesses were not sworn and cross examination was specifically prohibited. Although the Orange County Zoning Act requires the Board of County Commissioners to make a finding that the granting of the special exception shall not adversely affect the public interest, the Board made no finding of facts bearing on the question of the effect the proposed airport would have on the public interest; it simply stated as a conclusion that the exception would adversely affect the public interest. Accordingly we find it impossible to conclude that on an issue as important as the one before the board, there was substantial competent evidence to conclude that the public interest would be adversely affected by granting the appellants the special exception they had applied for.

Earlier in that opinion we also noted:

> As pointed out by Professor Anderson in Volume 3 of his work, American Law Of Zoning, § 15.27, pp. 155-56:
>
> "It does not follow, ... that either the legislative or the quasi-judicial functions of zoning should be controlled or unduly influenced by opinions and desires expressed by interested persons at public hearings. Commenting upon the role of the public hearing in the processing of permit applications, the Supreme Court of Rhode Island said:

> 'Public notice of the hearing of an application for exception ... is not given for the purpose of polling the neighborhood on the question involved, but to give interested persons an opportunity to present facts from which the board may determine whether the particular provision of the ordinance, as applied to the applicant's property, is reasonably necessary for the protection of ... public health.... The board should base their determination upon facts which they find to have been established, instead of upon the wishes of persons who appear for or against the granting of the application.'
>
> The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect."

299 So.2d at 659.

Our review of the record leads us to conclude that there is literally no competent substantial evidence to support the conclusion reached below. The circuit court overlooked the law which says that a special exception is a permitted use to which the applicant is entitled unless the zoning authority determines according to the standards of the zoning ordinance that the use would adversely affect the public interest. *Rural New Town,* 315 So.2d at 480. It also overlooked the law which says that opinions of residents are not factual evidence and not a sound basis for denial of a zoning change application. *See City of Apopka,* 299 So.2d at 660.

For these reasons we grant certiorari, quash the order and remand with instructions that the special exception be granted.

HERSEY, C.J., and ANSTEAD, J., concur.

STONE, J., dissents with opinion.

***1361** STONE, Judge, dissenting.
I would deny certiorari. In my judgment, the record supports the decision of the circuit court upholding the action of the county. I also do not conclude that the trial court overlooked the law.

All Citations

560 So.2d 1358, 15 Fla. L. Weekly D1272

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95 So.2d 912
Supreme Court of Florida, En Banc.

Peter DE GROOT, Appellant,
v.
L. S. SHEFFIELD et al., Appellees.

May 29, 1957.
|
As Amended on Denial of Rehearing June 26, 1957.

Synopsis

Mandamus proceeding to compel petitioner's reinstatement to classified service position of supervisor of construction for county school board. From judgment of Circuit Court, Duval County, Charles A. Luckie, J., dismissing petition, the petitioner appealed. The Supreme Court, Thornal, J., held that where approval of Civil Service Board was required as condition precedent to abolition of petitioner's job, order of Civil Service Board declining to abolish position of supervisor of construction was subject to appropriate review by certiorari but could not be collaterally attacked in mandamus proceeding.

Judgment reversed.

Attorneys and Law Firms

***913** Coffee & Coffee, Jacksonville, for appellant.

Elliott Adams and McCarthy, Lane & Adams, Jacksonville, for appellees.

Opinion

THORNAL, Justice.

Appellant DeGroot, who was relator below, seeks reversal of an order of the Circuit Judge dismissing his petition for a writ of mandamus which was sought to compel the appellees to reinstate the relator as an employee of the Duval County School Board.

The determining question is whether the action of the County Civil Service Board, which supervises the county merit system, can be reviewed and collaterally assaulted as a defense to a mandamus proceeding.

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Relator Peter DeGroot had been an employee of the Duval County School Board for about eighteen years prior to February 9, 1955. For the last ten years he held the position of 'Supervisor of Construction.' Since 1943 he was in the classified service under the Duval County Civil Service Act. See Chapter 22263, Laws of Florida, Acts of 1943. On August 4, 1954, the School Board, with the approval of the Civil Service Board, created the position of 'Supervising Architect' and filled the job by appointment of a registered architect named Broadfoot. On February 9, 1955, the School Board adopted a resolution delineating the functions of the Supervising Architect, many of which had theretofore been performed by DeGroot, as Supervisor of Construction. By the same resolution the School Board proposed that the position of Supervisor of Construction be abolished.

Section 7, Chapter 22263, Laws of Florida, Acts of 1943, provides in part as follows:
'* * * No position in the classified [service] shall be abolished without the approval of the Civil Service Board. Positions may be abolished only in good faith.'

Pursuant to this requirement, the School Board resolution was submitted to the County Civil Service Board which, after an extended hearing, declined to approve the resolution defining the duties of the Architect and abolishing the position of Supervisor of Construction.

Despite the action of the Civil Service Board, the School Board proceeded to dismiss DeGroot from his employment. He thereupon instituted this action in mandamus to compel reinstatement. In the mandamus proceeding the parties stipulated that the transcript of the testimony offered ***914** before the Civil Service Board could be filed in evidence. A motion to quash the alternative writ was likewise filed. Upon consideration of the record thereby presented, the trial judge concluded that regardless of the judgment of the Civil Service Board, the action of the School Board in resolving to abolish the position of Supervisor of Construction was taken in good faith and that therefore DeGroot was subject to dismissal. He thereupon granted the respondents-appellees' motion to dismiss the petition in mandamus and entered final judgment in their favor. Reversal of this judgment is here sought.

It is contended by the appellant-relator that the decision of the Civil Service Board was not subject to collateral attack by the respondents in the mandamus proceeding. He further contends that if review of that order were desired by the respondents, they should have proceeded by way of certiorari and that in all events the trial judge could not re-weigh the evidence presented to the Civil Service Board.

It is the position of the appellees that the order of the Civil Service Board should not be enforced in the absence of supporting substantial evidence and that the decision of the Board could be reviewed by the Circuit Judge regardless of the nature of the proceeding to determine whether there was substantial evidence in support thereof.

We are here squarely confronted with the problem of determining the appropriate procedure for obtaining review of an order of an administrative agency. Although administrative agencies have been known to the law for many years, it has only been within fairly recent years that a substantial body of jurisprudence has developed with reference to so-called 'administrative law.' Because of the expansion of the number of boards, commissions, bureaus and officials having authority to make orders or determinations which directly affect both public and private rights, there has been an increasing number of cases involving the extent of the authority of these agencies as well as the validity or correctness of their conclusions in particular instances. We are told that in our state government there are over one hundred boards, bureaus and officials engaged in administrative activities affecting the rights and property of individuals as well as the public. See French's Research in Florida Law, p. 54; 1 Florida Law and Practice, Administrative Law, Sec. 30. In addition there are innumerable county and city boards and agencies such as Civil Service Boards and other boards that perform similar functions.

Although over the years many cases in one form or another have come to this court involving the correctness of orders of administrative agencies, we are unaware of any that has squarely and directly raised the problems presented by the instant appeal. Despite the local nature of the particular problem at hand, it appears to us that it is appropriate to undertake to reconcil many of our previous apparently divergent opinions in an offort to establish for the future some orderly procedure in disposing of problems of this nature. We do this also in fairness to the trial judge who undoubtedly was confronted with some of these conflicting viewpoints but who did not have available the opportunity for detailed research that accompanies appellate review. Nonetheless, as pointed out by Kenneth Culp Davis in 44 Illinois Law Review p. 565, 'No branch of administrative law is more seriously in need of reform than the law concerning methods of judicial review.' This author then observes, 'No other branch is so easy to reform.' The reviewability of an administrative order depends on whether the function of the agency involved is judicial or quasi-judicial in which its orders are reviewable or on the contrary whether the function of the agency is executive in which event its decisions are not reviewable by the courts except on the sole ground of lack of jurisdiction. In the latter event the order is, of course, subject to direct or collateral attack.
It is in some measure insisted in the case before us that the decision of the ***915** Civil Service Board is beyond the scope of judicial review. The contention to this end is that the ultimate decision of the Board is executive in nature and beyond the reach of the court. In Bryan v. Landis, 106 Fla. 19, 142 So. 650, it was pointed out that where one holds office at the pleasure of the appointing power and the power of appointment is coupled with the power of removal contingent only on the exercise of personal judgment by the appointing authority, then the decision to remove or dismiss is purely executive and not subject to judicial review. In the same opinion, however, we pointed out that if removal or suspension of a public employee is contingent upon approval by an official or a board after notice and hearing, then the ultimate judgment of such official or board based on the showing made at the hearing is subject to appropriate judicial review. The reason for the difference is that when notice and a hearing are required and the judgment of the board is contingent on the

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showing made at the hearing, then its judgment becomes judicial or quasi-judicial as distinguished from being purely executive. See also, Owen v. Bond, 83 Fla. 495, 91 So. 686; Sirmans v. Owen, 87 Fla. 485, 100 So. 734; State ex rel. Tullidge v. Hollingsworth, 103 Fla. 801, 138 So. 372; State ex rel. Hatton v. Joughin, 103 Fla. 877, 138 So. 392; State ex rel. Pinellas Kennel Club v. State Racing Commission, 116 Fla. 143, 156 So. 317. In the same cases and similar ones it was held that where an officer or employee is removed pursuant to purely executive authority, the courts will do no more than examine into the existence of jurisdictional facts to determine only the question of the existence of executive jurisdiction.

Applying the rule of these cases to the situation before us it is perfectly obvious that in deciding upon the advisability of abolishing a position in the classified service, the Civil Service Board was exercising a quasi-judicial function. This is so for the reason that it arrived at its decision after a full hearing pursuant to notice based on evidence submitted in accordance with the statute here involved. This being so its ultimate decision was subject to judicial review in an appropriate proceeding. State ex rel. Williams v. Whitman, 116 Fla. 196, 150 So. 136, 156 So. 705, 95 A.L.R. 1416; West Flagler Amusement Co. v. State Racing Commission, 122 Fla. 222, 165 So. 64; State ex rel. Hathaway v. Williams, 149 Fla. 48, 5 So.2d 269; Hammond v. Curry, 153 Fla. 245, 14 So.2d 390.

Having determined the nature of the order under consideration we next proceed to ascertain the appropriate method of obtaining review as well as the scope of review available. It must be conceded that over the years orders of administrative agencies have been placed under scrutiny in Florida in both mandamus and certiorari cases. Admittedly, little attention has been given to the propriety of the procedure in particular cases. Hence the resultant confusion. We interpolate that we pretermit in this instance any discussion of the proper use of the equity injunction and the writ of prohibition. Injunction has been many times employed to assault legislative action at the state and local level where such action allegedly impinged on some constitutional right. Attacks on municipal zoning ordinances are typical. Prohibition has at times been employed as against quasi-judicial action of administrative agencies where the agency proposed to exceed its jurisdiction or exercise jurisdiction which it did not have. We further mention that we are discussing herewith appellate review in situations where applicable statutes fail to provide specific methods of review as was the case here. When the statute provides the appellate procedure, that course should be followed. Curry v. Shields, Fla.1952, 61 So.2d 326, 327; State ex rel. Coleman v. Simmons, Fla.1957, 92 So.2d 257.

Recurring to the problem at hand we are reminded that certiorari is a discretionary writ bringing up for review by an appellate court the record of an inferior tribunal or agency in a judicial or quasi- ***916** judicial proceeding. The writ is available to obtain review in such situations when no other method of appeal is available. Lorenzo v. Murphy, 159 Fla. 639, 32 So.2d 421. In certiorari the reviewing court will not undertake to re-weigh or evaluate the evidence presented before the tribunal or agency whose order is under examination. The appellate court merely

examines the record made below to determine whether the lower tribunal had before it competent substantial evidence to support its findings and judgment which also must accord with the essential requirements of the law. It is clear that certiorari is in the nature of an appellate process. It is a method of obtaining review, as contrasted to a collateral assault.

We have used the term 'competent substantial evidence' advisedly. Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Becker v. Merrill, 155 Fla. 379, 20 So.2d 912; Laney v. Board of Public Instruction, 153 Fla. 728, 15 So.2d 748. In employing the adjective 'competent' to modify the word 'substantial,' we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. Jenkins v. Curry, 154 Fla. 617, 18 So.2d 521. We aré of the view, however, that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the 'substantial' evidence should also be 'competent.' Schwartz, American Administrative Law, p. 88; The Substantial Evidence Rule by Malcolm Parsons, Fla. Law Review, Vol. IV, No. 4, p. 481; United States Casualty Company v. Maryland Casualty Company, Fla.1951, 55 So.2d 741; Consolidated Edison Co. of New York v. National Labor Relations Board, 305 U.S. 197, 59 S.Ct. 206, 83 L.Ed. 126.

As contrasted to certiorari, mandamus is an original proceeding to enforce a clear legal right to the performance of a clear legal duty. It is not an appellate writ. As in any original proceeding the record and evidence are made and offered in that proceeding. While it is by nature discretionary it is not an appropriate process to obtain a review of an order entered by a judicial or quasi-judicial agency acting within its jurisdiction. When thus analyzed it is obvious that certiorari and mandamus serve two entirely different functions.

In delineating the distinctions between certiorari and mandamus we disclaim any allegiance to the formalities and technicalities of the past. Procedural formalities are not necessarily sacrosanct merely because they are time-honored. Nonetheless, in situations such as the one before us, the distinctions have a present and vital importance in determining the issues presented by the litigants and considered by the trial court. We think the lines of demarcation are justifiable in a field such as administrative law which is still in its formative stages of development.

Applying the foregoing general rules to the situation presented by this record it becomes apparent that the assault made by the respondents-appellees on the order of the Civil Service Board as a defense to the mandamus proceeding was entirely collateral to the quasi-judicial proceeding had before the Civil Service Board itself. No direct review of the order of the Civil Service Board was sought by the appellees. The Civil Service Act specifically required the approval of the Civil

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Service Board as a condition precedent to the abolition of the job in the classified service. Prior to dismissing the appellant-relator the School Board had failed in its effort to obtain such approval. It is had been dissatisfied with the order of the Civil Service ***917** Board such order was subject to appropriate review by certiorari. When the mandamus proceeding was filed by the relator, the order of the Civil Service Board declining to abolish the job held by the relator was in full force and effect. There is no assault on the jurisdiction of that board. The job therefore had not been legally abolished. This being so, the relator under the Civil Service Act was entitled to continue to fill the job and his dismissal was without justification. Freeman on Judgments (5th ed.) Vol. 3, Sec. 1258; 42 Am.Jur., Public Administrative Law, Sec. 159, 160; State ex rel. Spruck v. Civil Service Board, 226 Minn. 240, 32 N.W.2d 574.

We mention in passing that there were no charges before the Civil Service Board that relator had failed in any measure to perform his job well. The sole issue revolved around abolishing the job that he held.

In view of the foregoing, from the showing made by this record, the relator was entitled to the issuance of a peremptory writ. It was error to dismiss his petition therefor. The judgment under review is therefore——

Reversed.

TERRELL, C. J., and THOMAS, HOBSON, ROBERTS, DREW and O'CONNELL, JJ., concur.

On Rehearing

PER CURIAM.

The last sentence of our opinion of May 29, 1957, is amended to read as follows:
'The judgment under review is therefore reversed without prejudice to any rights which the appellees may have under the rules announced in State ex rel. Dresskell v. City of Miami, 153 Fla. 90, 13 So.2d 707'.

When addressed to the opinion as amended, the petition for rehearing is denied.

TERRELL, C. J., and THOMAS, ROBERTS and THORNAL, JJ., concur.

All Citations

95 So.2d 912

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400 So.2d 1051
District Court of Appeal of Florida, Second District.

Doris CONETTA, Appellant,
v.
CITY OF SARASOTA, Appellee.

No. 80-2176.
|
July 15, 1981.

Synopsis
Petitioner appealed from an order of the Circuit Court, Sarasota County, Robert E. Hensley, J., which denied her petition for certiorari to review a decision of a city commission denying her application for a special exception to build a guest house on her property. The District Court of Appeal, Boardman, J., held that denial of special exception allowing petitioner to build guest house on her property, which was based on objections of several residents which did not bear on any of the relevant criteria set forth in applicable section of city zoning code, was improper.

Reversed and remanded.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***1051** Stanley Hendricks of Dent, Pflugner, Rosin & Haben, Sarasota, for appellant.

Robert M. Fournier of Hereford, Taylor & Steves, Sarasota, for appellee.

Opinion

BOARDMAN, Judge.

Doris Conetta, petitioner in the circuit court, appeals the denial of her petition for certiorari to review a decision of the Sarasota City Commission denying her application for a special exception to build a guest house on her property. We reverse.

Appellant petitioned appellee City of Sarasota for a special exception allowing her to build a guest house on her property. Appellant also furnished the city with a letter stating that the guest house would not be rented, would be used by members of her family only, would not have any cooking ***1052** facilities, would not have a separate utility meter, and would be built in accordance with all

applicable city ordinances. This letter constituted a promise of compliance with each requirement of the ordinance for the issuance of a special exception.

On January 9, 1980, the city Planning Board met, heard attorney John Dent speak on behalf of appellant's request, and heard several persons speak against the granting of the requested special exception.

A decision was deferred until the January 23, 1980, meeting, at which time counsel for appellant and two of the people who had previously spoken against the special exception appeared. In addition, letters in opposition from several residents of the area were brought to the board's attention.

Many of those opposed to a special exception for appellant gave no reason for their objections. One of the major reasons for objection that was stated was that appellant's guest house would not conform to the rest of the area. This was because the structure was to be raised on stilts to twelve feet above ground level. This aspect of the design was not of appellant's own choosing, however; it was mandated by the flood plan zoning currently in effect. Moreover, there was at least one other parcel of property in the neighborhood that contained a raised structure. The other major objection involved the concern that despite appellant's assurances that she would not rent her guest house, she might later sell her property, and the new owner might rent the guest house. Both a member of the Planning Board and City Manager Thompson noted that the proscription against renting guest houses was difficult to enforce. However, at no time was there any question of appellant's good faith in regard to her promise not to rent her guest house.

The board ultimately recommended denial of the special exception, and the matter came before the City Commission on April 21, 1980. The City Commission denied the special exception on the basis of the Planning Board's recommendation. Appellant then filed a petition for certiorari with the circuit court, seeking review of the City Commission's decision. The circuit court denied the petition, and this appeal followed timely.

It is well settled that the courts will not interfere with administrative decisions of zoning authorities unless such decisions are arbitrary, discriminatory, or unreasonable. City of Naples v. Central Plaza of Naples, Inc., 303 So.2d 423 (Fla.2d DCA 1974). However, the only criteria upon which the Planning Board or the City Commission could rely in passing upon appellant's special exception request were those spelled out in the pertinent ordinance. North Bay Village v. Blackwell, 88 So.2d 524 (Fla.1956); City of Naples v. Central Plaza of Naples, Inc., supra. They nevertheless decided the matter on the basis of the objections of several residents, none of which objections bears on any of the relevant criteria set forth in section 43-12(8) (f), the applicable section of the city zoning code.

Appellant complied with the terms of the ordinance. This being so, the Planning Board and the City Commission then had the burden of establishing that the use she proposed would adversely affect the public interest. Rural New Town, Inc. v. Palm Beach County, 315 So.2d 478 (Fla.4th DCA 1975). The court there noted:

> There is a distinction between seeking rezoning and seeking a special exception; each involves somewhat different considerations. In rezoning, the burden is upon the applicant to clearly establish such right (as hereinabove indicated). In the case of a special exception, where the applicant has otherwise complied with those conditions set forth in the zoning code, the burden is upon the zoning authority to demonstrate by competent substantial evidence that the special exception is adverse to the public interest. Yokley on Zoning, vol. 2, p. 124. A special exception is a permitted use to which the applicant is entitled unless the zoning authority determines according to the standards in the zoning ordinance that ***1053** such use would adversely affect the public interest.

Id. at 480.

In the instant case, neither the Planning Board nor the City Commission met their burden. Their decision appears to be based primarily on the sentiments of other residents of Siesta Key as to whether the special exception should be granted. It amounted to no more than a popularity poll of the neighborhood.

In City of Apopka v. Orange County, 299 So.2d 657, 659-660 (Fla.4th DCA 1974), the court quoted with approval from 3 Anderson, American Law of Zoning, s 15.27 as follows:

> "The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect. While the facts disclosed by objecting neighbors should be considered, the courts have said that:
>
> > 'A mere poll of the neighboring landowners does not serve to assist the board in determining whether the exception applied for is consistent with the public convenience or welfare or whether it will tend to devaluate the neighboring property.' "

The denial of the special exception was based solely on (a) its unpopularity with some Siesta Key residents and (b) the conjecture that a grantee of appellant might thereafter violate the ordinance coupled with the recognition that the proscription against renting guest houses is difficult to

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enforce. As to the enforcement problem, the remedy would simply be to amend the ordinance to exclude special exceptions for guest houses, as City Manager Thompson recommended to the commission at the hearing.

Lastly, the city urges that the special exception should be denied because the structure would not be compatible and in harmony with the neighborhood. This contention is without merit because under the present zoning ordinance any new buildings constructed in the area would be required to be erected twelve feet above ground level.

There being no proper basis for the City Commission's denial of the special exception requested by appellant, we REVERSE the circuit court's denial of appellant's petition for writ of certiorari and REMAND with directions to grant the writ.

HOBSON, Acting C. J., and GRIMES, J., concur.

All Citations

400 So.2d 1051

End of Document

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299 So.2d 657
District Court of Appeal of Florida, Fourth District.

The CITY OF APOPKA, Florida, et al., Appellants,
v.
ORANGE COUNTY, a political subdivision of the State of Florida, and Clarcona Improvement Association, Appellees.

No. 73—273.
|
Feb. 22, 1974.
|
On Rehearing April 11, 1974.

Synopsis

Application submitted by three communities for special exception to allow construction of airport on extraterritorial land owned by them was denied by the zoning board of adjustment and the board of county commissioners affirmed. Municipalities' petition for certiorari was denied by the Circuit Court, Orange County, Parker Lee McDonald, J., and municipalities appealed. The District Court of Appeal, Downey, J., held that it was not the function of the board of county commissioners to hold a plebiscite on the application for special exception and that board's duty was to make finding as to how construction and operation of proposed airport would affect public interest and base its granting or denial of the special exception on those findings; and that evidence which consisted mainly of laymen's opinions which were unsubstantiated by competent facts and which were submitted at hearing where witnesses were not sworn and where cross-examination was specifically prohibited did not support conclusion that public interest would be adversely affected by the granting of the special exception.

Reversed and remanded with directions.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***657** William G. Mitchell, of Giles, Hedrick & Robinson, Orlando, for appellants.

***658** Steven R. Bechtel, of Mateer & Harbert, Orlando, for appellee Orange county.

Carter A. Bradford, of Bradford, Oswald, Tharp & Fletcher, Orlando, for appellee Clarcona Improvement Assn.

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Opinion

DOWNEY, Judge.

This is an appeal by the cities of Apopka, Ocoee, and Winter Garden and the Tri-City Airport Authority from a final judgment of the circuit court denying their petition for certiorari which sought review of an order denying appellants' application for a special exception. This is a companion appeal to those consolidated appeals numbered 72—1204 and 72—1209, 299 So.2d 652.

The appellant cities formed the appellant Tri-City Airport Authority pursuant to Chapter 332, F.S.1971, F.S.A., commonly known as The Airport Law of 1945, for the purpose of building an airport to serve the three cities and the surrounding area. Appropriate engineering studies were made and various sites for the proposed airport were considered. Finally, the Authority determined that a parcel of property located in Orange County outside any municipality and zoned A—1 was the most suitable site for the proposed airport. The Authority thereafter obtained options to buy that property. Orange County's zoning legislation permits construction and operation of 'airplane landing fields and helicopter ports with accessory facilities for private or public use' in an A—1 district as a special exception. Thus, the three cities and the Authority filed an application for a special exception with the Orange County Zoning Board of Adjustment to build their proposed airport. Without entering any finding of fact, the Zoning Board of Adjustment denied the application on the ground that granting it 'would be adverse to the general public interest.' On appeal to the Board of County Commissioners a de novo hearing was held with the following result:

> 'A motion was made by Commissioner Pickett, seconded by Commissioner Poe, and carried, that the decision of the Board of Zoning Adjustment on December 2, 1971 denying application No. 2 for a Special Exception in an A—1 District for the construction of a proposed Tri-City Airport be affirmed and upheld on the grounds that the granting of the proposed Special Exception would adversely affect the general public and would be detrimental to the public health, safety, comfort, order, convenience, prosperity and general welfare and, therefore, not in accordance with the Comprehensive Zoning Plan of Orange County.'

Appellants then filed a petition for a writ of certiorari in the circuit court in accordance with the provisions of the Orange County Zoning Act, Chapter 63—1716, Laws of Florida, as amended, to obtain review of the foregoing decision of the Board of County Commissioners. While the petition for certiorari was pending appellants filed another action in the Circuit Court of Orange County.

The new action sought a declaration that implementation of Chapter 332, F.S.1971, F.S.A., by the appellants constituted a governmental function thereby exempting appellants from the operation of Orange County zoning regulations.

In order to determine whether there was substantial competent evidence to support the decision below we must of necessity resort to the evidence introduced at the hearing before the Board of County Commissioners. The appellants adduced evidence from (a) the Tri-City Airport Authority consulting engineer, (b) a representative of the Federal Aviation Agency, (c) and a representative of the Florida Department of Transportation, Mass Transit Division. Their testimony showed that there was a definite public need for the airport; that serious in depth studies had been made to determine the most appropropriate location for the airport; that the location in question was the best available considering such factors as (1) convenience to users, (2) land and area requirements, (3) general ***659** topography, (4) 'compatability with existing land use, plans and land users', (5) land costs, (6) air space and objections, (7) availability of utilities, (8) noise problems, (9) bird habitats and other ecological problems. The mayors of the three municipalities and the members of the Airport Authority also demonstrated that the selection of the site in question resulted from long study and competent advice on the subject. Approval had been received from every interested government agency including the Federal Aviation Administration, the Florida Department of Transportation, and the Florida Department of Air and Water Pollution Control.

The evidence upon which the Board of County Commissioners relied to deny appellants' application came from one abutting owner, Richard Byrd; several other owners within a two to five mile radius of the proposed airport site; a petition signed by some two hundred members of the Clarcona Improvement Association; and approximately thirty-five people in attendance at the hearing who objected but did not testify. Byrd's testimony was mainly directed to his opinion of what the airport would do to construction costs in the area and his opinion of what would happen to zoning in the area as a result of the proposed use. It also developed that Byrd is interested in buying the property proposed to be used as the airport. Several other property owners speculated about what would happen to the area's zoning, complained about the anticipated noise, and generally wanted to keep the status quo in the area. One witness who admitted he was a layman with no special training or experience advised the Board about his opinion of the damage to the Florida aquifer which would result from the proposed airport.

Although notice to and hearing of the proponents and opponents of an application for a special exception or other zoning change are essential and all interested parties should be given a full and fair opportunity to express their views, it was not the function of the Board of County Commissioners to hold a plebiscite on the application for the special exception. Rockville Fuel and Feed Co. v. Board of Appeals, 257 Md. 183, 262 A.2d 499, 504 (1970). As pointed out by Professor Anderson in Volume 3 of his work, American Law of Zoning, s 15.27, pp. 155—156:

'It does not follow, . . . that either the legislative or the quasi-judicial functions of zoning should be controlled or even unduly influenced by opinions and desires expressed by interested persons

at public hearings. Commenting upon the role of the public hearing in the processing of permit applications, the Supreme Court of Rhode Island said:

'Public notice of the hearing of an application for exception . . . is not given for the purpose of polling the neighborhood on the question involved, but to give interested persons an opportunity to present facts from which the board may determine whether the particular provision of the ordinance, as applied to the applicant's property, is reasonably necessary for the protection of . . . public health . . .. The board should base their determination upon facts which they find to have been established, instead of upon the wishes of persons who appear for or against the granting of the application.'

The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect. While the facts disclosed by objecting neighbors should be considered, the courts have said that:

> 'A mere poll of the neighboring landowners does not serve to assist the board in determining whether the exception ***660** applied for is consistent with the public convenience or welfare or whether it will tend to devaluate the neighboring property."

(Footnotes omitted.)

Instead the Board's purpose was to make findings as to how construction and operation of the proposed airport would affect the public and base its granting or denial of the special exception on those findings. Cf. Laney v. Holbrook, 150 Fla. 622, 8 So.2d 465, 146 A.L.R. 202 (1942); Veasey v. Board of Public Instruction, Fla.App.1971, 247 So.2d 80.

The evidence in opposition to the request for exception was in the main laymen's opinions unsubstantiated by any competent facts. Witnesses were not sworn and cross examination was specifically prohibited. Although the Orange County Zoning Act requires the Board of County Commissioners to make a finding that the granting of the special exception shall not adversely affect the public interest, the Board made no finding of facts bearing on the question of the effect the proposed airport would have on the public interest; it simply stated as a conclusion that the exception would adversely affect the public interest. Accordingly, we find it impossible to conclude that on an issue as important as the one before the board, there was substantial competent evidence

to conclude that the public interest would be adversely affected by granting the appellants the special exception they had applied for.

The judgment appealed from is therefore reversed and remanded to the circuit court with directions to grant the writ of certiorari and to remand the cause to the board of county commissioners for another de novo hearing on the application for special exception.

If the decision of the board is deemed to be arbitrary or unreasonable the aggrieved party will then have the option of a judicial review by certiorari pursuant to Florida Appellate Rules or a trial de novo in the circuit court pursuant to the Rules of Civil Procedure. Section 163.250 F.S.1971, F.S.A.

Reversed and remanded with directions.

WALDEN and MAGER, JJ., concur.

ON PETITIONS FOR REHEARING.

PER CURIAM.

On petitions for rehearing the parties have advised this court that Orange County has not taken formal suitable action declaring its election to proceed under the provisions of Part II of the act entitled County and Municipal Planning For Future Development (163.160—163.315, F.S.1971, F.S.A.). Accordingly, the petitions for rehearing filed by the parties are granted and we recede from all references in our opinion of February 22, 1974, to the availability of Section 163.250, F.S.1971, F.S.A., in this case.

We maintain the view however, that the judgment appealed from should be reversed with directions to grant the writ of certiorari and to remand the cause to the board of county commissioners for another de novo hearing on the application for a special exception, at which time said board will have the opportunity to apply the balance-of-interests test to the evidence adduced before it. Thereafter, any aggrieved party may have that decision reviewed by the circuit court on petition for certiorari pursuant to the provisions of Chapter 63—1716, Special Acts of Florida, as amended.

WALDEN, MAGER and DOWNEY, JJ., concur.

All Citations

299 So.2d 657

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303 So.2d 423
District Court of Appeal of Florida, Second District.

CITY OF NAPLES, a municipal corporation of the State of Florida, Appellant,
v.
CENTRAL PLAZA OF NAPLES, INC., a Florida corporation, Appellee.

No. 74—752.
|
Nov. 8, 1974.
|
Rehearing Denied Dec. 11, 1974.

Synopsis

Action for declaratory relief and mandatory injunction following denial by city council of petition for special exception to zoning code to construct apartments. The Circuit Court, Collier County, William Lamar Rose, J., entered order directing city to grant special exception, and city appealed. The District Court of Appeal, Grimes, J., held that city did not have right to consider evidence that erection of apartments would substantially increase traffic on main commercial street and that construction could result in overpopulation of area creating excessive demands on utilities and other services where applicable ordinance did not refer to effect on ability of city to furnish utilities and other supporting services, and only referred to traffic with respect to minor residential streets.

Affirmed.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***424** Charles K. Allan, City Atty., Naples, for appellant.

Thomas E. Maloney, Naples, and George L. Hollahan, Miami, for appellee.

Opinion

GRIMES, Judge.

This is an appeal from an order directing the City of Naples to grant a special exception to the City Zoning Code so as to permit the appellee to construct certain multifamily housing.

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Appellee is the owner of an essentially square piece of property which is located between the Gordon River and Goodlette Road in the City of Naples. The property protrudes into the river to the extent that it is bordered by water on three sides. A large shopping center fronting west on Goodlette Road occupies the bulk of the property. Appellee desires to build three four-story multifamily residences on the balance of the property which faces the river. According to the plans, access to the residential complex would be directly into Goodlette Road by means of a boulevard built along the north edge of the property so that there would be no direct vehicle access between the residential area and the shopping center. A row of pine trees would serve as a buffer between the shopping center and the apartments. The appellee agreed to limit permanent residency in the units to persons over the age of sixteen years.

Appellee's entire property is zoned K-a Industrial. The ordinance provides that as a special exception in this zone multiple family residences 'may be permitted by the City Council after a joint public hearing with due public notice has been held and a recommendation from the Planning Board has been submitted to the City Council.' Appellee filed a petition for a special exception and provided the necessary supporting documents. A joint public hearing was held by the Planning Board and the Naples City Council, at which time there was comprehensive discussion concerning the advisability of granting the exception. Ultimately, the Planning Board by a vote of four to one recommended approval of the exception. Three of the six members of the Council present voted in favor of the exception; the other three voted against it. Upon the advice of the City Attorney, the Mayor declared that the motion for approval had failed by virtue of the tie vote. [1]

Appellee thereafter filed suit seeking a variety of remedies including declaratory relief and a mandatory injunction. The parties agreed to allow the court to decide the case solely upon the transcript of the testimony taken at the joint public hearing and certain exhibits which were stipulated into evidence. The court found that the City's evidence did not substantially controvert the evidence presented by appellee. Concluding that the question of whether to grant the petition was not fairly debatable, the court held that the denial of the petition was arbitrary, unreasonable and capricious.

With respect to special exceptions, the City Zoning Code provides:
'(C) Standards: Prior to granting a special exception, the Planning Board and City Council shall find that the proposed special exception is necessary and/or appropriate to the area in which it is proposed, that it will be reasonably compatible with surrounding uses; that any nuisance or hazardous feature involved is suitably separated and buffered from adjacent uses; that it will no hinder development of nearby vacant properties; that excessive traffic will not be generated on minor residential streets; that a parking problem will not be created; and that the land and/or building which are involved is adequate.

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District standards for lots, yards, floor area, height, etc., are designed ***425** for permitted uses, not special exceptions. Appropriate standards shall be determined and made a part of a permit for a special exception.'

Neither party questions the validity of these standards. Therefore, this case is unlike The City of St. Petersburg v. Schweitzer, Fla.App.2d, 1974, 297 So.2d 74, in which a portion of the zoning code which permitted the granting of special exceptions was held invalid for the failure to include sufficient guidelines to be followed in the granting of these exceptions. The position of appellee below and on this appeal is that its petition for special exception fully complied with all of the applicable standards.

It is well settled that the courts will not interfere with the decisions of zoning authorities acting in their administrative capacity unless such decisions are arbitrary, discriminatory or unreasonable. E.g., Jemco Mastercraft Homes, Inc. v. Metropolitan Dade Cty., Fla.App.3rd, 1972, 267 So.2d 873. In support of its argument that there was a reasonable basis for the denial of appellee's petition, the City points to the evidence presented which indicated that the erection of these apartments would substantially increase the amount of traffic travelling on Goodlette Road. Likewise, there was also some evidence that the construction could result in an overpopulation of the area creating excessive demands on utilities and other services. Yet, as pertinent as these matters may seem to be, the City Council did not have a right to consider them in making its determination. See 2 A. Rathkopf, The Law of Zoning and Planning, 54—27 (3d ed. 1972). The only criteria upon which the Council could legally base its decision were those set forth in the ordinance. North Bay Village v. Blackwell, Fla.1956, 88 So.2d 524.

The only reference to traffic among the enumerated standards is with respect to minor residential streets. The record clearly shows that Goodlette Road is a main commercial artery and not a minor residential street. There is no reference whatever to the effect that a proposed exception might have upon the ability of the City to furnish utilities and other supporting services. Therefore, the impact of the proposed project on these matters was legally irrelevant.

It has not been seriously argued that the project is inappropriate to the area in which it is proposed. There was no evidence that a properly appointed multiresidential complex bounded on three sides by water and catering to older people would be incompatible with a shopping center where these people might be expected to obtain their necessities. Since the evidence reflects that appellee's petition was in full compliance with all of the standards which were prescribed for the granting of the exception, it should have been granted.

The judgment is affirmed.

McNULTY, C.J., and SIDWELL, BENJAMIN C., Associate Judge, concur.

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All Citations

303 So.2d 423

Footnotes

1 Appellee does not challenge the propriety of this ruling.

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273 So.3d 972 (Table)
Unpublished Disposition
(This unpublished disposition is referenced in the Southern Reporter.)
District Court of Appeal of Florida, Second District.

HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS, Petitioner,
v.
WILLIAM F. SUTTON FAMILY, LLP, William Sutton, Jr., and Carol Sutton, Respondents.

Case No. 2D18-5121
|
Opinion filed May 24, 2019.

Petition for Writ of Certiorari to the Circuit Court for Hillsborough County; Robert A. Foster, Jr., Judge.

Attorneys and Law Firms

Louis Whitehead, III, of Hillsborough County Attorney's Office, Tampa, for Petitioner.

Hala A. Sandridge and Andrea E. Zelman of Buchanan, Ingersoll, & Rooney, P.C., Tampa, for Respondents.

Opinion

PER CURIAM.

***1** Denied.

NORTHCUTT, SILBERMAN, and BADALAMENTI, JJ., Concur.

All Citations

273 So.3d 972 (Table), 2019 WL 2246809

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APPLICANT:
COUNCIL BAY FARMS, LTD.
Major Modification Application
MM 22-1228

Hillsborough County - Zoning Hearing Master
January 17, 2023

PRINCIPLES OF CITIZEN TESTIMONY IN QUASI-JUDICIAL HEARINGS

- "A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts." *Jennings v. Dade County*, 589 So. 2d 1337, 1340 (Fla. 3d DCA 1991).

    - While "parties" in a quasi-judicial hearing are provided basic due process rights, "participants" are only provided with the right to attend the hearing and the right to be heard. Participants are not provided with other due process rights, such as the right to cross-examine witnesses. *Carillon Community Residential v. Seminole County*, 45 So. 3d 7, 9–10 (Fla. 5th DCA 2010); *Miromar Development Corp. v. Lee County*, No. 15-CA-1261, 2016 WL 4464076 (Fla. Cir. Ct. June 30, 2016).

- All quasi-judicial hearings must be decided based upon "competent, substantial evidence," which has been described by the Florida Supreme Court:

    > "Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion….[T]he evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." *Pollard v. Palm Beach County,* 560 So. 2d 1358, 1359-60 (Fla. 4th DCA 1990) (per curiam) (quoting *DeGroot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957)).

- To constitute competent, substantial evidence, all testimony in quasi-judicial hearings—from both laypersons and experts alike—must be specific and fact-based, rather than

mere generalized opposition. *Hialeah Gardens v. Miami-Dade Charter Found., Inc.*, 857 So. 2d 202, 204 (Fla. 3d DCA 2003).

- Therefore, "bare allegations"; matter that merely "creates a suspicion"; and matter that is merely "[s]urmise, conjecture or speculation" are not enough. *Fla. Rate Conf. v. Fla. R.R. & Pub. Utils. Comm'n*, 108 So. 2d 601, 607-08 (Fla. 1959).

- And while the facts presented by objectors may be considered, any "subjective" materials may not, and objectors' materials cannot be given a cumulative effect simply because a large number of people agree with those facts or opinions. *Lee County v. Sunbelt Equities, II, Ltd. P'ship*, 619 So. 2d 996, 999 n.1 (Fla. 2d DCA 1993); *Pollard,* 560 So. 2d at 1360; *Conetta v. City of Sarasota*, 400 So. 2d 1051, 1052 (Fla. 2d DCA 1981).

- Similarly, speculative concerns about the future zoning of an area or a general desire to maintain the status quo are not allowable. *Apopka v. Orange County*, 299 So. 2d 657 (Fla. 4th DCA 1974).

- Moreover, lay testimony cannot be accepted on technical matters that would require an expert opinion. *Katherine's Bay, LLC v. Fagan*, 52 So. 3d 19, 30 (Fla. 1st DCA 2010); *Jesus Fellowship, Inc. v. Miami-Dade County*, 752 So. 2d 708, 710 (Fla. 3d DCA 2000); *see also Miami-Dade County v. Omnipoint Holdings, Inc.*, 863 So. 2d 375, 377 (Fla. 3d DCA 2003).

  - For example, lay speculation about potential problems, such as traffic issues, light and noise pollution, general unfavorable impacts, and property value, does not constitute competent, substantial evidence. *Fagan*, 52 So. 3d at 30.

APPLICANT:
COUNCIL BAY FARMS, LTD.
Major Modification Application
MM 22-1228

Hillsborough County - Zoning Hearing Master
January 17, 2023

PRINCIPLES OF CITIZEN TESTIMONY IN QUASI-JUDICIAL HEARINGS

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Miami-Dade County v. Omnipoint Holdings, Inc., 863 So. 2d 375 (Fla. 3d DCA 2003) 12.

589 So.2d 1337
District Court of Appeal of Florida,
Third District.

Milton S. JENNINGS, Appellant,
v.
DADE COUNTY and Larry Schatzman, Appellees.

Nos. 88–1324, 88–1325.
|
Aug. 6, 1991.
|
On Rehearing Granted Dec. 17, 1991.

Synopsis

Landowner petitioned for writ of certiorari to challenge trial court order which dismissed landowner's count alleging due process violation as result of ex parte communication between adjacent landowner's lobbyist and county commissioners before vote approving use variance for adjacent landowner, which gave to landowner leave to amend complaint only against county, and which denied motion to dismiss count alleging nuisance as result of permitted use. The District Court of Appeal, Nesbitt, J., held on rehearing that: (1) landowner's timely petition activated common-law certiorari jurisdiction; (2) lobbyist's ex parte communication could violate due process despite landowner's actual and constructive knowledge of ex parte communication; and (3) landowner's prima facie case of ex parte contacts would give rise to presumption of prejudice and shift burden to adjacent landowner and county to rebut the presumption.

Quashed and remanded.

Ferguson, J., filed concurring opinion upon grant of rehearing.

Procedural Posture(s): Motion to Dismiss.

Attorneys and Law Firms

***1339** John G. Fletcher, South Miami, for appellant.

Robert D. Korner and Roland C. Robinson, Miami, Robert A. Ginsburg, County Atty., and Eileen Ball Mehta and Craig H. Coller, Asst. County Attys., for appellees.

Joel V. Lumer, Miami, for The Sierra Club as Amicus Curiae.

Before BARKDULL,* NESBITT and FERGUSON, JJ.

ON REHEARING GRANTED

NESBITT, Judge.

The issue we confront is the effect of an ex parte communication upon a decision emanating from a quasi-judicial proceeding of the Dade County Commission. We hold that upon proof that a quasi-judicial officer received an ex parte contact, a presumption arises, pursuant to section 90.304, Florida Statutes (1989), that the contact was prejudicial. The aggrieved party will be entitled to a new and complete hearing before the commission unless the defendant proves that the communication was not, in fact, prejudicial. For the reasons that follow, we quash the order under review with directions.

Respondent Schatzman applied for a variance to permit him to operate a quick oil change business on his property adjacent to that of petitioner Jennings. The Zoning Appeals Board granted Schatzman's request. The county commission upheld the board's decision. Six days prior to the commission's action, a lobbyist Schatzman employed to assist him in connection with the proceedings registered his identity as required by section 2–11.1(s) of the Dade County Ordinances. Jennings did not attempt to determine the content of any communication between the lobbyist and the commission or otherwise challenge the propriety of any communication prior to or at the hearing.

Following the commission order, Jennings filed an action for declaratory and injunctive relief in circuit court wherein he alleged that Schatzman's lobbyist communicated with some or all of the county commissioners prior to the vote, thus denying Jennings due process both under the United States and Florida constitutions as well as section (A)(8) of the Citizens' Bill of Rights, Dade County Charter. Jennings requested ***1340** the court to conduct a hearing to establish the truth of the allegations of the complaint and upon a favorable determination then to issue an injunction prohibiting use of the property as allowed by the county. Based upon the identical allegations, Jennings also claimed in the second count of his complaint that Schatzman's use of the permitted variance constituted a nuisance which he requested the court to enjoin. The trial court dismissed Count I of the complaint, against both Dade County and Schatzman. The court gave Jennings leave only against Dade County to amend the complaint and to transfer the matter to the appellate division of the circuit court. The trial court denied Schatzman's motion to dismiss Count II and required him to file an answer. Jennings then timely filed this application for common law certiorari.

We have jurisdiction based on the following analysis. The trial court's order dismissed Jennings' equitable claim of non-record ex parte communications while it simultaneously reserved jurisdiction for Jennings to amend his complaint so as to seek common law certiorari review pursuant to *Dade County v. Marca, S.A.*, 326 So.2d 183 (Fla.1976). Under *Marca,* Jennings would be entitled solely to a review of the record as it now exists. However, since the content of ex parte contacts is not part of the existing record, such review would prohibit the ascertainment of the contacts' impact on the commission's determination. This order has the effect then of so radically altering the relief available to Jennings that it is the functional equivalent of requiring him to litigate in a different forum. Thus, Jennings' timely petition activates our common law certiorari jurisdiction because the order sought to be reviewed a) constitutes a departure from the essential requirements of law, and b) requires him to litigate a putative claim in a proceeding that cannot afford him the relief requested and for that reason does not afford him an adequate remedy. *See Tantillo v. Miliman,* 87 So.2d 413 (Fla.1956); *Norris v. Southern Bell Tel. & Tel. Co.*, 324 So.2d 108 (Fla. 3d DCA 1960). The same reasoning does not apply against Schatzman. Nonetheless, because we have jurisdiction, there is no impediment to our exercising it over Schatzman as a party.

At the outset of our review of the trial court's dismissal, we note that the quality of due process required in a quasi-judicial hearing is not the same as that to which a party to full judicial hearing is entitled. *See Goss v. Lopez,* 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975); *Hadley v. Department of Admin.*, 411 So.2d 184 (Fla.1982). Quasi-judicial proceedings are not controlled by strict rules of evidence and procedure. *See Astore v. Florida Real Estate Comm'n,* 374 So.2d 40 (Fla. 3d DCA 1979); *Woodham v. Williams,* 207 So.2d 320 (Fla. 1st DCA 1968). Nonetheless, certain standards of basic fairness must be adhered to in order to afford due process. *See Hadley,* 411 So.2d at 184; *City of Miami v. Jervis,* 139 So.2d 513 (Fla. 3d DCA 1962). Consequently, a quasi-judicial decision based upon the record is not conclusive if minimal standards of due process are denied. *See Morgan v. United States,* 298 U.S. 468, 480–81, 56 S.Ct. 906, 911–12, 80 L.Ed. 1288 (1936); *Western Gillette, Inc. v. Arizona Corp. Comm'n,* 121 Ariz. 541, 592 P.2d 375 (Ct.App.1979). A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts. *Coral Reef Nurseries, Inc. v. Babcock Co.*, 410 So.2d 648, 652 (Fla. 3d DCA 1982). [1]

The reported decisions considering the due process effect of an ex parte communication upon a quasi-judicial decision are conflicting. Some courts hold that an ex parte communication does not deny due process where the substance of the communication was capable of discovery by the complaining party in time to rebut it on the record. *See, e.g.,* ***1341** *Richardson v. Perales,* 402 U.S. 389, 410, 91 S.Ct. 1420, 1431–32, 28 L.Ed.2d 842 (1971); *United Air Lines, Inc. v. C.A.B.*, 309 F.2d 238 (D.C.Cir.1962); *Jarrott v. Scrivener,* 225 F.Supp. 827, 834 (D.D.C.1964). Other courts focus upon the nature of the ex parte communication and whether it was material

to the point that it prejudiced the complaining party and thus resulted in a denial of procedural due process. *E.g., Waste Management v. Pollution Control Bd.,* 175 Ill.App.3d 1023, 125 Ill.Dec. 524, 530 N.E.2d 682 (Ct.App.1988), *appeal denied,* 125 Ill.2d 575, 130 Ill.Dec. 490, 537 N.E.2d 819 (1989); *Professional Air Traffic Controllers Org. (PATCO) v. Federal Labor Relations Auth.,* 685 F.2d 547, 564–65 (D.C.Cir.1982); *Erdman v. Ingraham,* 28 A.D.2d 5, 280 N.Y.S.2d 865, 870 (Ct.App.1967).

The county adopts the first position and argues that Jennings was not denied due process because he either knew or should have known of an ex parte communication due to the mandatory registration required of lobbyists. The county further contends that Jennings failed to avail himself of section 33–316 of the Dade County Code to subpoena the lobbyist to testify at the hearing so as to detect and refute the content of any ex parte communication. We disagree with the county's position.

Ex parte communications are inherently improper and are anathema to quasi-judicial proceedings. Quasi-judicial officers should avoid all such contacts where they are identifiable. However, we recognize the reality that commissioners are elected officials in which capacity they may unavoidably be the recipients of unsolicited ex parte communications regarding quasi-judicial matters they are to decide. The occurrence of such a communication in a quasi-judicial proceeding does not mandate automatic reversal. Nevertheless, we hold that the allegation of prejudice resulting from ex parte contacts with the decision makers in a quasi-judicial proceeding states a cause of action. *E.g., Waste Management; PATCO.* Upon the aggrieved party's proof that an ex parte contact occurred, its effect is presumed to be prejudicial unless the defendant proves the contrary by competent evidence. § 90.304. *See generally Caldwell v. Division of Retirement,* 372 So.2d 438 (Fla.1979) (for discussion of rebuttable presumption affecting the burden of proof). Because knowledge and evidence of the contact's impact are peculiarly in the hands of the defendant quasi-judicial officer(s), we find such a burden appropriate. *See Technicable Video Sys. v. Americable,* 479 So.2d 810 (Fla. 3d DCA 1985); *Allstate Finance Corp. v. Zimmerman,* 330 F.2d 740 (5th Cir.1964).

In determining the prejudicial effect of an ex parte communication, the trial court should consider the following criteria which we adopt from *PATCO,* 685 F.2d at 564–65:

> [w]hether, as a result of improper ex parte communications, the agency's decisionmaking process was irrevocably tainted so as to make the ultimate judgment of the agency unfair, either as to an innocent party or to the public interest that the agency was obliged to protect. In making this determination, a number of considerations may be relevant: the gravity of the ex parte communications; whether the contacts may have influenced the agency's

> ultimate decision; whether the party making the improper contacts benefited from the agency's ultimate decision; whether the contents of the communications were unknown to opposing parties, who therefore had no opportunity to respond; and whether vacation of the agency's decision and remand for new proceedings would serve a useful purpose. Since the principal concerns of the court are the integrity of the process and the fairness of the result, mechanical rules have little place in a judicial decision whether to vacate a voidable agency proceeding. Instead, any such decision must of necessity be an exercise of equitable discretion.

Accord E & E Hauling, Inc. v. Pollution Control Bd., 116 Ill.App.3d 586, 71 Ill.Dec. 587, 603, 451 N.E.2d 555, 571 (Ct.App.1983), *aff'd,* 107 Ill.2d 33, 89 Ill.Dec. 821, 481 N.E.2d 664 (1985).

Accordingly, we hold that the allegation of a prejudicial ex parte communication ***1342** in a quasi-judicial proceeding before the Dade County Commission will enable a party to maintain an original equitable cause of action to establish its claim. Once established, the offending party will be required to prove an absence of prejudice. [2]

In the present case, Jennings' complaint does not allege that any communication which did occur caused him prejudice. Consequently, we direct that upon remand Jennings shall be afforded an opportunity to amend his complaint. Upon such an amendment, Jennings shall be provided an evidentiary hearing to present his prima facie case that ex parte contacts occurred. Upon such proof, prejudice shall be presumed. The burden will then shift to the respondents to rebut the presumption that prejudice occurred to the claimant. Should the respondents produce enough evidence to dispel the presumption, then it will become the duty of the trial judge to determine the claim in light of all the evidence in the case. [3], [4]

For the foregoing reasons, the application for common law certiorari is granted. The orders of the circuit court are quashed [5] and remanded with directions.

BARKDULL, J., concurs.

FERGUSON, Judge (concurring).
I concur in the result and write separately to address two arguments of the appellees: (1) This court in *Coral Reef Nurseries, Inc. v. Babcock Co.,* 410 So.2d 648 (Fla. 3d DCA 1982), rejected attempts to categorize county commission hearings on district boundary changes as "legislative," while treating hearings on applications for special exceptions or variances as "quasi-judicial"; and

(2) the petitioner does not state a cause of action by alleging simply that a lobbyist discussed the case in a private meeting with members of the County Commission prior to the hearing. It is clear from Judge Nesbitt's opinion for the court that neither argument is accepted.

Legislative and Quasi–Judicial Functions Distinct

In support of its argument, that "[t]his Court has previously rejected attempts to categorize county commission hearings on district boundary changes as 'legislative', while treating hearings on applications for special exceptions or variances as 'quasi-judicial'," Dade County cites *Coral Reef Nurseries, Inc. v. Babcock Company,* 410 So.2d 648 (Fla. 3d DCA 1982). The argument is made for the purpose of bringing this case within what the respondents describe as a legislative-function exception to the rule against ex parte communications. Indeed, there is language in the *Coral Reef* opinion, particularly the dicta that "it is the character of the administrative hearing leading to the action of the administrative body that determines the label" as legislative or quasi-judicial, *Coral Reef* at 652, which, when read out of context, lends support to Dade County's contentions. As an abstract proposition, the statement is inaccurate.

Whereas the character of an administrative hearing will determine whether the proceeding is quasi-judicial or executive, *De Groot v. Sheffield,* 95 So.2d 912, 915 (Fla.1957), it is the nature of the act performed that determines its character as legislative or otherwise. *Suburban Medical Center v. Olathe Community Hosp.*, 226 Kan. 320, 328, 597 P.2d 654, 661 (1979). *See also* ***1343** *Walgreen Co. v. Polk County,* 524 So.2d 1119, 1120 (Fla. 2d DCA 1988) ("The quasi-judicial nature of a proceeding is not altered by mere procedural flaws.").

> A judicial inquiry investigates, declares and enforces liabilities as they stand on present facts and under laws supposed already to exist. That is its purpose and end. Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power.

Suburban Medical Center, 597 P.2d at 661 (quoting *Prentis v. Atlantic Coast Line Co.,* 211 U.S. 210, 226, 29 S.Ct. 67, 69, 53 L.Ed. 150 (1908)). [1]

It is settled that the enactment and amending of zoning ordinances is a legislative function—by case law, *Schauer v. City of Miami Beach,* 112 So.2d 838 (Fla.1959); *Machado v. Musgrove,* 519 So.2d 629 (Fla. 3d DCA 1987) (en banc), *rev. denied,* 529 So.2d 694 (Fla.1988), by statute, sections 163.3161 and 166.041, Florida Statutes (1989), and by ordinance, Dade County Code § 35–303.

See also Anderson, *Law of Zoning,* § 1.13 (2d Ed.1976) (zoning is a legislative act representing a legislative judgment as to how land within the city should be utilized and where the lines of demarcation between the several zones should be drawn); 101 C.J.S. *Zoning and Land Planning* § 1 (1958) (same). It is also fairly settled in this state that the granting of variances, [2] and special exceptions or permits, are quasi-judicial actions. [3] *Walgreen Co. v. Polk County,* 524 So.2d 1119, 1120 (Fla. 2d DCA 1988); *City of New Smyrna Beach v. Barton,* 414 So.2d 542 (Fla. 5th DCA) (Cowart, J., concurring specially), *rev. denied,* 424 So.2d 760 (Fla.1982); *City of Apopka v. Orange County,* 299 So.2d 657 (Fla. 4th DCA 1974); *Sun Ray Homes, Inc. v. County of Dade,* 166 So.2d 827 (Fla. 3d DCA 1964).

A variance contemplates a nonconforming use in order to alleviate an undue burden on the individual property owner caused by the existing zoning. Rezoning contemplates a change in existing zoning rules and regulations within a district, subdivision or other comparatively large area in a given governmental unit. *Troup v. Bird,* 53 So.2d 717 (Fla.1951); *Mayflower Property, Inc. v. City of Fort Lauderdale,* 137 So.2d 849 (Fla. 2d DCA 1962); 101A C.J.S. *Zoning and Land Planning* § 231 (1979).

Coral Reef Case Clarified

Coral Reef involved a legislative action. The issue before the court was whether ***1344** there was a showing of substantial and material changes in a 1979 application for a rezoning so that a 1978 denial of an application for the same changes, on the same parcel, by the same applicant, would not be precluded by res judicata principles. It was not necessary to hold the 1978 hearing quasi-judicial in character in order to find that the 1978 resolution had preclusive effect on the 1979 zoning hearing. There is a requirement for procedural fairness in all land use hearings, whether on an application for a boundary change or a variance. Adherence to that constitutional standard, however, does not alter the distinct legal differences between quasi-judicial and legislative proceedings in land use cases.

We clarify *Coral Reef,* in accordance with its facts, as holding only that legislation denying an application for rezoning has a preclusive effect on a subsequent application for the same rezoning, unless the applicant can show substantial and material changes in circumstances. *Treister v. City of Miami,* 575 So.2d 218 (Fla. 3d DCA 1991), relying on *Coral Reef.* An interpretation of *Coral Reef* as holding that there is no longer a distinction between legislative actions and quasi-judicial actions of a county commission in land use cases goes far beyond the actual holding of the case, and is clearly erroneous. *See* note 1 *supra.*

Reliance by the respondents on *Izaak Walton League of America v. Monroe County,* 448 So.2d 1170 (Fla. 3d DCA 1984), is similarly misplaced. In that case we held that county commissioners,

when acting in their legislative capacities, have the right to publicly state their views on pending legislative matters. *Izaak Walton League* does not address the issue of ex parte communications or prehearing pronouncements in quasi-judicial proceedings.

Lobbying

Jennings argues here that the behind-the-scenes lobbying [4] of the commissioners by Schatzman, for the purpose of influencing the outcome of an appeal from a quasi-judicial proceeding, violated the Citizens' Bill of Rights [5] of the Dade County Charter, as well as the due process provisions of the United States and Florida Constitutions. We agree, obviously, that the lobbying actions were unlawful. Dade County and Schatzman respond that Jennings is entitled to no relief because he has not alleged and demonstrated a resulting prejudice. In the opinion on rehearing this court now clearly rejects that argument.

Prejudice is to be presumed, without further proof, from the mere fact that any county commissioner granted a private audience to a lobbyist, whose purpose was to solicit the commissioner to vote a certain way in an administrative proceeding for reasons not necessarily addressed solely to the merits of the petition, and that the commissioner did vote accordingly. Starting with the legal definition of lobbying, ***1345** *see* note 4 *supra,* and applying common knowledge as to how the practice works, there is a compelling reason for placing the burden of proving no prejudice on the party responsible for the ex parte communication.

Although an ex parte communication with a quasi-judicial tribunal makes its final action voidable, rather than void *per se,* the presumption which is drawn from the fact of the improper conduct, is applied to promote a strong social policy and is sufficient evidence to convince the fact-finder that the innocent party has been prejudiced; the rebuttable presumption imposes upon the party against whom it operates the burden of proof concerning the nonexistence of the presumed fact. [6] § 90.304, Fla.Stat. (1991); *Department of Agriculture & Consumer Servs. v. Bonanno,* 568 So.2d 24, 31–32 (Fla.1990); Black's Law Dictionary 1349 (4th ed. 1968).

Ex parte lobbying of an administrative body acting quasi-judicially denies the parties a fair, open, and impartial hearing. *Suburban Medical Center v. Olathe Community Hosp.,* 226 Kan. 320, 597 P.2d 654 (1979). Adherence to procedures which insure fairness "is essential not only to the legal validity of the administrative regulation, but also to the maintenance of public confidence in the value and soundness of this important governmental process." *Id.* 597 P.2d at 662 (citing 2 Am.Jur.2d *Administrative Law* § 351). The constitutional compulsions which led to the establishment of rules regarding the disqualification of judges apply with equal force to every tribunal exercising judicial or quasi-judicial functions. 1 Am.Jur.2d *Administrative Law* § 64, at

860 (1962); *City of Tallahassee v. Florida Pub. Serv. Comm'n,* 441 So.2d 620 (Fla.1983) (standard used in disqualifying agency head is same standard used in disqualifying judge). *See also Rogers v. Friedman,* 438 F.Supp. 428 (E.D.Tex.1977) (rule as to disqualification of judges is same for administrative agencies as it is for courts) (citing K. Davis, *Administrative Law* § 12.04, at 250 (1972)). *Ritter v. Board of Comm'rs of Adams County,* 96 Wash.2d 503, 637 P.2d 940 (1981) (same).

All Citations

589 So.2d 1337, 16 Fla. L. Weekly D2059, 17 Fla. L. Weekly D26

Footnotes

* Judge Barkdull participated in decision only.

* Judge Barkdull participated in decision only.

1 It was conceded at oral argument that the hearing before the commission in this case was quasi-judicial.

2 In such a proceeding, the principles and maxims of equity are applicable. *See* 22 Fla.Jur.2d *Equity* §§ 44, et seq. (1980).

3 In rebutting the presumption of prejudice, respondent may rely on any favorable evidence presented during the claimant's case-in-chief, including that adduced during respondent's cross-examination of claimant's witnesses.

4 Under the *PATCO* test adopted, one of the primary concerns is whether the ex parte communication had sufficient impact upon the decision and, therefore, whether the vacation of the agency's decision and remand for a new proceeding would be likely to change the result.

5 Nothing in this decision shall affect our holding in *Izaak Walton League of America v. Monroe County,* 448 So.2d 1170 (Fla. 3d DCA 1984) (county commission acting in a legislative capacity).

1 Relying on *Coral Reef,* the majority opinion refers to "quasi-judicial zoning proceedings," a confounding phrase which has its genesis in *Rinker Materials Corp. v. Dade County,* 528 So.2d 904, 906, n. 2 (Fla. 3d DCA 1987). There Dade County argued to this court that the according of "procedural due process" converts a legislative proceeding into a quasi-judicial proceeding, citing *Coral Reef.* That proposition runs afoul of an entire body of administrative law. If an act is in essence legislative in character, the fact of a notice and a hearing does not

transform it into a judicial act. If it would be a legislative act without notice and a hearing, it is still a legislative act with notice and a hearing. *See Prentis v. Atlantic Coast Line Co.*, 211 U.S. 210, 29 S.Ct. 67, 53 L.Ed. 150 (1908); *Reagan v. Farmers' Loan & Trust Co.*, 154 U.S. 362, 14 S.Ct. 1047, 38 L.Ed. 1014 (1894).

2 A variance is a modification of the zoning ordinance which may be granted when such variance will not be contrary to the public interest and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. 7 FlaJur2d, *Building, Zoning, and Land Controls,* § 140 (1978).

The normal function of a variance is to permit a change in "building restrictions or height and density limitations" but not a change in "use classifications". *George v. Miami Shores Village,* 154 So.2d 729 (Fla. 3d DCA 1963).

3 An administrative body acts quasi-judicially when it adjudicates private rights of a particular person after a hearing which comports with due process requirements, and makes findings of facts and conclusions of law on the disputed issues. Reviewing courts scrutinize quasi-judicial acts by non-deferential judicial standards. *See City of Apopka v. Orange County,* 299 So.2d 657 (Fla. 4th DCA 1974).

On review of legislative acts, the court makes a deferential inquiry, *i.e.,* is the exercise of discretionary authority "fairly debatable." *Southwest Ranches Homeowners Ass'n v. Broward County,* 502 So.2d 931 (Fla. 4th DCA), *rev. denied,* 511 So.2d 999 (Fla.1987). Further, there is no requirement that a governmental body, acting in its legislative capacity, support its actions with findings of fact and conclusions of law.

4 " 'Lobbying' is defined as any personal solicitation of a member of a legislative body during a session thereof, by private interview, or letter or message, or other means and appliances *not [necessarily] addressed solely to the judgment,* to favor or oppose, or to vote for or against, any bill, resolution, report, or claim pending, or to be introduced ..., by any person ... who is employed for a consideration by a person or corporation interested in the passage or defeat of such bill, resolution, or report, or claim, for the purpose of procuring the passage or defeat thereof." Black's Law Dictionary 1086 (rev. 4th ed. 1968). (Emphasis supplied). The work of lobbying is performed by lobbyists.

A lobbyist is one who makes it a business to "see" members of a legislative body and procure, by persuasion, importunity, or the use of inducements, the passing of bills, public as well as private, which involve gain to the promoters. *Id.*

5 Section a(8), Citizens' Bill of Rights, Dade County Charter, provides in pertinent part:

> At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence,

to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record.

6 *PATCO v. Federal Labor Relations Authority,* 685 F.2d 547 (D.C.Cir.1982), relied on by Judge Nesbitt, supports this view. There the court was construing section 557(d)(1) of the Administrative Procedure Act, governing ex parte communications. The Act provides, in subsection (C), that a member of the body involved in the decisional process who receives any prohibited communication shall place the contents of the communication on public record. Subsection (D) states that where the communication was knowingly made by a party in violation of this subsection, the party may be required "to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation." 5 U.S.C.A. § 557(d)(1)(C), (D).

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45 So.3d 7
District Court of Appeal of Florida, Fifth District.

CARILLON COMMUNITY RESIDENTIAL, etc., et al., Petitioners,
v.
SEMINOLE COUNTY, Florida, AHG Group, LLC., et al., Respondents.

No. 5D09–3789
|
July 2, 2010.
|
Rehearing Denied Oct. 6, 2010.

Synopsis
Background: Residential association sought judicial review of board of county commissioners' decision amending planned unit development. The Circuit Court, Seminole County, upheld the decision of the board, and association petitioned for certiorari review.

The District Court of Appeal held that board afforded association procedural due process.

Petition denied.

Attorneys and Law Firms

***8** David A. Theriaque, S. Brent Spain, and Leslie E. Bryson, of Theriaque & Spain, Tallahassee, for Petitioners.

Robert A. McMillan, County Attorney, and Kathleen Furey–Tran, Assistant County Attorney, Sanford, for Respondent Seminole County.

Michael V. Elsberry and Janet M. Courtney, of Lowndes, Drosdick, Doster, Kantor & Reed, P.A., Orlando, for Respondents AHG Group LLC and University of Central Florida Foundations, Inc.

Opinion

***9** PER CURIAM.

Petitioners, Carillon Community Residential Association, Inc., and Ken Hofer, its President, seek second-tier certiorari review of a circuit court order upholding the approval by the Seminole County Board of County Commissioners ("BCC") of an amendment to the Carillon Planned Unit Development ("Carillon PUD"). The amendment allows a mixed-use development, including a four-story, 600 bed University of Central Florida student housing complex, to be built on two parcels of land adjacent to Petitioners' subdivision. Based upon our limited scope of review, we conclude that the circuit court afforded Petitioners procedural due process and did not depart from the essential requirements of law. *State Farm Fla. Ins. Co. v. Lorenzo,* 969 So.2d 393 (Fla. 5th DCA 2007). Accordingly, we deny their petition.

We write further to address one issue which merits discussion, which is whether Petitioners were denied due process when the BCC denied their request to cross-examine witnesses at the quasi-judicial hearing in which the amendment was approved. The "core" of due process is the right to notice and an opportunity to be heard. *LaChance v. Erickson,* 522 U.S. 262, 118 S.Ct. 753, 139 L.Ed.2d 695 (1998); *see also Mathews v. Eldridge,* 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). When assessing whether or not a violation of due process has occurred "the court must first decide whether the complaining party has been deprived of a constitutionally protected liberty or property interest. Absent such a deprivation there can be no denial of due process." *Economic Dev. Corp. of Dade County, Inc. v. Stierheim,* 782 F.2d 952, 953–54 (11th Cir.1986).

Due process is a flexible concept and requires only that the proceeding be "essentially fair." *See Gilbert v. Homar,* 520 U.S. 924, 117 S.Ct. 1807, 138 L.Ed.2d 120 (1997) (recognizing that "it is now well-established that 'due process unlike some legal rules is not a technical conception with a fixed content unrelated to time, place and circumstances' ") (quoting *Cafeteria and Restaurant Workers Union, Local 473, AFL–CIO v. McElroy,* 367 U.S. 886, 81 S.Ct. 1743, 6 L.Ed.2d 1230 (1961)). The extent of procedural due process protection varies with the character of the interest and nature of the proceeding involved. There is, therefore, no single unchanging test which may be applied to determine whether the requirements of procedural due process have been met. Courts instead consider the facts of the particular case to determine whether the parties have been accorded that which the state and federal constitutions demand. *Hadley,* 411 So.2d at 187; *see also, Cleveland Bd. of Educ. v. Loudermill,* 470 U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985) (citing *Boddie v. Connecticut,* 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971) ("[t]he formality and procedural requisites for the hearing can vary, depending upon the importance of the interests involved and the nature of the subsequent proceedings.")).

The United States Supreme Court has held that there are three distinct factors to consider in the analysis of whether the due process accorded in any proceeding was constitutionally sufficient: 1) the private interest that will be affected by the official action; 2) the risk of an erroneous deprivation of such interest through the procedures used; and 3) the probable value, if any, of additional or substitute procedural safeguards. *Mathews v. Eldridge,* 424 U.S. 319, 334–35, 96 S.Ct. 893,

47 L.Ed.2d 18 (1976). The government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail should also be considered. *Id.*

When applying these general due process principles to the specific context of ***10** quasi-judicial administrative hearings, it is important to distinguish between parties and participants. The extent of procedural due process afforded to a party in a quasi-judicial hearing is not as great as that afforded to a party in a full judicial hearing. *Seminole Entertainment, Inc. v. City of Casselberry,* 811 So.2d 693, 696 (Fla. 5th DCA 2001) ("*Seminole I* "); *see also Hadley v. Department of Administration.,* 411 So.2d 184, 187 (Fla.1982). Consequently, such hearings are not controlled by strict rules of evidence and procedure. *Seminole I* at 696.

Nevertheless, a party to a quasi-judicial hearing, by virtue of its direct interest that will be affected by official action, "must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts." *Kupke v. Orange County,* 838 So.2d 598, 599 (Fla. 5th DCA 2003) (citing *Lee County v. Sunbelt Equities, II, Ltd. Partnership,* 619 So.2d 996 (Fla. 2d DCA 1993)). For example, in *Kupke,* this court held that a farmer who had been cited for operating an unauthorized junkyard and was facing daily fines, was entitled to present witnesses in his defense as part of his basic right to be heard before a property right was taken from him. *See also Seminole I* (holding that party facing business license revocation was denied right to cross-examine witnesses against it).

Oftentimes, however, such quasi-judicial hearings are attended by more than just the parties. They are open to the public. In the case of rezoning hearings, neighboring landowners may attend and want to be heard on a proposed zoning change to a nearby property. Our court has previously stated that "[a] participant in a quasi-judicial proceeding is clearly entitled to some measure of due process ... The issue of what process is due depends on the function of the proceeding as well as the nature of the interests affected." *Water Servs. Corp. v. Robinson,* 856 So.2d 1035, 1039 (Fla. 5th DCA 2003).

Petitioners incorrectly assert that Florida law requires that all *participants* in quasi-judicial proceedings be allowed to cross-examine witnesses. Florida law has no such requirement. In support of their assertion, Petitioners cite several cases appearing to require cross-examination in quasi-judicial proceedings. However, a close reading of these cases reveals that they cannot support such a broad proposition.

First, many cases asserted by Petitioners as broadly affording the right of cross-examination in quasi-judicial proceedings involved parties, not participants. Thus, any effort to extend application of such due process protections to participants is beyond the scope of the facts in those cases. *See, e.g., Kupke* (farmer facing fines for unauthorized use of property); *Seminole I* (business licensee

facing license revocation); *Sunbelt Equities* (property owner applying for rezoning); *Bd. of County Comm'rs of Hillsborough County v. Casa Development, Ltd.*, 332 So.2d 651 (Fla. 2d DCA 1976) (developer applying for water and sewer service); *Harris v. Goff*, 151 So.2d 642 (Fla. 1st DCA 1963) (landowners directly subject to zoning change).

Petitioners cite three cases which involve adjoining landowners and state that basic notions of due process in a quasi-judicial hearing include the right to cross-examine witnesses. *Jennings v. Dade County*, 589 So.2d 1337 (Fla. 3d DCA 1991); *Hirt v. Polk County Bd. of County Comm'rs*, 578 So.2d 415 (Fla. 2d DCA 1991); *Coral Reef Nurseries, Inc. v. Babcock Co.*, 410 So.2d 648 (Fla. 3d DCA 1982). However, none of these cases hold that an *adjoining landowner* has a due process right to cross-examine witnesses in a quasi-judicial rezoning hearing. To the contrary, *Jennings* states, in dictum, the ***11** general proposition that *parties* to quasi-judicial hearings "must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts." [1] Then circuit judge Evander, in *Schopke v. City of Melbourne*, case no. 92–12637–AP, Eighteenth Judicial Circuit Court, Brevard County, correctly distinguished *Jennings* in addressing the same argument raised in this case. He stated:

> [P]etitioners contend the city council wrongfully refused to allow them the opportunity to "cross-examine" a particular Daily Bread representative at the July 14th public hearing. Such argument apparently arises from an overbroad and erroneous interpretation of *Jennings v. Dade County*, 589 So.2d 1337 (Fla. 3d DCA 1991). In *Jennings*, the court noted that the quality of due process required in the quasi-judicial zoning proceeding is not the same as that to which a party to a full judicial hearing is entitled. The court stated "a quasi-judicial hearing generally meets basic due process requirements if the parties have provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to present evidence, cross-examine witnesses, and be informed of all the facts upon which the (government agency) acts".
>
> The "parties" referenced in such opinion are the applicant and the government agency. The Jennings decision does not, in any way, recognize a right on behalf of all neighboring property owners to cross-examine any and all individuals who may speak for or against the zoning application. To recognize such a right on behalf of all "interested persons" would create a cumbersome, unwieldy procedural nightmare for local government bodies.

Petitioners cite one circuit court decision, *Sorrento Ranches Homeowners Association, Inc. v. City of Venice*, 15 Fla. L. Weekly Supp. 877 (Fla. 12th Cir.Ct.2008) as holding that "neighboring landowners" were denied their due process right to cross-examine witnesses in a quasi-judicial zoning proceeding. This decision was not binding on the circuit court in this case. In addition, it does not stand for the proposition asserted by Petitioners, as nowhere does it describe the petitioners in that case as "neighboring landowners." It only describes them as residents of Sorrento Ranches, but it is not clear whether Sorrento Ranches was part of the "46–acre tract of land" subject

to the proposed zoning change. Without knowing the petitioners' status in relation to the rezoning application, the decision offers no assistance.

The commission's attorney denied the petitioners in that case an opportunity to cross-examine witnesses because they were not parties. If we were to infer from that statement, that the petitioners were in fact neighboring landowners, as Petitioners in this case assert, we would conclude that the issue was wrongly decided. Because the decision fails to apply the *Mathews* factors, we do not know what private interest the residents of Sorrento Ranches had that would have entitled them the level of due process afforded by the court.

In this case, the circuit court applied the correct law by thoughtfully considering and applying the *Mathews* factors. It stated:

> [w]hile arguably the Petitioners' enjoyment of their property will be impacted ***12** by the action of the BCC, they are not being deprived of the use of their property, whereas, the developers have a compelling interest in developing the property in question. The risk of an erroneous deprivation is low. The Petitioners were able to present their witnesses. Furthermore, while the BCC did not permit the cross-examination, it did permit questions to be directed to the board, which in turn would address the questions to the appropriate individuals. Thus, while the questioning might not have been the form the Petitioners preferred, they were provided with an opportunity to present questions to the developer's witnesses. Finally, land use hearings are not in the same form as traditional adversarial hearings during which opposing parties are clearly delineated and those entitled to cross-examine witnesses can be clearly identified. Rather, land use hearings are public hearings during which any member of the public has a right to participate. At the hearing in question, in addition to the witnesses for the developers and the petitioners, twenty-five community members spoke at the hearing. It would be impractical to grant each interested party the right to cross-examine the witnesses at such a hearing, especially in light of the fact that the BCC provides a procedure by which the witnesses can be questioned.

Finding that the circuit court afforded the parties procedural due process and applied the correct law, we deny the petition.

PETITION DENIED.

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MONACO, C.J., PALMER and LAWSON, JJ., concur.

All Citations

45 So.3d 7, 35 Fla. L. Weekly D1467

Footnotes

1 In both *Hirt* and *Coral Reef*, the determinative issues before the courts were whether the underlying administrative proceedings were legislative or quasi-judicial in nature. In making those determinations, the courts in both cases noted that local ordinances expressly afforded "interested parties" the right to cross-examine witnesses in a quasi-judicial hearing. No such ordinance exists in this case.

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2016 WL 4464076 (Fla.Cir.Ct.) (Trial Order)
Circuit Court of Florida.
Twentieth Judicial Circuit
Civil Action
Lee County

MIROMAR DEVELOPMENT CORPORATION,
Miromar Lakes, LLC, and Dr. Russell Beckett, Petitioners,
v.
LEE COUNTY, a political subdivision of the State of Florida, and Alico West Fund, LLC, A Florida limited liability company, Respondents.

No. 15-CA-1261.
June 30, 2016.

Order Denying Petition for Writ of Certiorari

Marty Steinberg & Melissa Levitt, msteinberg@bilszin.com; marty.steinberg@hoganlovells.com; Naomi.tanaka@hogan; melissa.levit@hoganlovells.com; Justin Brenner & David Massey, Justin.brener@hoganlovells.com; patricia.courtney@hoganlovells.com; david.massey@hoganlovells.com; Edward K. Cheffy, ekcheffy@napleslw.com, for petitioners.

Hala Sandridge, hala.sandridge@bipc.com; joanne.volpe@bipc.com; Carl Joseph Coleman, joe.coleman@bipc.com; nichole.jayne@bipc.com; Charles Basinait & Robert C. Shearman, Charles.basinait@henlaw.com; Robert.shearman@henlaw.com, for respondent.

Mark A. Trank, (Counsel for Lee County per various service lists contained in court file).

Elizabeth V. Krier, Judge.

***1** THIS CAUSE comes before the Court on Petitioners' petition for writ of certiorari, filed May 11, 2015. Respondent Alico West Fund (Alico) filed a response on March 9, 2016. Respondent Lee County (County) filed a response on March 2, 2016. Petitioners filed a consolidated reply on May 13, 2016. Having reviewed the pleadings, the record, and the applicable law, the Court finds as follows:

1. Petitioners are challenging the County's resolution granting Alico's application for rezoning. Petitioners argue that they were denied due process, and that the County's decision departed from the essential requirements of law.

2. Alico filed an application for rezoning on December 20, 2013 to change the property designation to compact community planned development for a project called CenterPlace, which would allow 1,950 residential units, 250 hotel rooms, commercial retail space, office space, and research and development space.

3. On July 9, 2014, County staff issued their report to the hearing officer, recommending approval.

4. The hearing officer held hearings on July 23-25, August 13, 15 and 19, 2014.

5. Petitioners filed a petition for writ of prohibition challenging the hearing officer's denial of their motion to disqualify. By order dated February 5, 2015, the Court granted a motion to dismiss the petition, finding that Petitioners did not have standing.

6. The hearing officer issued a recommendation on March 10, 2015 that the application be granted.

7. The Board of County Commissioners (BOCC) held a public hearing on April 8, 2015, and approved the application by resolution Z-14-021.

8. The applicable standard of review by a circuit court of an administrative agency decision is limited to: (1) whether procedural due process was accorded; (2) whether the essential requirements of law have been observed; and (3) whether the administrative findings and judgment are supported by competent substantial evidence. The Court is not entitled to reweigh the evidence, to reevaluate the credibility of the evidence, or to substitute its judgment for that of the agency. *Haines City Community Development v. Heggs*, 658 So. 2d 523 (Fla. 1995).

DUE PROCESS

9. Petitioners argued that their property was adjacent to the development, and that a Lake Use agreement existed between Petitioner Miromar, FGCU, and Alico which provided reciprocal easements on the two shared lakes for recreational and drainage use of the lakes, but specifically provided no right for the general public to use the lakes. Petitioners were concerned with the potential environmental impact of the development on the lakes, that their "world class resort" community would be across the lakes from college student housing, and because "the North and South Lakes are connected, CenterPlace would afford public access" to the shared lakes that Petitioners considered their "private property."

10. For these reasons, Petitioners challenged the application below. Petitioners argued that they were deprived of due process because the hearing officer did not permit them to cross-examine

witnesses. Petitioners also argued that they were only permitted five minutes to make a presentation to the BOCC, and were limited to their prior testimony before the hearing officer.

***2** 11. Respondents argued that Petitioners were afforded with due process when they were treated as participants, because they were given a full and fair opportunity to be heard. Respondents noted that only the applicant and County are parties to a zoning action, and that public participants had no due process rights at a zoning hearing. Respondents cited to Administrative Code 2-6, Sec. 2.4.B and *Carillion Community Res. v. Seminole County*, 45 So.3d 7, 10 (Fla. 5th DCA 2010). Alico further noted that Petitioners were allowed unlimited time to present testimony and argument before the hearing officer, presented multiple witnesses and experts, and presented 750 pages of exhibits. Respondents argued that Petitioners submitted 30 proposed conditions to the application, several of which were incorporated into the resolution. For all these reasons, Respondents argued that Petitioners were not deprived of due process.

12. Petitioners relied on *Renard v. Dade County*, 261 So. 2d 832 (Fla. 1972), but this case does not hold that an entity considering itself an aggrieved party has any standing in the underlying proceeding prior to the BOCC's decision. The Court finds persuasive *Carillion Community Res. v. Seminole County*, 45 So.3d 7, 10 (Fla. 5th DCA 2010), which held that neighboring landowners have a due process right to attend and be heard at open public hearings on a zoning issue, but had no other due process rights. Therefore, the Court finds that Petitioners are not a party under the Administrative Code, had no due process rights in the proceeding below beyond being permitted to attend and be heard. Petitioners were given a full and fair opportunity to be heard as participants and to raise their objections to the rezoning application and proposed development. That several of Petitioners' proposed conditions were incorporated into the resolution indicates that Petitioners' concerns were heard and considered. Petitioners were not denied due process.

ESSENTIAL REQUIREMENTS OF LAW

13. Petitioners argued that the BOCC departed from the essential requirements of law because it: (a) violated their fundamental right to exclude; (b) limited their testimony before the BOCC; (c) delegated the BOCC's authority; (d) allowed a research and development (R&D) lot through illegal deviation; and (e) allowed the application to proceed without a deed dedicating roadway right of way prior to the hearing officer's approval.

14. The Court notes that pursuant to the order granting in part Petitioner's motion to strike the Respondents' responses, the roadway dedication claim and responses were stricken, and will not be considered.

15. As it relates to (a), Petitioners argued that property rights include the right to exclude others. Petitioners argued that the Lake Use agreement provides them with easements which excluded general public use. Petitioners stated that they presented the agreement to the hearing officer, who nonetheless recommended public accessibility to the BOCC, which accepted that recommendation. Petitioners contend that they must be compensated for the deprivation of their property rights.

16. Alico argued that the Lake Use agreement included a non-exclusive easement which did not include the right to exclude the public, but only gave Petitioners the right to use the lakes. Alico argued that any other interpretation would violate the Plan, which encourages allowing public use of private waterways. The County argued that enforcement of a private easement agreement would be through civil court action, not a challenge to an unrelated zoning decision.

17. The Court agrees with the County that the appropriate remedy for Petitioners would be to seek enforcement of the agreement in court, not to challenge the resolution by claiming that the BOCC did not honor an agreement to which it was not a party. Petitioners failed to present any legal authority that the hearing officer or BOCC were in any way required to consider and honor a private easement agreement between the applicant and entities not a party to the rezoning proceedings. Therefore, the Court finds that the BOCC did not depart from the essential requirements of law as to this claim.

***3** 18. As to (b), Petitioners argued that the essential requirements of law were not met when the BOCC failed to follow the ordinance and limited their presentation at the public hearing to only the testimony they presented to the hearing officer. Petitioners cite to the Land Development Code (LDC) 34-83(b)(7), which allows a witness to testify regarding the correctness of the hearing officer's findings.

19. Alico argued that the BOCC did not improperly limit testimony because great weight is to be given to an agency's interpretation of an ordinance when that agency is charged with enforcement of the ordinance, citing *Falk v. Beard*, 614 So. 2d 1086 (Fla. 1993); *PW Ventures, Inc. v. Nichols*, 533 So. 2d 281 (Fla. 1988).

20. In the LDC version in effect at the time, section 34-83(b)(7) provides that:

In matters that were first heard by the Hearing Examiner, … the testimony presented to the Board will be limited to the testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, ***or*** to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

(Emphasis added). The Court finds that the use of "or" in the list of permitted testimony means that the BOCC could limit testimony to one of those categories if it chose to do so. Petitioners failed to present any legal authority that required the BOCC to allow all three types of testimony despite the use of "or" in the section. Therefore, the Court finds that the BOCC did not depart from the essential requirements of law in limiting Petitioners' testimony at the public hearing.

21. As to (c), Petitioners argued that the BOCC departed from the essential requirements of law when it delegated its authority to the County Attorney. Petitioners argued that they requested additional conditions be imposed, under the authority of LDC 34-83(b)(4), but the County Attorney told the BOCC that additional conditions had to be based on competent substantial evidence and rationally related to impacts of the development. Petitioners contend that conditions must only be rationally related. Petitioners also argued that when two Commissioners wanted to remand, the County Attorney stated that a remand could only be imposed for the purpose of acquiring additional information. Petitioners argued that the BOCC abdicated its responsibilities to the County Attorney.

22. Alico argued that section 34-83(b)(4)(a)(1) provides that the Board is to render decisions based upon competent substantial evidence, and subsection (3) provides that conditions may be attached if they are reasonably related to the requested action, such that the County Attorney did not misadvise the BOCC.

23. In the LDC version in effect at the time, section 34-83(b)(4)(a)(1) provides that the BOCC "may render its own decision based upon competent substantial evidence presented in the Record." Section 34-83(b)(4)(a)(3) provides that the BOCC has the authority to attach conditions to any rezoning request, and that those "conditions and requirements must be reasonably related to the action requested." The plain language of the LDC supports Alico's argument that the County Attorney did not misadvise the BOCC. Section (b)(4)(a)(1) provides that the BOCC may approve the request, deny the request, or remand the case to the hearing officer for further proceedings. The Court finds that the County Attorney did not misadvise the BOCC on this matter, as the LDC appears to allow for a remand only to the hearing officer for further proceedings. The Court further finds that the BOCC did not delegate its authority to the County Attorney, and that it did not depart from the essential requirements of law merely because it accepted or relied on advice by the County Attorney. The Court notes that several of the conditions Petitioners requested below were, in fact, incorporated into the resolution. The BOCC did not depart from the essential requirements of law merely because it did not accede to all of Petitioners' requests.

***4** 24. As it relates to (d), Petitioners argued that the resolution approved a deviation to permit a research and development (R&D) lot, but that lot type was not a permissible lot type, and that the BOCC could not create a new lot type without going through procedures to adopt a municipal ordinance. Petitioners further argued that LDC section 32-377 permitting the BOCC to grant a

deviation is legally deficient, as it lacks objective criteria for the BOCC to use in its decision making.

25. Alico argued that this claim was not preserved for review because it was not raised below. Alico further argued that an R&D lot was allowed pursuant to LDC section 34- 622(c)(41). Alico cited Fla. Stat. §166.041 in support of its argument that the BOCC does not need to adopt an ordinance when an action affects only a specific property and is quasi judicial, not legislative, such as for rezoning actions. See also *BOCC of Brevard County v. Snyder*, 627 So. 2d 469 (Fla. 1993). Finally, Alico argued that the deviation provision of the LDC is constitutional, citing *Nostimo, Inc. v. City of Clearwater*, 594 So. 2d 779 (Fla. 2d DCA 1992). The County argued that LDC section 32-502(d)(5) provides for deviations to include additional lot types, with the criteria for deviations provided in chapters 10 and 34 of the LDC.

26. The Court agrees that this claim was not preserved for review because it was not raised to the BOCC below. See *Fort Lauderdale Board of Adjustment v. Nash*, 425 So. 2d 578 (Fla. 4th DCA 1982). However, even if it had been preserved, it appears that the BOCC did not depart from the essential requirements of law. As argued by Respondents, the LDC permits deviations of additional lot types, including an R&D lot type. The Court finds that LDC section 32-377 is constitutional. This section provides factors for the BOCC to consider, and does not allow the BOCC "unbridled discretion." *Nostimo*, 594 So. 2d at 780-781.

Accordingly, it is

ORDERED AND ADJUDGED that Petitioners' petition for writ of certiorari is DENIED.

DONE AND ORDERED in Chambers in Fort Myers, Lee County on this *29* day of *June*, 2016.

<<signature>>

Elizabeth V. Krier

Circuit Judge

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560 So.2d 1358
District Court of Appeal of Florida,
Fourth District.

Patricia POLLARD, Petitioner,
v.
PALM BEACH COUNTY, a political subdivision of the State of Florida, Respondent.

No. 88-1827.
|
May 9, 1990.

Synopsis

Owner of residential property applied for special exception to use property as adult congregate living facility for elderly. The Circuit Court for Palm Beach County, William C. Williams, III, J., denied owner's petition for writ of certiorari to review denial of application, and owner petitioned for review. The District Court of Appeal held that opinions of neighbors that proposed use would cause traffic problems, would cause light and noise pollution, and would generally have unfavorable impact on area provided no competent substantial evidence to support denial of petition.

Certiorari granted, order quashed, and matter remanded with instructions.

Stone, J., dissented with opinion.

Attorneys and Law Firms

***1359** Bruce G. Kaleita, West Palm Beach, for petitioner.

Richard W. Carlson, Jr. and Thomas P. Callan, Asst. County Attys., West Palm Beach, for respondent.

Opinion

PER CURIAM.

This is a petition to review denial of an application for a special exception. The real property in question is located in an area zoned residential. The use for which a special exception was requested is an adult congregate living facility for the elderly, a use permitted by special exception in a residential area.

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Certain procedural shortcomings having been remedied, we now treat only the merits, being satisfied that this court has jurisdiction.

After making appropriate application, petitioner obtained approval of the County Zoning Department and, subsequently, the approval of the County Planning Commission. Approval was based upon documentary evidence and expert opinion.

In public hearings before the County Commission, various neighbors expressed their opinion that the proposed use would cause traffic problems, light and noise pollution and generally would impact unfavorably on the area. The County Commission denied the application and the circuit court denied certiorari to review that denial. We grant the writ and quash the order under review.

We explained the respective burdens of an applicant for a special exception and the zoning authority in *Rural New Town, Inc. v. Palm Beach County,* 315 So.2d 478, 480 (Fla. 4th DCA 1975), as follows:

> In rezoning, the burden is upon the *applicant* to clearly establish such right (as hereinabove indicated). In the case of a special exception, where the applicant has otherwise complied with those conditions set forth in the zoning code, the burden is upon the *zoning authority* to demonstrate by competent substantial evidence that the special exception *is adverse to the public interest.* Yokley on Zoning, vol. 2, p. 124. A special exception is a permitted use to which the applicant is entitled *unless* the zoning authority determines according to the standards of the zoning ordinance that such use would adversely affect the public interest.

(Emphasis in original; some citations omitted.)

The supreme court, in *De Groot v. Sheffield,* 95 So.2d 912, 916 (Fla.1957), explained in the following language what is meant by the term "competent substantial evidence" in the context of certiorari review:

> Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. *Becker v. Merrill,* 155 Fla. 379, 20

> So.2d 912; *Laney v. Board of Public Instruction,* 153 Fla. 728, 15 So.2d 748. In employing the adjective "competent" to modify the word "substantial," we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. *Jenkins v. Curry,* 154 Fla. 617, 18 So.2d 521. We are of the view, however, that the evidence relied upon to ***1360** sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the "substantial" evidence should also be "competent."

(Some citations omitted.)

In *City of Apopka v. Orange County,* 299 So.2d 657, 660 (Fla. 4th DCA 1974), the "evidence" in opposition to petitioner's application for special exception consisted, as in the present case, of the opinions of neighbors, and in that case we explained:

> The evidence in opposition to the request for exception was in the main laymen's opinions unsubstantiated by any competent facts. Witnesses were not sworn and cross examination was specifically prohibited. Although the Orange County Zoning Act requires the Board of County Commissioners to make a finding that the granting of the special exception shall not adversely affect the public interest, the Board made no finding of facts bearing on the question of the effect the proposed airport would have on the public interest; it simply stated as a conclusion that the exception would adversely affect the public interest. Accordingly we find it impossible to conclude that on an issue as important as the one before the board, there was substantial competent evidence to conclude that the public interest would be adversely affected by granting the appellants the special exception they had applied for.

Earlier in that opinion we also noted:

> As pointed out by Professor Anderson in Volume 3 of his work, American Law Of Zoning, § 15.27, pp. 155-56:
>
> "It does not follow, ... that either the legislative or the quasi-judicial functions of zoning should be controlled or unduly influenced by opinions and desires expressed by interested persons at public hearings. Commenting upon the role of the public hearing in the processing of permit applications, the Supreme Court of Rhode Island said:

> 'Public notice of the hearing of an application for exception ... is not given for the purpose of polling the neighborhood on the question involved, but to give interested persons an opportunity to present facts from which the board may determine whether the particular provision of the ordinance, as applied to the applicant's property, is reasonably necessary for the protection of ... public health.... The board should base their determination upon facts which they find to have been established, instead of upon the wishes of persons who appear for or against the granting of the application.'
>
> The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect."

299 So.2d at 659.

Our review of the record leads us to conclude that there is literally no competent substantial evidence to support the conclusion reached below. The circuit court overlooked the law which says that a special exception is a permitted use to which the applicant is entitled unless the zoning authority determines according to the standards of the zoning ordinance that the use would adversely affect the public interest. *Rural New Town,* 315 So.2d at 480. It also overlooked the law which says that opinions of residents are not factual evidence and not a sound basis for denial of a zoning change application. *See City of Apopka,* 299 So.2d at 660.

For these reasons we grant certiorari, quash the order and remand with instructions that the special exception be granted.

HERSEY, C.J., and ANSTEAD, J., concur.

STONE, J., dissents with opinion.

***1361** STONE, Judge, dissenting.
I would deny certiorari. In my judgment, the record supports the decision of the circuit court upholding the action of the county. I also do not conclude that the trial court overlooked the law.

All Citations

560 So.2d 1358, 15 Fla. L. Weekly D1272

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95 So.2d 912
Supreme Court of Florida, En Banc.

Peter DE GROOT, Appellant,
v.
L. S. SHEFFIELD et al., Appellees.

May 29, 1957.
|
As Amended on Denial of Rehearing June 26, 1957.

Synopsis

Mandamus proceeding to compel petitioner's reinstatement to classified service position of supervisor of construction for county school board. From judgment of Circuit Court, Duval County, Charles A. Luckie, J., dismissing petition, the petitioner appealed. The Supreme Court, Thornal, J., held that where approval of Civil Service Board was required as condition precedent to abolition of petitioner's job, order of Civil Service Board declining to abolish position of supervisor of construction was subject to appropriate review by certiorari but could not be collaterally attacked in mandamus proceeding.

Judgment reversed.

Attorneys and Law Firms

***913** Coffee & Coffee, Jacksonville, for appellant.

Elliott Adams and McCarthy, Lane & Adams, Jacksonville, for appellees.

Opinion

THORNAL, Justice.

Appellant DeGroot, who was relator below, seeks reversal of an order of the Circuit Judge dismissing his petition for a writ of mandamus which was sought to compel the appellees to reinstate the relator as an employee of the Duval County School Board.

The determining question is whether the action of the County Civil Service Board, which supervises the county merit system, can be reviewed and collaterally assaulted as a defense to a mandamus proceeding.

Relator Peter DeGroot had been an employee of the Duval County School Board for about eighteen years prior to February 9, 1955. For the last ten years he held the position of 'Supervisor of Construction.' Since 1943 he was in the classified service under the Duval County Civil Service Act. See Chapter 22263, Laws of Florida, Acts of 1943. On August 4, 1954, the School Board, with the approval of the Civil Service Board, created the position of 'Supervising Architect' and filled the job by appointment of a registered architect named Broadfoot. On February 9, 1955, the School Board adopted a resolution delineating the functions of the Supervising Architect, many of which had theretofore been performed by DeGroot, as Supervisor of Construction. By the same resolution the School Board proposed that the position of Supervisor of Construction be abolished.

Section 7, Chapter 22263, Laws of Florida, Acts of 1943, provides in part as follows:
'* * * No position in the classified [service] shall be abolished without the approval of the Civil Service Board. Positions may be abolished only in good faith.'

Pursuant to this requirement, the School Board resolution was submitted to the County Civil Service Board which, after an extended hearing, declined to approve the resolution defining the duties of the Architect and abolishing the position of Supervisor of Construction.

Despite the action of the Civil Service Board, the School Board proceeded to dismiss DeGroot from his employment. He thereupon instituted this action in mandamus to compel reinstatement. In the mandamus proceeding the parties stipulated that the transcript of the testimony offered ***914** before the Civil Service Board could be filed in evidence. A motion to quash the alternative writ was likewise filed. Upon consideration of the record thereby presented, the trial judge concluded that regardless of the judgment of the Civil Service Board, the action of the School Board in resolving to abolish the position of Supervisor of Construction was taken in good faith and that therefore DeGroot was subject to dismissal. He thereupon granted the respondents-appellees' motion to dismiss the petition in mandamus and entered final judgment in their favor. Reversal of this judgment is here sought.

It is contended by the appellant-relator that the decision of the Civil Service Board was not subject to collateral attack by the respondents in the mandamus proceeding. He further contends that if review of that order were desired by the respondents, they should have proceeded by way of certiorari and that in all events the trial judge could not re-weigh the evidence presented to the Civil Service Board.

It is the position of the appellees that the order of the Civil Service Board should not be enforced in the absence of supporting substantial evidence and that the decision of the Board could be reviewed by the Circuit Judge regardless of the nature of the proceeding to determine whether there was substantial evidence in support thereof.

We are here squarely confronted with the problem of determining the appropriate procedure for obtaining review of an order of an administrative agency. Although administrative agencies have been known to the law for many years, it has only been within fairly recent years that a substantial body of jurisprudence has developed with reference to so-called 'administrative law.' Because of the expansion of the number of boards, commissions, bureaus and officials having authority to make orders or determinations which directly affect both public and private rights, there has been an increasing number of cases involving the extent of the authority of these agencies as well as the validity or correctness of their conclusions in particular instances. We are told that in our state government there are over one hundred boards, bureaus and officials engaged in administrative activities affecting the rights and property of individuals as well as the public. See French's Research in Florida Law, p. 54; 1 Florida Law and Practice, Administrative Law, Sec. 30. In addition there are innumerable county and city boards and agencies such as Civil Service Boards and other boards that perform similar functions.

Although over the years many cases in one form or another have come to this court involving the correctness of orders of administrative agencies, we are unaware of any that has squarely and directly raised the problems presented by the instant appeal. Despite the local nature of the particular problem at hand, it appears to us that it is appropriate to undertake to reconcil many of our previous apparently divergent opinions in an offort to establish for the future some orderly procedure in disposing of problems of this nature. We do this also in fairness to the trial judge who undoubtedly was confronted with some of these conflicting viewpoints but who did not have available the opportunity for detailed research that accompanies appellate review. Nonetheless, as pointed out by Kenneth Culp Davis in 44 Illinois Law Review p. 565, 'No branch of administrative law is more seriously in need of reform than the law concerning methods of judicial review.' This author then observes, 'No other branch is so easy to reform.' The reviewability of an administrative order depends on whether the function of the agency involved is judicial or quasi-judicial in which its orders are reviewable or on the contrary whether the function of the agency is executive in which event its decisions are not reviewable by the courts except on the sole ground of lack of jurisdiction. In the latter event the order is, of course, subject to direct or collateral attack.
It is in some measure insisted in the case before us that the decision of the ***915** Civil Service Board is beyond the scope of judicial review. The contention to this end is that the ultimate decision of the Board is executive in nature and beyond the reach of the court. In Bryan v. Landis, 106 Fla. 19, 142 So. 650, it was pointed out that where one holds office at the pleasure of the appointing power and the power of appointment is coupled with the power of removal contingent only on the exercise of personal judgment by the appointing authority, then the decision to remove or dismiss is purely executive and not subject to judicial review. In the same opinion, however, we pointed out that if removal or suspension of a public employee is contingent upon approval by an official or a board after notice and hearing, then the ultimate judgment of such official or board based on the showing made at the hearing is subject to appropriate judicial review. The reason for the difference is that when notice and a hearing are required and the judgment of the board is contingent on the

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showing made at the hearing, then its judgment becomes judicial or quasi-judicial as distinguished from being purely executive. See also, Owen v. Bond, 83 Fla. 495, 91 So. 686; Sirmans v. Owen, 87 Fla. 485, 100 So. 734; State ex rel. Tullidge v. Hollingsworth, 103 Fla. 801, 138 So. 372; State ex rel. Hatton v. Joughin, 103 Fla. 877, 138 So. 392; State ex rel. Pinellas Kennel Club v. State Racing Commission, 116 Fla. 143, 156 So. 317. In the same cases and similar ones it was held that where an officer or employee is removed pursuant to purely executive authority, the courts will do no more than examine into the existence of jurisdictional facts to determine only the question of the existence of executive jurisdiction.

Applying the rule of these cases to the situation before us it is perfectly obvious that in deciding upon the advisability of abolishing a position in the classified service, the Civil Service Board was exercising a quasi-judicial function. This is so for the reason that it arrived at its decision after a full hearing pursuant to notice based on evidence submitted in accordance with the statute here involved. This being so its ultimate decision was subject to judicial review in an appropriate proceeding. State ex rel. Williams v. Whitman, 116 Fla. 196, 150 So. 136, 156 So. 705, 95 A.L.R. 1416; West Flagler Amusement Co. v. State Racing Commission, 122 Fla. 222, 165 So. 64; State ex rel. Hathaway v. Williams, 149 Fla. 48, 5 So.2d 269; Hammond v. Curry, 153 Fla. 245, 14 So.2d 390.

Having determined the nature of the order under consideration we next proceed to ascertain the appropriate method of obtaining review as well as the scope of review available. It must be conceded that over the years orders of administrative agencies have been placed under scrutiny in Florida in both mandamus and certiorari cases. Admittedly, little attention has been given to the propriety of the procedure in particular cases. Hence the resultant confusion. We interpolate that we pretermit in this instance any discussion of the proper use of the equity injunction and the writ of prohibition. Injunction has been many times employed to assault legislative action at the state and local level where such action allegedly impinged on some constitutional right. Attacks on municipal zoning ordinances are typical. Prohibition has at times been employed as against quasi-judicial action of administrative agencies where the agency proposed to exceed its jurisdiction or exercise jurisdiction which it did not have. We further mention that we are discussing herewith appellate review in situations where applicable statutes fail to provide specific methods of review as was the case here. When the statute provides the appellate procedure, that course should be followed. Curry v. Shields, Fla.1952, 61 So.2d 326, 327; State ex rel. Coleman v. Simmons, Fla.1957, 92 So.2d 257.

Recurring to the problem at hand we are reminded that certiorari is a discretionary writ bringing up for review by an appellate court the record of an inferior tribunal or agency in a judicial or quasi- ***916** judicial proceeding. The writ is available to obtain review in such situations when no other method of appeal is available. Lorenzo v. Murphy, 159 Fla. 639, 32 So.2d 421. In certiorari the reviewing court will not undertake to re-weigh or evaluate the evidence presented before the tribunal or agency whose order is under examination. The appellate court merely

examines the record made below to determine whether the lower tribunal had before it competent substantial evidence to support its findings and judgment which also must accord with the essential requirements of the law. It is clear that certiorari is in the nature of an appellate process. It is a method of obtaining review, as contrasted to a collateral assault.

We have used the term 'competent substantial evidence' advisedly. Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Becker v. Merrill, 155 Fla. 379, 20 So.2d 912; Laney v. Board of Public Instruction, 153 Fla. 728, 15 So.2d 748. In employing the adjective 'competent' to modify the word 'substantial,' we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. Jenkins v. Curry, 154 Fla. 617, 18 So.2d 521. We are of the view, however, that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the 'substantial' evidence should also be 'competent.' Schwartz, American Administrative Law, p. 88; The Substantial Evidence Rule by Malcolm Parsons, Fla. Law Review, Vol. IV, No. 4, p. 481; United States Casualty Company v. Maryland Casualty Company, Fla.1951, 55 So.2d 741; Consolidated Edison Co. of New York v. National Labor Relations Board, 305 U.S. 197, 59 S.Ct. 206, 83 L.Ed. 126.

As contrasted to certiorari, mandamus is an original proceeding to enforce a clear legal right to the performance of a clear legal duty. It is not an appellate writ. As in any original proceeding the record and evidence are made and offered in that proceeding. While it is by nature discretionary it is not an appropriate process to obtain a review of an order entered by a judicial or quasi-judicial agency acting within its jurisdiction. When thus analyzed it is obvious that certiorari and mandamus serve two entirely different functions.

In delineating the distinctions between certiorari and mandamus we disclaim any allegiance to the formalities and technicalities of the past. Procedural formalities are not necessarily sacrosanct merely because they are time-honored. Nonetheless, in situations such as the one before us, the distinctions have a present and vital importance in determining the issues presented by the litigants and considered by the trial court. We think the lines of demarcation are justifiable in a field such as administrative law which is still in its formative stages of development.

Applying the foregoing general rules to the situation presented by this record it becomes apparent that the assault made by the respondents-appellees on the order of the Civil Service Board as a defense to the mandamus proceeding was entirely collateral to the quasi-judicial proceeding had before the Civil Service Board itself. No direct review of the order of the Civil Service Board was sought by the appellees. The Civil Service Act specifically required the approval of the Civil

Service Board as a condition precedent to the abolition of the job in the classified service. Prior to dismissing the appellant-relator the School Board had failed in its effort to obtain such approval. It is had been dissatisfied with the order of the Civil Service ***917** Board such order was subject to appropriate review by certiorari. When the mandamus proceeding was filed by the relator, the order of the Civil Service Board declining to abolish the job held by the relator was in full force and effect. There is no assault on the jurisdiction of that board. The job therefore had not been legally abolished. This being so, the relator under the Civil Service Act was entitled to continue to fill the job and his dismissal was without justification. Freeman on Judgments (5th ed.) Vol. 3, Sec. 1258; 42 Am.Jur., Public Administrative Law, Sec. 159, 160; State ex rel. Spruck v. Civil Service Board, 226 Minn. 240, 32 N.W.2d 574.

We mention in passing that there were no charges before the Civil Service Board that relator had failed in any measure to perform his job well. The sole issue revolved around abolishing the job that he held.

In view of the foregoing, from the showing made by this record, the relator was entitled to the issuance of a peremptory writ. It was error to dismiss his petition therefor. The judgment under review is therefore——

Reversed.

TERRELL, C. J., and THOMAS, HOBSON, ROBERTS, DREW and O'CONNELL, JJ., concur.

On Rehearing

PER CURIAM.

The last sentence of our opinion of May 29, 1957, is amended to read as follows:
'The judgment under review is therefore reversed without prejudice to any rights which the appellees may have under the rules announced in State ex rel. Dresskell v. City of Miami, 153 Fla. 90, 13 So.2d 707'.

When addressed to the opinion as amended, the petition for rehearing is denied.

TERRELL, C. J., and THOMAS, ROBERTS and THORNAL, JJ., concur.

All Citations

95 So.2d 912

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857 So.2d 202
District Court of Appeal of Florida,
Third District.

CITY OF HIALEAH GARDENS, Petitioner,
v.
MIAMI–DADE CHARTER FOUNDATION, INC., and Luis Machado, Respondents.

No. 3D03–1056.
|
July 23, 2003.
|
Rehearing and Rehearing En Banc Denied Oct. 17, 2003.

Synopsis

City petitioned for certiorari review of decision of the Circuit Court, Miami-Dade County, Appellate Division, Sidney B. Shapiro, Celeste H. Muir, and David C. Miller, JJ., quashing city's denial of application for special exception use resolution permitting construction and operation of charter elementary school. The District Court of Appeal, Wells, J., held that competent substantial evidence supported city's finding that proposed special exception use resolution did not meet city's criteria.

Petition granted.

Attorneys and Law Firms

***202** Citrin & Walker and J. Frost Walker, III, Coral Gables, for petitioner.

Tannebaum, Plans & Weiss and Daniel A. Weiss, for respondents.

Before FLETCHER, and WELLS, and NESBITT, Senior Judge.

Opinion

WELLS, Judge.

The City of Hialeah Gardens petitions for certiorari review of a decision of the circuit court, appellate division, quashing ***203** the City's denial of an application for a special exception use resolution. We grant the petition and quash the circuit court's decision.

Luis Machado and the Miami–Dade Charter Foundation, Inc. (collectively "Machado") sought a permit from the City of Hialeah Gardens for a "special exception use" resolution permitting the construction and operation of a charter elementary school on approximately 2.1 acres of property fronting Northwest 103rd Street, a main highway artery and extension of West 49th Street in neighboring Hialeah. Under the City's code, the use of this property for a school, due to its location in a BU zone, is authorized upon adoption of a resolution granting a special exception use, which must be found by the City Council to comply with the following requirements:

(1) The use is a permitted special use as set forth in the special exception uses for that district.

(2) The use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.

(3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

(4) The use will be compatible with adjoining developments and the proposed character of the district where it is to be located.

(5) Adequate landscaping and screening is provided as required in this chapter, or as otherwise required.

(6) Adequate off-street parking and loading is provided. Ingress and egress is designed so as to cause minimum interference with traffic on abutting streets and the use has adequate frontage on a public or approved private street.

(7) The use conforms with all applicable regulations governing the district where located, except as may otherwise be determined for planned unit developments.

§ 78–132, City of Hialeah Gardens Code.

In the course of the three public hearings held on the matter, Machado presented two site plans and introduced both lay and expert testimony in support of the request. The City's professional staff explained why they could not support the placement of an elementary school on what was characterized as one of the busiest, most congested roadways in Miami–Dade County. Ultimately, the City rejected Machado's application.

The City's decision was overturned by the circuit court, appellate division, primarily for two reasons: first, because the City's testimony addressing "the traffic risks associated with placing a school on a well traveled thoroughfare" was "not based on specific expert competent evidence," and second, because the testimony of staff members, while "cast[ing] doubt" on the evidence presented by Machado, did not overcome Machado's evidence.

Our scope of review of the circuit court's decision is limited to determining whether the circuit court applied the correct law or legal standard, that is, whether it departed from the essential requirements of the law. *See Haines City Cmty. Dev. v. Heggs,* 658 So.2d 523, 530 (Fla.1995); *City of Deerfield Beach v. Vaillant,* 419 So.2d 624, 626 (Fla.1982); *Metropolitan Dade County v. Blumenthal,* 675 So.2d 598, 608–09 (Fla. 3d DCA 1995). We agree with the City that the circuit court applied the wrong law or incorrect legal standard, first, by rejecting the City's decision as not being "based on specific expert competent evidence," and second, by re-weighing the evidence, and in the process, ignoring the evidence supporting the City's decision. *See* ***204** *Vaillant,* 419 So.2d at 626; *see also Dusseau v. Metro. Dade County Bd. of County Comm'rs,* 794 So.2d 1270, 1275 (Fla.2001); *Fla. Power & Light Co. v. City of Dania,* 761 So.2d 1089, 1093 (Fla.2000). We therefore exercise our certiorari jurisdiction because the circuit court violated clearly established principles of law resulting in a substantial miscarriage of justice. *See Ivey v. Allstate Ins. Co.,* 774 So.2d 679, 682–83 (Fla.2000).

A.

Once a special exception applicant demonstrates consistency with a zoning authority's land use plan and meets code criteria, the decision-making body may deny the request only where "the party opposing the application (i.e., either the agency itself or a third party) ... show[s] by competent substantial evidence that the proposed exception does not meet the published criteria." *Fla. Power & Light Co.,* 761 So.2d at 1092; *see Irvine v. Duval County Planning Comm'n,* 495 So.2d 167 (Fla.1986); *Jesus Fellowship, Inc. v. Miami–Dade County,* 752 So.2d 708 (Fla. 3d DCA 2000). In this context, competent evidence is evidence sufficiently relevant and material to the ultimate determination "that a reasonable mind would accept it as adequate to support the conclusion reached." *DeGroot v. Sheffield,* 95 So.2d 912, 916 (Fla.1957). Substantial evidence is evidence that provides a factual basis from which a fact at issue may reasonably be inferred. *Id.; Blumenthal,* 675 So.2d at 608; *see also Pollard v. Palm Beach County,* 560 So.2d 1358, 1359–60 (Fla. 4th DCA 1990) ("evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the 'substantial' evidence should also be 'competent.' ").

Under this standard, generalized statements in opposition to a land use proposal, even those from an expert, should be disregarded. *See Div. of Admin. v. Samter,* 393 So.2d 1142, 1145 (Fla. 3d DCA 1981) ("[n]o weight may be accorded an expert opinion which is totally conclusory in nature and is unsupported by any discernible, factually-based chain of underlying reasoning"). However, contrary to the circuit court's decision, relevant fact-based statements, whether expert or not, are to be considered. *See Blumenthal,* 675 So.2d at 607 ("[u]nder the correct legal standard, citizen testimony in a zoning matter is perfectly permissible and constitutes substantial competent

evidence, so long as it is fact-based"); *see also Metro. Dade County v. Sportacres Dev. Group,* 698 So.2d 281, 282 (Fla. 3d DCA 1997)(holding that materials in the record in conjunction with neighbors' testimony could constitute competent substantial evidence). Here, the Chief of Police, the Director of Public Works, and the Chief Zoning Official, gave specific fact-based reasons for their recommendations that the application be rejected. [1] Their observations were relevant, ***205** material, and fact-based and not merely, "generalized statement[s] of opposition." *Blumenthal,* 675 So.2d at 607; *see Jesus Fellowship,* 752 So.2d at 709; *Miami–Dade County v. Walberg,* 739 So.2d 115, 117 (Fla. 3d DCA 1999)(citing *Blumenthal,* 675 So.2d at 607). In sum, these witnesses were "no group of 'Apopka Witnesses,' i.e., local residents who simply wished the facility to be established elsewhere" but were experts providing fact-based, relevant and material evidence. *Blumenthal,* 675 So.2d at 608, *quoting City of Apopka v. Orange County,* 299 So.2d 657 (Fla. 4th DCA 1974); *see also Allapattah Cmty. Ass'n v. Miami,* 379 So.2d 387, 393 (Fla. 3d DCA 1980)(citing to "expert opinion" of planning department).

Inherent in the circuit court's conclusion that the City's denial had to be based on "specific expert competent testimony," is the incorrect assumption that the expert testimony of those opposing Machado's application had to be distilled from the experts' *own* studies or reports. This is incorrect. The fact that these professionals did not submit, as the circuit court noted, their own "countervailing" charts, statistical studies or other materials did not diminish the sufficiency of their testimony.

The "facts" upon which such testimony rests may derive from relevant portions of the record or from other relevant factual information detailed in the application itself. *See Sportacres Dev. Group,* 698 So.2d at 282 (holding that "the County Commission had access to a record which contained maps, reports and other information which, in conjunction with the testimony of the neighbors, if believed by the Commission, constituted competent substantial evidence").

Here, the testifying staff members utilized their professional experiences and personal observations, as well as Machado's application, site plan, and traffic study, as the basis for their testimony. These record materials, along with the staff presentations, combined to provide evidence "sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." *DeGroot,* 95 So.2d at 916. Ignoring this standard constituted a departure from the essential requirements of the law.

B.

A circuit court may not re-weigh the evidence. In reviewing local administrative action, circuit courts are constrained to determine only whether the agency's determination is *supported* by competent substantial evidence. A circuit court may not re-weigh the evidence to substitute its

judgment for that of the agency by determining whether the evidence *shows* that the application was deficient:

> At the circuit court level, a solitary judge quashed the Commission decision, ruling as follows: "The [homeowners] failed to show by competent substantial evidence that such use [was inconsistent with the Dania Code]" (emphasis added). This ruling was improper. Under *Vaillant,* the circuit court was constrained to determine simply whether the Commission's decision was supported by competent substantial evidence. The circuit court instead decided anew whether the homeowners had shown by competent ***206** substantial evidence that the proposed use was deficient. In other words, a single judge conducted his own de novo review of the application and, based on the cold record, substituted his judgment for that of the Commission as to the relative weight of the conflicting testimony. The circuit court thus usurped the fact-finding authority of the agency.

City of Dania, 761 So.2d at 1093; *see Vaillant,* 419 So.2d at 626.

Re-weighing of the evidence is precisely what the circuit court did when it held:

> At best, the testimony by Hialeah Gardens' staff members cast doubt upon the conclusions and evidence submitted by Machado....
>
> * * * *
>
> The opponents of the special exception use did not show, by competent substantial evidence, that the proposed use was adverse to the public interest.

Consideration of the fact-based testimony of the Director of Public Works and the Chief of Police, as well as other record materials, including the pretzel-like diagram of the proposed site and the memo of the Chief Zoning Officer, was, as the Florida Supreme Court has confirmed, where the circuit court's analysis should have ended:

> We reiterate that the "competent substantial evidence" standard cannot be used by a reviewing court as a mechanism for exerting covert control over the policy determinations and factual findings of the local agency. Rather, this standard requires the reviewing court to defer to the agency's superior technical expertise and special vantage point in such matters. The issue before the court is not whether the agency's decision is the "best" decision or the "right" decision or even a "wise" decision, for these are technical and policy-based determinations properly within the purview of the agency. The circuit court has no training or experience—and is inherently unsuited—to sit as a roving "super agency" with plenary oversight in such matters.
>
> The sole issue before the court on first-tier certiorari review is whether the agency's decision is lawful. The court's task vis-a-vis the third prong of *Vaillant* is simple: The court must review

> the record to assess the evidentiary support for the agency's decision. Evidence contrary to the agency's decision is outside the scope of the inquiry at this point, for the reviewing court above all cannot reweigh the "pros and cons" of conflicting evidence. While contrary evidence may be relevant to the wisdom of the decision, it is irrelevant to the lawfulness of the decision. As long as the record contains competent substantial evidence to support the agency's decision, the decision is presumed lawful and the court's job is ended.

Dusseau, 794 So.2d at 1275–76 (citation omitted).

In this case, the circuit court substituted its judgment as to the weight of the evidence for that of the City Council, which is contrary to the law and synonymous with failing to observe the essential requirements of the law. *See Blumenthal,* 675 So.2d at 609; *see also City of Dania,* 761 So.2d at 1093; *Heggs,* 658 So.2d at 530.

Accordingly, we grant the Petition for Certiorari, quash the decision of the circuit court, and return this case to the circuit court for final determination consistent with this opinion. *See City of Dania,* 761 So.2d at 1093–94; *see also Allstate Ins. Co. v. Kaklamanos,* 843 So.2d 885, 889 (Fla.2003)("district court should exercise its discretion to grant certiorari review only when there has been a violation of a clearly established principle of law resulting ***207** in a miscarriage of justice"); *Blumenthal* 675 So.2d at 608; *Maturo v. City of Coral Gables,* 619 So.2d 455, 457 (Fla. 3d DCA 1993); *Orange County v. Lust,* 602 So.2d 568, 572 (Fla. 5th DCA 1992); *Herrera v. City of Miami,* 600 So.2d 561, 563 (Fla. 3d DCA 1992); *City of Ft. Lauderdale v. Multidyne Med. Waste Mgmt. Inc.,* 567 So.2d 955, 958 (Fla. 4th DCA 1990); *City of Deland v. Benline Process Color Co.,* 493 So.2d 26, 28 (Fla. 5th DCA 1986); *Bd. of County Comm'rs of Pinellas County v. City of Clearwater,* 440 So.2d 497, 499 (Fla. 2d DCA 1983); *Town of Mangonia Park v. Palm Beach Oil, Inc.,* 436 So.2d 1138, 1139 (Fla. 4th DCA 1983).

All Citations

857 So.2d 202, 28 Fla. L. Weekly D1686

Footnotes

1 Based on personal observation and experience and from a review of Machado's site plans, the Director of Public Works testified that Machado's plan, which called for traffic entering the school property from Northwest 103rd Street to cross over the traffic attempting to exit following drop-off, back onto Northwest 103rd Street, would cause "stacking" of traffic in the westbound lane of Northwest 103rd street.

The Chief of Police testified, based on his 27 years as a policeman and observations of behavior during drop-off and pick-up at other Hialeah Gardens schools, that placing a school at this site was dangerous.

The Chief Zoning Officer's memo concluded that she, as well as the Public Works Director and Chief of Police all agreed:

> [t]he additional vehicles related to six hundred (600) students and forty-two (42) staff members during peak hours would cause extreme traffic congestion. Individuals making a left or right turn into the school would back up traffic in both directions on NW 103rd Street. In addition, the exiting of the school onto 103rd Street would cause chaos.

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108 So.2d 601
Supreme Court of Florida.

FLORIDA RATE CONFERENCE, a non-profit corporation, The Traffic and Rate Bureau of St. Petersburg, Florida, The Tampa Chamber of Commerce, The Broward County Traffic Association, The Greater Miami Traffic Association, and The Jacksonville Traffic Bureau, Petitioners,
v.
FLORIDA RAILROAD AND PUBLIC UTILITIES COMMISSION. The Florida Intrastate RateBureau, Respondents.

Jan. 9, 1959.
|
Rehearing Denied Feb. 23, 1959.

Synopsis

Proceeding on certiorari to review an order of the Railroad Commission granting a rate increase to common carrier motor freight lines. The Supreme Court, Hobson, J., held that where Railroad Commission after determining total amount of additional revenue that it would take in its judgment to give motor carriers involved a reasonable return on their investment, stated that the study of an alleged representative carrier did not follow the stipulated procedure and was therefore unreliable, but the commission was required to make some use of it because it had no other source from which to draw in making the necessary apportionment of the revenues and expenses, the commission's order was invalid on the ground that it showed on its face that it was not supported by competent substantial evidence.

Petition for certiorari granted and order quashed.

Roberts, J., dissented.

Attorneys and Law Firms

***602** Ben F. Overton, Em. Davis, of Baynard, Baynard & McLeod, St. Petersburg, for petitioners.

Lewis W. Petteway, General. Counsel for Florida Railroad and Public Utilities Commission, Tallahassee, A. Pickens Coles, John M. Allison, Tampa, for Florida Intrastate Rate Bureau, for respondents.

Opinion

HOBSON, Justice.

This case was brought before us on a writ of certiorari requesting that we review an order of the respondent Florida Railroad and Public Utilities Commission granting a rate increase of 8.72% to the applicant Florida Intrastate Rate Bureau on behalf of all common carrier motor freight lines participating in Motor Freight Tariff FR&PUC MF No. 7.

The Intrastate Rate Bureau, representing eleven common carrier motor freight lines, originally applied to the Commission on behalf of these common carriers for a rate increase of 10% in all Class and Commodity Rates and Charges. The petitioners appeared at the hearing on the Rate Bureau's application as protestants for and on behalf of the shipping public in their respective metropolitan areas. Information as to petitioners' position in this case is best gleaned from the following excerpts of Order 3910 of the Commission, granting the 8.72% increase:
'Some time prior to the initial hearing in these Dockets, a prehearing conference was held in the offices of the Commission at Tallahassee, Florida between the motor freight carriers participating herein and the Commission's Staff for the purpose of simplifying the ***603** issue as much as possible, determining the nature and scope of the exhibits to be offered at the hearing by various parties, and developing a separation procedure to be used by the carriers in ascertaining the inter-intrastate relationship of their operations. A separation procedure was agreed upon, reduced to writing and was subsequently received in evidence herein as Exhibit No. 92. The basis factors for the separation procedure were to be the actual revenues, truck and tractor miles and tons of revenue freight carried. At the conference representatives of Central Truck Lines stated that they could make a separation between interstate and intrastate operations on the basis of actual revenues, truck and tractor miles and tons of revenue freight carried. Because of this representation, and because Central appeared to be the most representative carrier participating herein with both interstate and intrastate operations, Central Truck Lines was selected to make the separation study which would be accepted as representing the inter-intrastate relationship of the carriers as a group.

'During the hearings it developed that the basic factors used in making the separation study were not actual as required by Exhibit No. 92, aforesaid. On the contrary a very simple but completely unreliable method was employed to determine interstate revenues, truck and tractor miles and tons of revenue freight carried. Schedules which originated or terminated at points outside the State of Florida were considered as exclusively interstate. These interstate schedules all originate or terminate at the carrier's basic terminals in Florida. The factors developed from this simple method did not comprehend shipments interchanged at Jacksonville with R. C. Motor Lines and other carriers. Neither did such factors take into consideration the miles and tonnage involved in transporting purely interstate shipments between such Florida terminals and Florida points of origin or destination. Miles of tonnage of this character were considered as intrastate in nature. All

schedules moving between points within the state were considered as exclusively intrastate even though they might be transporting interstate shipments.

'Applicant's witnesses readily admitted the foregoing discrepancies but attempted to minimize their effect by expressing the unsupported opinion that intrastate operations were favored by the method used because intrastate received credit for revenues that would have been credited to interstate operations under a complete and accurate analysis. This conclusion of the witnesses is a matter of opinion, is not predicated upon any reliable facts presented at the hearing, and is not shared by the Commission.

'Transportation companies seldom, if ever, make a satisfactory showing before the Commission for increases in their intrastate rates and charges. They appear always to be convinced that their revenue problems result from intrastate rate deficiencies but the proof of that situation inevitably leaves much to be desired. Carriers must find some reliable approach to the problem of demonstrating the results revenue wise of the intrastate portion of their operations. Once a sound and reliable approach is found it must be observed and followed completely in every detail.

'We are sounding the warning now to the common carrier motor freight lines that future cases of this kind must be supported by more reliable separation techniques. We believe the procedure outlined in Exhibit No. 92 aforesaid would have produced more satisfactory results had the separation procedure outlined therein been followed ***604** as intended. It is the purpose of this Commission to require the common carrier motor freight lines participating in this case to begin a continuing and permanent separation study with monthly reports to the Commission so that we may be fully and accurately advised concerning the revenue results of intrastate operations. The procedures to be observed in this continuing study will be announced in sufficient time for the study to be commenced in July of this year.

'In the meantime, system-wide exhibits of the various carriers, and their annual and quarterly reports filed with the Commission, strongly indicate that some of the carriers are in need of rate relief. The operating ratio is the most frequently used measure of a motor carrier's revenue needs and financial condition. * * *' [1]

The Commission determined that the applicants as a group were in need of total additional revenue (intrastate and interstate) in the amount of $1,540,994. The Commission, in its order, then said:
'Apportioning these additional revenue requirements between interstate and intrastate services poses the most difficult part of the problem. The separation study already mentioned herein was intended to simplify this problem. While we feel that the study did not follow the stipulated procedure, and is therefore unreliable, we must make some use of it because we have no

other source from which to draw in making the necessary apportionment of revenues and expenses.' (Emphasis supplied.)

The Commission, in its order, then made the necessary computation to enable it to enter the following finding:
'Based upon the record herein, including the quarterly and annual reports filed with the Commission by the participating carriers, the Commission finds as follows:

'(1) The common carrier motor freight lines participating in Motor Freight Tariff FR&PUC MF No. 7 are in need of additional intrastate revenues in the total sum of $971,549 on the basis of 1956 operations adjusted for revenue and expense increases occurring during that year and comprehending 1957 wage increases actually committed and agreed to by contract.

'(2) The additional revenues needed by the carriers can be produced by increasing minimum charges twenty-five cents (25¢) per shipment, and by increasing Class and Commodity Rates and Charges by 8.72%

'(3) The rates and charges when increased as aforesaid will be fair, just, reasonable, and compensatory.

'(4) Overseas Transportation Company should be require to discontinue assessing the arbitrary described above for a test period of one year. At the end of the test period the effect of the discontinuance of the arbitrary on the carrier's operating ratio will be determined as the basis for further action concerning the reinstatement or elimination of said arbitrary.

'(5) The increased rates and charges herein authorized should become effective upon proper tariff publication by applicant.'

***605** One of petitioners' contentions is that it was improper for the Commission to grant this rate increase to eleven carriers on the basis of evidence submitted by one carrier (Central Truck Lines, Inc.), particularly when this carrier is not representative of the other carriers involved.
This contention of the petitioners has been carefully considered and found to be without merit. The Legislature has authorized the Commission to determine facts in making and enforcing administrative rates, rules and regulations. Such determinations when duly made are, by statute, clothed with a presumption that they are prima facie reasonable and just. F.S.A. s 350.12(2)(m). On review this presumption of validity can only be overcome when either the invalidity of the Commission's decision appears plainly on the face of the order, rule, regulation or schedule, or where such weakness is made to appear by clear and satisfactory evidence.

Our examination of the record upon which the Commission based its order discloses that the Commission had before it evidence which included the annual and quarterly financial reports of all eleven carriers, as well as their current operating ratios. The Commission's determination that a rate increase was needed was based on competent substantial evidence supplied by the various carriers involved, including Central Truck Lines.

The record also shows that the selection of Central Truck Lines as the most representative carrier involved with both intra and interstate operations was not arbitrary or unreasonable. Even if we accept petitioners' assertions that Central Truck Line's operating expenses in certain areas are higher percentage-wise than those of the other carriers involved, we do not believe the petitioners have, by clear and satisfactory evidence, shown that Central Truck Lines was not sufficiently representative to provide the material it was selected to present. The petitioners have failed to overcome this statutory presumption in favor of the validity of the Commission's decision and, therefore, cannot prevail as to this point.

The major issue in this petition concerns the validity of the separation study prepared by Central Truck Lines, Inc. As indicated by the Commission's order, Central was selected to prepare a separation study designed to separate its revenues and expenses incident to intrastate operations from those connected with its interstate operations.

The petitioners assume the position that when a common carrier operates in both intrastate and interestate commerce, its revenue and expenses must be separated between intra and interstate by competent evidence before an intrastate rate increase can be granted by the Railroad and Public Utilities Commission. In support of this contention they cite that portion of the case of State ex rel. Railroad Com'rs v. Louisville and Nashville R. Co., 1912, 62 Fla. 315, 57 So. 175, 190, wherein this court said:

> 'Where the same property, labor, and management are used at the same time by a common carrier in interstate and intrastate commerce the value of the property and labor and management used should be properly apportioned in determining the reasonableness of the compensation for service rendered by the carrier in the intrastate business taken separately and as an entirety, or in connection with the interstate business concurrently done.'

See also State ex rel. Railroad Com'rs v. Seaboard Air Line R. Co., 1904, 48 Fla. 129, 37 So. 314, 320.

The reason behind this rule was explained in the following section of American Jurisprudence, where it is said:
'A state cannot justify unreasonably low rates for domestic transportation, considered alone, upon the ground that the carrier is earning large profits on its interstate business, nor can the carrier impose unreasonably high rates on ***606** domestic business in order to meet losses on interstate business; the reasonableness of the rates to be fixed by the state must be decided with reference exclusively to what is just and reasonable in respect of domestic business.' 9 Am.Jur., p. 520, s 130.

We believe the Commission's statement on this subject in the disputed order is of compelling significance. The Commission, after determining the total amount of additional revenue that it would take in its judgment to give all the carriers involved a reasonable return on their investment, said:
'While we feel that the study did not follow the stipulated procedure, and is therefore unreliable, we must make some use of it because we have no other source from which to draw in making the necessary apportionment of revenues and expenses.' (Emphasis supplied.)

This court recognizes that the Railroad Commission has the difficult and highly technical duty of regulating motor highway common carriers. Over the years it has gained a great deal of experience and knowledge in this field. In the instant case we are content that its characterization of the separation study as being 'necessary' to its establishment of a reasonable rate, was a sound exercise of its decisional powers.

We have now reached the very fulcrum of this case. For we are asked to pass upon the validity of a Commission order which, by its own terms, has used an 'unreliable' separation study to support a 'necessary' apportionment of revenues and expenses because it 'had no other source from which to draw this information'. [2]
The scope and procedure of the review of administrative orders has been often set forth. From the cases it is clear that on certiorari this court will not undertake to re-weigh or re-evaluate the evidence presented to the administrative body whose order is under examination. This court is charged with the duty of examining the record to determine whether the agency's order is in accord with the essential requirements of law and whether the agency had before it competent substantial evidence to support its findings and conclusions. De Groot v. Sheffield, Fla.1957, 95 So.2d 912, 916.

With reference to actions by the Railroad & Public Utilities Commission, the Legislature has clothed the orders with a presumption of validity. Section 350.12(2)(m), F.S.A., reads in part as follows:

> 'Every rule, regulation, schedule or order heretofore or hereafter made by the commissioners shall be deemed and held to be within their jurisdiction and their powers, and to be reasonable and just and such as ought to have been made in the premises and to have been properly made and arrived at in due form of procedure and such as can and ought to be executed, unless the contrary plainly appears on the face thereof of or be made to appear by clear and satisfactory evidence, and shall not be set aside or held invalid unless the contrary so appears. All presumptions shall be in favor of every action of the commissioners and all doubts as to ***607** their jurisdiction and powers shall be resolved in their favor, it being intended that the laws relative to the railroad commissioners shall be deemed remedial laws to be construed liberally to further the legislative intent to regulate and control public carriers in the public interest.'

It is clear that the above statutory injunction imposes a duty upon petitioners to either satisfactorily and clearly show the errors upon which they rely, or to show that such error plainly appears on the face of the order.

If there is competent substantial evidence to sustain the findings and conclusions of the Commission, and no rule of law was violated in the proceedings, and the whole record does not disclose an abuse of authority or arbitrary action, the findings and conclusions of the Commission will not be set aside on certiorari, even though the reviewing court might have reached different conclusions on the evidence. Florida Motor Lines v. State Railroad Commission, 1931, 101 Fla. 1018, 132 So. 851, 862. It is equally clear that the reverse of this holds true, for we have held that where a rate, rule or regulation is made without statutory authority or without giving the carrier affected by it, reasonable opportunity to be heard, or without obtaining or considering any substantial evidence, where investigation, inquiry and evidence are necessary as a basis for the action taken, the proceeding is not had in due course of law and this court will not enforce it. State ex rel. Railroad Com'rs v. Florida East Coast R. Co., 1912, 64 Fla. 112, 59 So. 385, 393.

In the instant case we are blessed with the unique opportunity to inspect the precise evidence which led the Commission to it findings and conclusions, for the Commission has in its order discussed in detail the logical processes and data used in arriving at its findings. The Commission's error, if any, thus plainly shows upon the face of its order. By its own statements the Commission has found the disputed separation study 'necessary' to its conclusions. Further, the Commission has measured the separation study against its experience in this field and determined the study was 'unreliable'. And last, but not least, the Commission has stated it must make some use of this 'unreliable' study 'because (it had) no other source from which to draw' in making the apportionment between

intra and interstate expenses and revenue. The question is clearly whether or not the Railroad Commission may ground an essential portion of its order solely on evidence it characterizes as unreliable. We think not. Although we are fully aware of the statutory presumption in favor of such orders and know our obligation to resolve all doubt in favor of the validity of the Commission's actions, it is our opinion that Order 3910 clearly shows upon its face that it is not supported by competent substantial evidence.

Although the terms 'substantial evidence' or 'competent substantial evidence' have been variously defined, past judicial interpretation indicates that an order which bases an essential finding or conclusion solely on unreliable evidence should be held insufficient.

In the case of N. L. R. B. v. A. S. Abell Co., 4 Cir., 1938, 97 F.2d 951, 958, a federal court said that the substantial evidence rule is not satisfied by evidence which merely creates a suspicion or which gives equal support to inconsistent inferences. And in Milford Copper Co. of Utah v. Industrial Commission, 1922, 61 Utah 37, 210 P. 993, 994, the court said that evidence to be substantial must possess something of substantial and relevant consequence and must not consist of vague, uncertain, or irrelevant matter not carrying the quality of proof or having fitness to induce conviction. Surmise, conjecture or speculation have been held not to be substantial evidence. White v. Valley Land Company, 1958, 64 N.M. 9, 322 P.2d 707, 709.

And in this state in the recent case of De Groot v. Sheffield, supra, Mr. Justice Thornal ***608** capably defined the term and its usage when he wrote

> 'We have used the term 'competent substantial evidence' advisedly. Substantial evidence has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred. We have stated it to be such relevant evidence as a reasonable mind would accept as adequate to support a conclusion. Becker v. Merrill, 155 Fla. 379, 20 So.2d 912; Laney v. Board of Public Instruction, 153 Fla. 728, 15 So.2d 748. In employing the adjective 'competent' to modify the word 'substantial,' we are aware of the familiar rule that in administrative proceedings the formalities in the introduction of testimony common to the courts of justice are not strictly employed. Jenkins v. Curry, 154 Fla. 617, 18 So.2d 521. We are of the view, however, that the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the 'substantial' evidence should also be 'competent.' Schwartz, American Administrative Law, p. 88; The Substantial Evidence Rule by Malcolm Parsons, Fla.Law Review, Vol. IV, No. 4, p. 481; United States Casualty Company v. Maryland Casualty Company, Fla.1951, 55 So.2d 741; Consolidated Edison Co.

of New York v. National Labor Relations Board, 305 U.S. 197, 59 S.Ct. 206, 83 L.Ed. 126.'

The evidence relied upon to sustain the ultimate finding in this case has been characterized by the Railroad and Public Utilities Commission as 'unreliable'. Webster's New International Dictionary (2nd Edition) defines unreliable to mean not reliable; undependable; untrustworthy.

Our administrative evidentiary standard is competent substantial evidence. It is clear that the use of unreliable evidence as the sole foundation of an essential portion of the Commission's findings fails to meet this standard. This order is not grounded upon competent substantial evidence legally sufficient to support the Commission's findings and conclusions. This fatal deficiency is etched boldly upon the face of the order herein challenged.

For this reason the petition for writ of certiorari is granted and Order 3910 of the Florida Railroad and Public Utilities Commission is quashed.

TERRELL, C. J., and THOMAS and O'CONNELL, JJ., concur.

ROBERTS, J., dissents.

All Citations

108 So.2d 601

Footnotes

1 The operating ratio is the proportion which operating expense bears to operating income. Stated another way, the operating ratio represents the number of cents required to be expended as operating expenses in producing one revenue dollar. An operating ratio in excess of 100 would indicate that operating expenses exceeded operating revenues. Just how low the operating ratio should be is one of the problems of motor carrier rate making. (Taken from Railroad & Public Utilities Commission's Order No. 3910, June 5, 1957.

2 The record discloses that a five day actual traffic study of all 11 carriers was conducted. This exhibit was designed to show how the present revenue was split between intra and interstate commerce and what effect on future revenue the proposed increases would have. This exhibit does not contain a separation of interstate and intrastate costs and expenses. The results

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of such short period studies was stated to be unreliable by a member of the Commission staff. We mention this study here merely to show that were it not for the Commission's own statements, in the order, informing us of the evidence upon which it based its findings and conclusions, we would be presented with the more difficult problem of determining whether or not the other evidence of record was sufficient to support the Commission's findings and conclusions.

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619 So.2d 996
District Court of Appeal of Florida,
Second District.

LEE COUNTY, a political subdivision of the State of Florida, Petitioner,
v.
SUNBELT EQUITIES, II, LIMITED PARTNERSHIP,
a Pennsylvania limited partnership, Respondent.

No. 92–03948.
|
May 14, 1993.
|
Rehearing Denied June 16, 1993.

Synopsis

Property owner sought to have property currently zoned for agricultural use rezoned for purposes of constructing commercial/office development. Although proposal was apparently consistent with future land use projections as embodied in county comprehensive plan, county commission overruled recommendation of planning staff and hearing examiner and denied rezoning. Owner sought judicial review. The Circuit Court for Lee County, James R. Thompson, J., granted certiorari and found that denial of application was not supported by evidence. County sought further certiorari review. The District Court of Appeal held that: (1) site-specific, owner-initiated rezoning request was sufficiently judicial in character that final administrative order was appropriate for appellate review, and (2) it was not sufficient for property owner to show that proposed use was consistent with comprehensive plan, and decision to deny could be sustained if record reflected substantial competent evidence favoring continuation of status quo.

Petition granted, order quashed, case remanded.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***998** James G. Yaeger, County Atty., and Thomas L. Wright, Asst. County Atty., Fort Myers, for petitioner.

Steven C. Hartsell, Pavese, Garner, Haverfield, Dalton, Harrison & Jensen, Fort Myers, for respondent.

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Opinion

PER CURIAM.

We review Lee County's petition for writ of certiorari pursuant to *Education Development Center, Inc. v. City of West Palm Beach Zoning Board of Appeals,* 541 So.2d 106 (Fla.1989) and *City of Deerfield Beach v. Vaillant,* 419 So.2d 624 (Fla.1982). Finding that the circuit court did not apply the correct law to the facts and issues presented in this case, we grant the petition.

I. BACKGROUND

This action stems from a request for rezoning submitted by respondent Sunbelt Equities II (hereafter "Sunbelt"). Sunbelt owns a parcel currently zoned for agricultural use, upon which it wishes to construct a commercial/office development. Apparently the proposal is consistent with future land use projections as embodied in the Lee County comprehensive plan. However, opponents of the proposal have asserted that continuing the present zoning classification is preferable, at least for the time being. [1] Although county planning staff and a hearing examiner recommended approval of the ***999** proposal with changes, the county commission overruled that recommendation and denied the rezoning. In so doing the commission issued a written resolution which made three separate findings of fact: [2]

> (1) The proposal is inconsistent with the site location standards for Neighborhood Commercial Development as set forth in ... the Lee County Comprehensive Land Use Plan ... which requires Neighborhood Commercial Developments to be located at the intersection of a collector and arterial or an arterial and arterial road so as to allow access to two roads.
>
> (2) The proposal would result in unreasonable development expectations which may not be achievable because of commercial acreage limitations on the "Year 2010 Overlay [map]" for the subdistrict in question in violation of.... the Lee County Comprehensive Land Use Plan.
>
> (3) The proposal would permit a commercial development to locate in such a way as to open new areas to premature, scattered, or strip development....

Sunbelt then sought relief in circuit court via a proceeding the county aptly describes as a "hybrid." [3] The circuit court granted certiorari, "find [ing] that there was no substantial, competent evidence to support the decision of the Lee County Board of County Commissioners in ... denying [Sunbelt]'s application for rezoning." The county now asks us to review that decision.

II. REZONING: LEGISLATIVE OR JUDICIAL PROCEEDING?

The circuit court, in asserting its power to review the matter via certiorari, appears to have relied upon *Snyder v. Board of County Commissioners of Brevard County,* 595 So.2d 65 (Fla. 5th DCA 1991), *jdn. accepted,* 605 So.2d 1262 (Fla.1992), which states that owner-initiated, site-specific rezoning proceedings are quasi-judicial in nature. The county had moved to dismiss Sunbelt's petition because, in its view, all zoning decisions are legislative rather than judicial. The difference between these concepts affects both the accepted method of subsequent judicial review and the scope of that review.

(a) Is there conflict between *Snyder v. Brevard County* and prior holdings of this court?

The county contends that *Snyder* conflicts with cases from this court describing rezoning as a legislative activity. *See, e.g., Lee County v. Morales,* 557 So.2d 652 (Fla. 2d DCA), *rev. denied,* 564 So.2d 1086 (Fla.1990); *Hirt v. Polk County Board of County Commissioners,* 578 So.2d 415 (Fla. 2d DCA 1991).[4] Sunbelt disputes that conflict exists, and notes that our court has employed certiorari review in settings factually similar to the present case. *Manatee County v. Kuehnel,* 542 So.2d 1356 (Fla. 2d DCA), *rev. denied,* 548 So.2d 663 (Fla.1989).

We agree that no material conflict arises between *Lee County v. Morales* and *Snyder. Morales* involved a comprehensive downzoning of an environmentally sensitive barrier island initiated by the county, and did not involve an owner-initiated zoning change. Moreover, any conflict between *Snyder* and *Hirt v. Polk County* exists only in dicta. *Hirt* was not a rezoning, but rather a neighboring property owner's challenge to approval of a Planned Unit Development. The case was disposed of on procedural grounds—the circuit court had dismissed Hirt's certiorari petition, and ***1000** this court, finding the county's construction of applicable rules to have been a "judicial" undertaking, ordered the petition reinstated and decided on its merits.

In *Hirt* Judge Scheb engaged in a functional analysis of the underlying administrative proceedings quite similar to that in *Snyder* (and which was cited with approval in *Snyder). Hirt* states that the legislative *versus* judicial determination turns on (1) the nature of the challenge; and (2) the manner in which the zoning authority went about making its decision. *Snyder,* Sunbelt urges, is "the logical culmination of [this] functional analysis." However, Judge Scheb did remark in passing that rezonings were "legislative." 578 So.2d at 417. He did not distinguish between a county-initiated, broad-based rezoning, as in *Morales,* and a site-specific, owner-initiated rezoning as in *Kuehnel.*

(b) When, if ever, is rezoning a "judicial" matter?

Florida's appellate courts are neither unanimous nor consistent on the question whether rezonings are legislative or quasi-judicial. [5] Neither are they consistent about the method or scope of review. For example, in *St. Johns County v. Owings,* 554 So.2d 535 (Fla. 5th DCA 1989), *rev. denied,* 564 So.2d 488 (Fla.1990), and *Palm Beach County v. Tinnerman,* 517 So.2d 699 (Fla. 4th DCA 1987), *rev. denied,* 528 So.2d 1183 (Fla.1988), the courts applied the "fairly debatable" standard appropriate for legislative decisions, but reviewed the proceedings by certiorari as if they were judicial in nature.

"A judicial inquiry investigates, declares, and enforces liabilities as they stand on present facts and under laws supposed already to exist ... Legislation, on the other hand, looks to the future and changes existing conditions by making a new rule to be applied thereafter to all or some part of those subject to its power." *Prentis v. Atlantic Coast Line Co.,* 211 U.S. 210, 226, 29 S.Ct. 67, 69, 53 L.Ed. 150, 158 (1908), quoted in *Jennings v. Dade County,* 589 So.2d 1337, 1343 (Fla. 3d DCA 1991), *rev. denied,* 598 So.2d 75 (Fla.1992) (Ferguson, J., concurring). A judicial decision involves a controversy over how *existing* law affects a set of facts—what Judge Scheb called "enforcing" the current ordinance. 578 So.2d at 417. Placed in the zoning/code enforcement context, the court or agency asks: "Has the party done something in violation of the law?" or "Will the law allow the party to do what it wants?" By contrast, legislation *changes* the existing law. Arguably, it is immaterial whether such change stems from the fiat of the governing body (*e.g.* a comprehensive rezoning) or from an individual request to "change the law for me" (the *Snyder*/Sunbelt rezonings).

Snyder, in concluding that owner-initiated rezoning proceedings are nevertheless quasi-judicial in character, borrows heavily from two sources. One, *Coral Reef Nurseries, Inc. v. Babcock Co.,* 410 So.2d 648, 652 (Fla.3d DCA 1982), declares that "it is the character of the administrative hearing leading to the action of the administrative body that determines the label to be attached to the action...." The court in *Coral Reef* was deciding whether "administrative *res judicata*" operated to bar a second rezoning application; though they eventually determined that the nature of these rezoning hearings made them "judicial," the court went on to afford considerable deference to the local government in deciding whether circumstances had sufficiently changed to defeat application of the *res judicata* principle.

Another source is the widely-cited opinion of the Oregon Supreme Court, *Fasano v. Board of County Commissioners of Washington County,* 264 Or. 574, 507 P.2d 23 (1973). The plaintiffs in *Fasano* had unsuccessfully opposed a zoning change before their county commission, but prevailed at all levels of the Oregon court ***1001** system because the rezoning was not shown to be consistent with the local comprehensive plan. The supreme court began its analysis by stating, "Any meaningful decision as to the proper scope of judicial review of a zoning decision must

start with a characterization of the nature of that decision." 507 P.2d at 25–26. Most jurisdictions, including Oregon itself, heretofore had "state[d] that a zoning ordinance is a legislative act and is thereby entitled to presumptive validity." 507 P.2d at 26. This approach, however, may have been "ignoring reality." *Id.*

> Ordinances laying down general policies without regard to a specific piece of property are usually an exercise of legislative authority, are subject to limited review and may only be attacked upon constitutional grounds for an arbitrary use of authority. On the other hand, a determination whether the permissible use of a specific piece of property should be changed is usually an exercise of judicial authority and its propriety is subject to an altogether different test.

Id. [6]

It is notable that *Fasano,* like most of the "consistency" cases we will discuss, involved a challenge to a rezoning that (initially) was successfully obtained despite a claim it was not only bad policy but not in compliance with the law. That is, *Fasano* (like *Hirt*) asked the question, unarguably judicial in character, "Does the existing law permit it?"

> The fact remains, however, that many rezoning decisions *are* properly reviewable by certiorari. While legislative authority (that is, the discretion to determine what the law should be) may not be delegated, a legislative body may delegate to a board or official the authority to apply the law if sufficient standards and procedural safeguards are adopted to ensure a proper application of legislative intent. Most zoning ordinances delegate, with standards, the authority to decide such things as variances or conditional use approvals, and these quasi-judicial determinations are reviewable by certiorari. Similarly, the authority to decide what zoning district to apply to each property could, with adequate standards, become a delegated, quasi-judicial determination. Far more often, however, rezoning decisions are held to be reviewable by certiorari merely because a zoning ordinance, charter or special act provides that they shall be.

LaCroix, *The Applicability of Certiorari Review to Decisions on Rezoning,* Fla.B.J., June 1991, at 105 (*footnotes omitted*).

We believe a fair and workable solution is to adopt the functional analysis of *Snyder,* which is consistent procedurally with our prior decision in *Manatee County v. Kuehnel.* That is, we agree that site-specific, owner-initiated rezoning requests are sufficiently judicial in character that final administrative orders are thereafter appropriate for appellate review.

(c) What Does It Mean to Label a Proceeding "Judicial"?

Our decision to adopt this portion of the *Snyder* opinion will measurably affect those local governments who, in continuing to regard *Snyder*-type rezonings as purely legislative, may utilize overly informal procedures when considering such requests. "When acting in a truly legislative function, a legislative body ... is not required to make findings of fact and statement of reasons supporting its decision as is necessary in order for the courts to effectively review governmental action for compliance with constitutional and statutory rights and limitations." *Snyder,* 595 So.2d at 68.

The effect of labeling rezoning decisions as quasi-judicial is to refer them to an independent forum that is isolated as far as is possible from the more politicized activities of local government, much as the judiciary is constitutionally independent of the legislative and executive branches. Because ***1002** these decisions today are inextricably linked with property rights-related claims, we view this shift toward enforced neutrality as salutary. The evolving law of property rights, exemplified by *Lucas v. South Carolina Coastal Council,* 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992), does not augur well for local governments who are reluctant to justify their decisions with explicit references to evidence and public policy. If reached under a veil of silence, even honest land-use decisions are vulnerable to charges of arbitrariness or improper motive.

Moreover, it is debatable whether the new procedural requirements implicit in our adoption of *Snyder* should be viewed either as onerous or as infringing upon powers traditionally reserved for local elected officials.

> [W]e note that the quality of due process required in a quasi-judicial hearing is not the same as that to which a party to a full judicial hearing is entitled. Quasi-judicial proceedings are not controlled by strict rules of evidence and procedure. Nonetheless, certain standards of basic fairness must be adhered to in order to afford due process.... A quasi-judicial hearing generally meets basic due process requirements if the parties are provided notice of the hearing and an opportunity to be heard. In quasi-judicial zoning proceedings, the parties must be able to

> present evidence, cross-examine witnesses, and be informed of all the facts upon which the commission acts.

Jennings v. Dade County, 589 So.2d at 1340.

III. THE SCOPE OF REVIEW AT THE CIRCUIT AND D.C.A. LEVELS

It necessarily follows that any party adversely affected by a rezoning decision is entitled to some form of direct appellate review. Therefore, we turn to the standard of review that should be employed by the circuit and district courts when presented with such cases. At the outset we acknowledge the existence of several terms of art which warrant (and may sometimes lack) clear definition, among them "fairly debatable," "substantial competent evidence," and, in the wake of mandatory statewide comprehensive planning, "consistency" and "strict scrutiny." All come into play in *Snyder* and in the present case.

(a) "Fairly debatable" and "substantial competent evidence"

The terms "fairly debatable"—generally applied to sustain actions thought of as legislative—and "substantial competent evidence"—which must exist to support quasi-judicial determinations—may in fact be more similar than some decisional and textual authorities suggest.

> The "fairly debatable" rule is a rule of reasonableness; it answers the question of whether, upon the evidence presented to the municipal body, the municipality's action is reasonably based. The primary purpose of the "fairly debatable" test is to allocate decision-making authority over zoning matters between the legislative municipal body and the judiciary. The test purports to prevent the court from substituting its judgment *with regard to zoning ordinance enactments* for that of the zoning authority. In other words, the "fairly debatable" test was created to review the *legislative*-type enactments of zoning ordinances.

Town of Indialantic v. Nance, 400 So.2d 37, 39 (Fla.5th DCA 1981), *approved,* 419 So.2d 1041 (Fla.1982) (*citations omitted; emphasis in original*).

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> At issue in *DeGroot [v. Sheffield,* 95 So.2d 912 (Fla.1957),] was the proper method and scope of review of a quasi-judicial county board determination. The *DeGroot* court held that where ... notice and hearing are required and the judgment of the board is contingent on the showing made at the hearing, the action is judicial or quasi-judicial ... The court then explained that "competent substantial evidence" was evidence a reasonable mind would accept as adequate to support a conclusion. The *DeGroot* "competent substantial evidence" standard of review of quasi-judicial action effectively provides the same standard the "fairly debatable" test provides for review of legislative municipal zoning action: For ***1003** the action to be sustained, it must be reasonably based in the evidence presented."

400 So.2d at 40 (*citations omitted*).[7]

(b) "Consistency" and "Strict Scrutiny"

In Florida, all zoning and development permitting must now be consistent with the comprehensive plan of the city or county in question. *See* § 163.3161(5), Fla.Stat. (1991). The comprehensive plan has been likened to a "constitution" and has been described as "a limitation on a local government's otherwise broad zoning powers." *Machado v. Musgrove,* 519 So.2d 629, 632 (Fla.3d DCA 1987), *rev. denied,* 529 So.2d 693 (Fla.1988).[8] *See also, Hillsborough County v. Putney,* 495 So.2d 224 (Fla.2d DCA 1986). *And cf. City of Cape Canaveral v. Mosher,* 467 So.2d 468, 471 (Cowart, J., concurring specially).

According to *Machado,* "where a zoning action is challenged as violative of the comprehensive land use plan, the burden of proof is on the one seeking a change to show by competent and substantial evidence that the proposed development conforms strictly to the comprehensive plan and its elements." *Id.* Thus arises the term "strict scrutiny." Apparently there is conflict, between *Machado* and *Southwest Ranches Homeowners Association, Inc. v. Broward County,* 502 So.2d 931 (Fla.4th DCA), *rev. denied,* 511 So.2d 999 (Fla.1987), as to when "strict scrutiny" should be employed. *See* Mitchell, "In Accordance With a Comprehensive Plan: The Rise of Strict Scrutiny in Florida," 6 Fla.St.U.J.Land Use & Envtl.L. 79 (1990).[9]

400 So.2d 1051
District Court of Appeal of Florida, Second District.

Doris CONETTA, Appellant,
v.
CITY OF SARASOTA, Appellee.

No. 80-2176.
|
July 15, 1981.

Synopsis
Petitioner appealed from an order of the Circuit Court, Sarasota County, Robert E. Hensley, J., which denied her petition for certiorari to review a decision of a city commission denying her application for a special exception to build a guest house on her property. The District Court of Appeal, Boardman, J., held that denial of special exception allowing petitioner to build guest house on her property, which was based on objections of several residents which did not bear on any of the relevant criteria set forth in applicable section of city zoning code, was improper.

Reversed and remanded.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***1051** Stanley Hendricks of Dent, Pflugner, Rosin & Haben, Sarasota, for appellant.

Robert M. Fournier of Hereford, Taylor & Steves, Sarasota, for appellee.

Opinion

BOARDMAN, Judge.

Doris Conetta, petitioner in the circuit court, appeals the denial of her petition for certiorari to review a decision of the Sarasota City Commission denying her application for a special exception to build a guest house on her property. We reverse.

Appellant petitioned appellee City of Sarasota for a special exception allowing her to build a guest house on her property. Appellant also furnished the city with a letter stating that the guest house would not be rented, would be used by members of her family only, would not have any cooking ***1052** facilities, would not have a separate utility meter, and would be built in accordance with all

applicable city ordinances. This letter constituted a promise of compliance with each requirement of the ordinance for the issuance of a special exception.

On January 9, 1980, the city Planning Board met, heard attorney John Dent speak on behalf of appellant's request, and heard several persons speak against the granting of the requested special exception.

A decision was deferred until the January 23, 1980, meeting, at which time counsel for appellant and two of the people who had previously spoken against the special exception appeared. In addition, letters in opposition from several residents of the area were brought to the board's attention.

Many of those opposed to a special exception for appellant gave no reason for their objections. One of the major reasons for objection that was stated was that appellant's guest house would not conform to the rest of the area. This was because the structure was to be raised on stilts to twelve feet above ground level. This aspect of the design was not of appellant's own choosing, however; it was mandated by the flood plan zoning currently in effect. Moreover, there was at least one other parcel of property in the neighborhood that contained a raised structure. The other major objection involved the concern that despite appellant's assurances that she would not rent her guest house, she might later sell her property, and the new owner might rent the guest house. Both a member of the Planning Board and City Manager Thompson noted that the proscription against renting guest houses was difficult to enforce. However, at no time was there any question of appellant's good faith in regard to her promise not to rent her guest house.

The board ultimately recommended denial of the special exception, and the matter came before the City Commission on April 21, 1980. The City Commission denied the special exception on the basis of the Planning Board's recommendation. Appellant then filed a petition for certiorari with the circuit court, seeking review of the City Commission's decision. The circuit court denied the petition, and this appeal followed timely.

It is well settled that the courts will not interfere with administrative decisions of zoning authorities unless such decisions are arbitrary, discriminatory, or unreasonable. City of Naples v. Central Plaza of Naples, Inc., 303 So.2d 423 (Fla.2d DCA 1974). However, the only criteria upon which the Planning Board or the City Commission could rely in passing upon appellant's special exception request were those spelled out in the pertinent ordinance. North Bay Village v. Blackwell, 88 So.2d 524 (Fla.1956); City of Naples v. Central Plaza of Naples, Inc., supra. They nevertheless decided the matter on the basis of the objections of several residents, none of which objections bears on any of the relevant criteria set forth in section 43-12(8) (f), the applicable section of the city zoning code.

Appellant complied with the terms of the ordinance. This being so, the Planning Board and the City Commission then had the burden of establishing that the use she proposed would adversely affect the public interest. Rural New Town, Inc. v. Palm Beach County, 315 So.2d 478 (Fla.4th DCA 1975). The court there noted:

> There is a distinction between seeking rezoning and seeking a special exception; each involves somewhat different considerations. In rezoning, the burden is upon the applicant to clearly establish such right (as hereinabove indicated). In the case of a special exception, where the applicant has otherwise complied with those conditions set forth in the zoning code, the burden is upon the zoning authority to demonstrate by competent substantial evidence that the special exception is adverse to the public interest. Yokley on Zoning, vol. 2, p. 124. A special exception is a permitted use to which the applicant is entitled unless the zoning authority determines according to the standards in the zoning ordinance that ***1053** such use would adversely affect the public interest.

Id. at 480.

In the instant case, neither the Planning Board nor the City Commission met their burden. Their decision appears to be based primarily on the sentiments of other residents of Siesta Key as to whether the special exception should be granted. It amounted to no more than a popularity poll of the neighborhood.

In City of Apopka v. Orange County, 299 So.2d 657, 659-660 (Fla.4th DCA 1974), the court quoted with approval from 3 Anderson, American Law of Zoning, s 15.27 as follows:

> "The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect. While the facts disclosed by objecting neighbors should be considered, the courts have said that:
>
> > 'A mere poll of the neighboring landowners does not serve to assist the board in determining whether the exception applied for is consistent with the public convenience or welfare or whether it will tend to devaluate the neighboring property.' "

The denial of the special exception was based solely on (a) its unpopularity with some Siesta Key residents and (b) the conjecture that a grantee of appellant might thereafter violate the ordinance coupled with the recognition that the proscription against renting guest houses is difficult to

enforce. As to the enforcement problem, the remedy would simply be to amend the ordinance to exclude special exceptions for guest houses, as City Manager Thompson recommended to the commission at the hearing.

Lastly, the city urges that the special exception should be denied because the structure would not be compatible and in harmony with the neighborhood. This contention is without merit because under the present zoning ordinance any new buildings constructed in the area would be required to be erected twelve feet above ground level.

There being no proper basis for the City Commission's denial of the special exception requested by appellant, we REVERSE the circuit court's denial of appellant's petition for writ of certiorari and REMAND with directions to grant the writ.

HOBSON, Acting C. J., and GRIMES, J., concur.

All Citations

400 So.2d 1051

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299 So.2d 657
District Court of Appeal of Florida, Fourth District.

The CITY OF APOPKA, Florida, et al., Appellants,
v.
ORANGE COUNTY, a political subdivision of the State of Florida, and Clarcona Improvement Association, Appellees.

No. 73—273.
|
Feb. 22, 1974.
|
On Rehearing April 11, 1974.

Synopsis

Application submitted by three communities for special exception to allow construction of airport on extraterritorial land owned by them was denied by the zoning board of adjustment and the board of county commissioners affirmed. Municipalities' petition for certiorari was denied by the Circuit Court, Orange County, Parker Lee McDonald, J., and municipalities appealed. The District Court of Appeal, Downey, J., held that it was not the function of the board of county commissioners to hold a plebiscite on the application for special exception and that board's duty was to make finding as to how construction and operation of proposed airport would affect public interest and base its granting or denial of the special exception on those findings; and that evidence which consisted mainly of laymen's opinions which were unsubstantiated by competent facts and which were submitted at hearing where witnesses were not sworn and where cross-examination was specifically prohibited did not support conclusion that public interest would be adversely affected by the granting of the special exception.

Reversed and remanded with directions.

Procedural Posture(s): On Appeal.

Attorneys and Law Firms

***657** William G. Mitchell, of Giles, Hedrick & Robinson, Orlando, for appellants.

***658** Steven R. Bechtel, of Mateer & Harbert, Orlando, for appellee Orange county.

Carter A. Bradford, of Bradford, Oswald, Tharp & Fletcher, Orlando, for appellee Clarcona Improvement Assn.

Opinion

DOWNEY, Judge.

This is an appeal by the cities of Apopka, Ocoee, and Winter Garden and the Tri-City Airport Authority from a final judgment of the circuit court denying their petition for certiorari which sought review of an order denying appellants' application for a special exception. This is a companion appeal to those consolidated appeals numbered 72—1204 and 72—1209, 299 So.2d 652.

The appellant cities formed the appellant Tri-City Airport Authority pursuant to Chapter 332, F.S.1971, F.S.A., commonly known as The Airport Law of 1945, for the purpose of building an airport to serve the three cities and the surrounding area. Appropriate engineering studies were made and various sites for the proposed airport were considered. Finally, the Authority determined that a parcel of property located in Orange County outside any municipality and zoned A—1 was the most suitable site for the proposed airport. The Authority thereafter obtained options to buy that property. Orange County's zoning legislation permits construction and operation of 'airplane landing fields and helicopter ports with accessory facilities for private or public use' in an A—1 district as a special exception. Thus, the three cities and the Authority filed an application for a special exception with the Orange County Zoning Board of Adjustment to build their proposed airport. Without entering any finding of fact, the Zoning Board of Adjustment denied the application on the ground that granting it 'would be adverse to the general public interest.' On appeal to the Board of County Commissioners a de novo hearing was held with the following result:

> 'A motion was made by Commissioner Pickett, seconded by Commissioner Poe, and carried, that the decision of the Board of Zoning Adjustment on December 2, 1971 denying application No. 2 for a Special Exception in an A—1 District for the construction of a proposed Tri-City Airport be affirmed and upheld on the grounds that the granting of the proposed Special Exception would adversely affect the general public and would be detrimental to the public health, safety, comfort, order, convenience, prosperity and general welfare and, therefore, not in accordance with the Comprehensive Zoning Plan of Orange County.'

Appellants then filed a petition for a writ of certiorari in the circuit court in accordance with the provisions of the Orange County Zoning Act, Chapter 63—1716, Laws of Florida, as amended, to obtain review of the foregoing decision of the Board of County Commissioners. While the petition for certiorari was pending appellants filed another action in the Circuit Court of Orange County.

The new action sought a declaration that implementation of Chapter 332, F.S.1971, F.S.A., by the appellants constituted a governmental function thereby exempting appellants from the operation of Orange County zoning regulations.

In order to determine whether there was substantial competent evidence to support the decision below we must of necessity resort to the evidence introduced at the hearing before the Board of County Commissioners. The appellants adduced evidence from (a) the Tri-City Airport Authority consulting engineer, (b) a representative of the Federal Aviation Agency, (c) and a representative of the Florida Department of Transportation, Mass Transit Division. Their testimony showed that there was a definite public need for the airport; that serious in depth studies had been made to determine the most appropropriate location for the airport; that the location in question was the best available considering such factors as (1) convenience to users, (2) land and area requirements, (3) general ***659** topography, (4) 'compatability with existing land use, plans and land users', (5) land costs, (6) air space and objections, (7) availability of utilities, (8) noise problems, (9) bird habitats and other ecological problems. The mayors of the three municipalities and the members of the Airport Authority also demonstrated that the selection of the site in question resulted from long study and competent advice on the subject. Approval had been received from every interested government agency including the Federal Aviation Administration, the Florida Department of Transportation, and the Florida Department of Air and Water Pollution Control.

The evidence upon which the Board of County Commissioners relied to deny appellants' application came from one abutting owner, Richard Byrd; several other owners within a two to five mile radius of the proposed airport site; a petition signed by some two hundred members of the Clarcona Improvement Association; and approximately thirty-five people in attendance at the hearing who objected but did not testify. Byrd's testimony was mainly directed to his opinion of what the airport would do to construction costs in the area and his opinion of what would happen to zoning in the area as a result of the proposed use. It also developed that Byrd is interested in buying the property proposed to be used as the airport. Several other property owners speculated about what would happen to the area's zoning, complained about the anticipated noise, and generally wanted to keep the status quo in the area. One witness who admitted he was a layman with no special training or experience advised the Board about his opinion of the damage to the Florida aquifer which would result from the proposed airport.

Although notice to and hearing of the proponents and opponents of an application for a special exception or other zoning change are essential and all interested parties should be given a full and fair opportunity to express their views, it was not the function of the Board of County Commissioners to hold a plebiscite on the application for the special exception. Rockville Fuel and Feed Co. v. Board of Appeals, 257 Md. 183, 262 A.2d 499, 504 (1970). As pointed out by Professor Anderson in Volume 3 of his work, American Law of Zoning, s 15.27, pp. 155—156:

'It does not follow, . . . that either the legislative or the quasi-judicial functions of zoning should be controlled or even unduly influenced by opinions and desires expressed by interested persons

at public hearings. Commenting upon the role of the public hearing in the processing of permit applications, the Supreme Court of Rhode Island said:

'Public notice of the hearing of an application for exception . . . is not given for the purpose of polling the neighborhood on the question involved, but to give interested persons an opportunity to present facts from which the board may determine whether the particular provision of the ordinance, as applied to the applicant's property, is reasonably necessary for the protection of . . . public health . . .. The board should base their determination upon facts which they find to have been established, instead of upon the wishes of persons who appear for or against the granting of the application.'

The objections of a large number of residents of the affected neighborhood are not a sound basis for the denial of a permit. The quasi-judicial function of a board of adjustment must be exercised on the basis of the facts adduced; numerous objections by adjoining landowners may not properly be given even a cumulative effect. While the facts disclosed by objecting neighbors should be considered, the courts have said that:

> 'A mere poll of the neighboring landowners does not serve to assist the board in determining whether the exception ***660** applied for is consistent with the public convenience or welfare or whether it will tend to devaluate the neighboring property."

(Footnotes omitted.)

Instead the Board's purpose was to make findings as to how construction and operation of the proposed airport would affect the public and base its granting or denial of the special exception on those findings. Cf. Laney v. Holbrook, 150 Fla. 622, 8 So.2d 465, 146 A.L.R. 202 (1942); Veasey v. Board of Public Instruction, Fla.App.1971, 247 So.2d 80.

The evidence in opposition to the request for exception was in the main laymen's opinions unsubstantiated by any competent facts. Witnesses were not sworn and cross examination was specifically prohibited. Although the Orange County Zoning Act requires the Board of County Commissioners to make a finding that the granting of the special exception shall not adversely affect the public interest, the Board made no finding of facts bearing on the question of the effect the proposed airport would have on the public interest; it simply stated as a conclusion that the exception would adversely affect the public interest. Accordingly, we find it impossible to conclude that on an issue as important as the one before the board, there was substantial competent evidence

to conclude that the public interest would be adversely affected by granting the appellants the special exception they had applied for.

The judgment appealed from is therefore reversed and remanded to the circuit court with directions to grant the writ of certiorari and to remand the cause to the board of county commissioners for another de novo hearing on the application for special exception.

If the decision of the board is deemed to be arbitrary or unreasonable the aggrieved party will then have the option of a judicial review by certiorari pursuant to Florida Appellate Rules or a trial de novo in the circuit court pursuant to the Rules of Civil Procedure. Section 163.250 F.S.1971, F.S.A.

Reversed and remanded with directions.

WALDEN and MAGER, JJ., concur.

ON PETITIONS FOR REHEARING.

PER CURIAM.

On petitions for rehearing the parties have advised this court that Orange County has not taken formal suitable action declaring its election to proceed under the provisions of Part II of the act entitled County and Municipal Planning For Future Development (163.160—163.315, F.S.1971, F.S.A.). Accordingly, the petitions for rehearing filed by the parties are granted and we recede from all references in our opinion of February 22, 1974, to the availability of Section 163.250, F.S.1971, F.S.A., in this case.

We maintain the view however, that the judgment appealed from should be reversed with directions to grant the writ of certiorari and to remand the cause to the board of county commissioners for another de novo hearing on the application for a special exception, at which time said board will have the opportunity to apply the balance-of-interests test to the evidence adduced before it. Thereafter, any aggrieved party may have that decision reviewed by the circuit court on petition for certiorari pursuant to the provisions of Chapter 63—1716, Special Acts of Florida, as amended.

WALDEN, MAGER and DOWNEY, JJ., concur.

All Citations

299 So.2d 657

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52 So.3d 19
District Court of Appeal of Florida, First District.

KATHERINE'S BAY, LLC, Intervenor, Appellant,
v.
Ronald J. FAGAN and Citrus County, Appellees.

No. 1D10–939
|
Dec. 14, 2010.

Synopsis
Background: Developer sought review of Department of Administration decision approving ALJ's ruling that rezoning of its property from low intensity coastal lakes (CL) to Recreational Vehicle Park/Campground (RVP) was invalid because it rendered the county's comprehensive plan internally inconsistent. Neighboring landowner intervened.

Holdings: The District Court of Appeal, Lewis, J., held that:

assertion that recommendation of the county staff was not given sufficient weight was unreviewable;

ALJ's finding that property had severe environmental limitations was thoroughly supported by the county staff's report;

ALJ's finding of severe environmental limitations was insufficient to justify overriding county's determination that amendment to plan was proper;

ALJ erred by relying on neighboring landowner's testimony concerning impact of rezoning; and

reliance by ALJ on definitions provided in Administrative Code was proper.

Reversed and remanded.

Attorneys and Law Firms

***21** Clark A. Stillwell, Inverness, for Appellant.

Shaw P. Stiller, General Counsel, Department of Community Affairs, Tallahassee, and Denise A. Lyn, Inverness, for Appellees.

Opinion

LEWIS, J.

Katherine's Bay, LLC, Appellant, seeks review of a final order issued by the Administration Commission ("the Commission"), which adopted an administrative law judge's ("ALJ") holding that a small-scale development amendment ("the Amendment") to Citrus County's Comprehensive Plan ("the Plan") was invalid because it rendered the Plan internally inconsistent. The ALJ and the Commission recognized two grounds for finding the Amendment inconsistent with the Plan: first, that it violated a policy in the Plan's Future Land Use Element ("FLUE") requiring compatibility of land uses; and second, that it violated a policy in the Plan's FLUE requiring the County to guide future development to areas with minimal environmental limitations. Appellant challenges both grounds. As to the first ground, Appellant argues that there was a lack of competent, substantial evidence to support the ALJ's finding that the Amendment approved a future land use designation that was incompatible with the surrounding uses. We agree. As to the second ground, Appellant argues both that there was a lack of competent, substantial evidence to support the ALJ's factual findings and that the ALJ's ultimate conclusion resulted from an erroneous construction of the Plan. While we do find competent, substantial evidence of the findings the ALJ made in relation to the second ground, we hold that the findings did not support the conclusion that the Amendment rendered the Plan internally inconsistent. Because the ALJ's conclusion that the Amendment rendered the Plan internally inconsistent is not supported by either of the FLUE policies at issue, we reverse and remand to the Commission for reinstatement of the ordinance.

*22 I. Facts and Procedural History

On May 26, 2009, the Citrus County Board of County Commissioners adopted an ordinance that amended the Plan's Generalized Future Land Use Map ("GFLUM"), which is a part of the FLUE. The Amendment changed the future land use designation of a 9.9–acre parcel of land owned by Appellant, based on Appellant's application for such a change.

The subject property is located in a geographic region defined by Citrus County as the "Coastal Area." According to the Plan, "[t]he Coastal Area parallels the Gulf of Mexico, and the boundary may be described as following the west side of US–19 north from the Hernando County line to the Withlacoochee River." The Plan notes that "[t]his boundary is the basis for an environmentally sensitive overlay zone to be used for land use regulatory purposes."

Before the Amendment, the subject property was designated Low Intensity Coastal and Lakes ("CL"), which the Plan defines in pertinent part as follows:

> **Low Intensity Coastal and Lakes (CL)**
>
> This land use category designates those areas having environmental characteristics that are sensitive to development and therefore should be protected. Residential development in this district is limited to a maximum of one dwelling unit per 20 acres....
>
> ....
>
> In addition to single family residential development, the following land uses may be allowed provided the permitted use is compatible with the surrounding area, and standards for development are met as specified in the Citrus County Land Development Code (LDC)[:]
>
> • Multifamily residences (in existing platted areas only or in lieu of clustering single family units at a density of one unit per lot of record and requiring the recombination of said lots. For example, a duplex requires two lots to be recombined into a single parcel, a quadruplex four lots, etc.)
>
> • Recreational uses
>
> • Agricultural and Silviculture uses
>
> • Public/Semi–Public, Institutional facilities
>
> • Home occupations
>
> • New railroad right-of-way, storage facilities, or related structures
>
> • Communication towers
>
> • Utilities
>
> • Commercial fishing and marina related uses
>
> • Commercial uses that are water related, water dependent, or necessary for the support of the immediate population[.]

The Amendment changed the subject property's future land use category from CL to Recreational Vehicle Park/Campground ("RVP"), which the Plan defines in pertinent part as follows:

> **Recreational Vehicle Park/Campground (RVP)**

This category is intended to recognize existing Recreational Vehicle (RV) Parks and Campgrounds, as well as to provide for the location and development of new parks for recreational vehicles. Such parks are intended specifically to allow temporary living accommodation for recreation, camping, or travel use.

....

New RV parks shall be required to preserve thirty percent (30%) of the gross site area as permanent open space, consistent with Policy 17.15.11 of this Plan.

***23** In addition to RV/campsite development, the following land uses as detailed in the Land Development Code, shall be allowed provided the permitted use is compatible with the surrounding area, and standards for development are met as specified in the County Land Development Code:

- Recreational Uses
- Agricultural and Silvicultural Uses
- Public/Semi–Public, Institutional Facilities
- Convenience retail and personal services to serve park visitors and guests up to one percent of the gross site area, not to exceed 5,000 square feet, located within the development and not accessible from any external road[.]

After the Amendment changing the subject property's future land use category from CL to RVP was adopted, Appellee, the owner of neighboring property, challenged the Amendment under the procedure set forth in section 163.3187(3)(a), Florida Statutes (2008). Appellee argued that the Amendment was not "in compliance" with the Local Government Comprehensive Planning and Land Development Regulation Act ("the Act") because it rendered the Plan internally inconsistent. Appellee identified two policies in the FLUE, among others, that he claimed were inconsistent with the Amendment. Those policies are 17.2.7 and 17.2.8, and they provide as follows:

Policy 17.2.7 The County shall guide future development to the most appropriate areas, as depicted on the GFLUM, specifically those with minimal environmental limitations and the availability of necessary services.

Policy 17.2.8 The County shall utilize land use techniques and development standards to achieve a functional and compatible land use framework which reduces incompatible land uses.

Appellant intervened in the proceedings, and the matter proceeded to a section 120.57 hearing.

The parties stipulated that the subject property is located across the road from Appellee's property, which is on the Homosassa River, and that the subject property is bordered in all directions by property designated as either CL or Coastal and Lakes Residential ("CLR"). They also stipulated that there exists on Appellant's property a parcel designated Coastal/Lakes–Commercial ("CLC") [1] and that this property is being used as an RV park because this use of the property is vested. Further, they stipulated that Appellee's property was in the Coastal High Hazard Area ("CHHA").

At the hearing, Appellee supported his argument that the Amendment rendered the subject property incompatible with the surrounding uses primarily by presenting his own testimony and that of his neighbor. Appellee described the beauty and peacefulness of the area and opined that the introduction of another RV park into the area would lead to increased traffic, litter, noise, and light pollution. He testified that the vested RV park currently existing on Appellant's property is an "eyesore" that "looks like a bunch of junk stored on the front lawn." Appellee also testified that, in 1993, there was a major flood in the area around his home, which was so severe that he had to tie boats to his mailbox to keep them from floating down ***24** the road. He was concerned that the RV park Appellant planned to develop on the subject property would require him to manage even more debris in the event of a natural disaster. Appellee also expressed concern that the RV park would decrease his property value. A neighbor expressed the same concerns about the potential for increased traffic and decreased property values in the area.

The evidence concerning the subject property's environmental limitations came in the form of the County Staff's report and the testimony of Dr. Timothy Pitts and Sue Farnsworth, both of whom were employed by the County as planners. The report was prepared by Dr. Pitts, who was the County's Senior Planner of Community Development at the time. According to the County Staff's report, the subject property was studied by officials in the fire prevention, engineering, utilities, and environmental divisions. The fire prevention and engineering representatives recommended approval of the application with conditions, and the utilities representative recommended approval. The environmental planner did not recommend approval or denial but noted that the subject property was within a "Karst Sensitive Area." [2] Additionally, the report indicated that a "traffic analysis" had revealed that "adequate capacity exists on Halls River Road for anticipated traffic at the maximum development potential of the site." The report also noted that the subject property was within the CHHA and that it contained "significant wetland areas." According to the report, if the application was granted, Appellant would still need to "design a Master Plan of Development that minimizes wetland alterations."

One of the policies of the Plan that the report indicated may be cause for concern was Policy 3.18.11, which provides as follows:

> The County shall protect springs by prohibiting increases in allowed land use intensity at the Generalized Future Land Use level within a Karst Sensitive Area without a hydrogeological analysis that addresses impacts to groundwater resources. The analysis shall be performed by a professional geologist or professional engineer licensed in Florida. Karst Sensitive Area shall be defined as an area in which limestone lies within five (5) feet of depth from natural grade.

In relation to this policy, the report stated that Appellant had "provided a letter from a professional engineer that adequately meets the intent of this policy" and that Appellant intended "to develop the site using methods that will meet the intent of the Comprehensive Plan." The report also contained the following observations:

> This site has some severe environmental restrictions—extensive wetlands, proximity to an Outstanding Florida Waterbody, Karst sensitive landscape—and it will be difficult to design a site that meets the standards of the Comprehensive Plan and the Land Development Code. The following policy would potentially restrict development if this application were to be approved:
>
> **Policy 3.16.3** Development shall not be allowed at the maximum densities and intensities of the underlying land use district if those densities would be harmful to natural resources.
>
> So, the applicant should be cautioned that given the environmental sensitivity of the property, development may be limited on this site to less than the allowable maximum intensity. If this ***25** application is approved, an appropriately designed master plan of development will be required which meets all standards of the Comprehensive Plan and the Land Development Code and is approved by the Board of County Commissioners.

Ultimately, despite the environmental limitations, the County Staff concluded that the site was "appropriate for some type of RV Park development subject to an appropriately designed master plan." In making this recommendation, the County Staff emphasized that, "based on the environmental limitations of the area, the applicant is cautioned that the site may not be able to be designed at the maximum intensity for this land use district."

Dr. Pitts testified consistently with the County Staff's report. He noted that neither the Plan nor the Land Development Code ("LDC") prohibits RV parks in either karst sensitive areas or the CHHA. He explained, however, that the County has regulations limiting the density or intensity of RV parks in such areas and indicated that the professional studies he had received on the subject property represented that the site could be developed to meet those standards. Dr. Pitts testified that, in his opinion, "just about anything west of [U.S. Highway 19] is ... karst sensitive." Dr. Pitts

acknowledged that the subject property had 1.64 acres of wetlands and that there were wetlands in the surrounding areas. He explained that the Plan requires "setbacks" to mitigate wetland impacts and that the LDC required one-hundred percent protection of the wetlands. Additionally, he explained that the regulations required fifty percent open space in the Coastal Area. Based on these regulations, Dr. Pitts testified that it was highly unlikely that Appellant would be permitted to develop the space at the maximum build-out potential theoretically allowed under the new designation, which would be five units per acre. He emphasized that, no matter what the number of approved units proved to be, complete protection of the wetlands would be required. Finally, Dr. Pitts testified that there were several vested uses in the surrounding area, including a 300–to 400–unit RV park, that did not conform to the land use designations identified for those properties in the Plan.

Farnsworth, an environmental planner for the County, testified that the wetlands were located around the perimeter of the property and that they extended into the part of the property beyond the perimeter. She explained, however, that permitting standards for an RV park prohibited the filling of wetlands and that the subject property could be developed as an RV park without the need to fill in the wetlands.

After the hearing, the ALJ issued a Recommended Order concluding that the Amendment was inconsistent with FLUE Policy 17.2.7's requirement that future development be directed to "the most appropriate areas, as depicted on the GFLUM, specifically those with minimal environmental limitations." In support of this conclusion, the ALJ noted the County Staff's finding that the land had "severe environmental limitations." In particular, the ALJ noted that the area in which the subject property was located had extensive wetlands, a karst sensitive landscape, and a CHHA designation. The ALJ acknowledged that the Plan did not expressly prohibit RV parks in CHHA areas and that there were regulations in the Plan and the LDC that would limit the intensity of development on this land even under the RVP designation. The ALJ concluded, however, that "[n]otwithstanding the other provisions within the Plan and LDRs that place limitations on RV park development ***26** in an effort to satisfy environmental constraints, ... the subject property is clearly not 'the most appropriate area, as depicted on the GFLUM' for new development, nor is it an area with 'minimal environmental limitations.' "

The ALJ also concluded that the Amendment was inconsistent with FLUE Policy 17.2.8's requirement that development be accomplished in a "functional and compatible land use framework which reduces incompatible land uses." Because "compatible" is not defined in the Plan, the ALJ relied on the definition of "compatibility" in Florida Administrative Code Rule 9J–5.003(23). That definition is as follows:

> "Compatibility" means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

In support of the conclusion that the new designation approved a land use incompatible with the surrounding uses, the ALJ noted Appellee's testimony concerning the characteristics of the area. He also noted Appellee's concerns about noise, lighting, litter, traffic, and property value. The ALJ further noted that there were only six nonconforming land uses and that each was permitted to exist due to vested rights. The ALJ then stated, "It is fair to infer that the insertion of an RV park in the middle of a large tract of vacant CL land would logically lead to further requests for reclassifying CL land to expand the new RV park or to allow other non-residential uses." The ALJ further found the following:

> The commercial RV park, with a yet-to-be determined number of spaces for temporary RVs, tenants, and associated commercial development, will be in close proximity to a predominately [sic] residential neighborhood. A reasonable inference from the evidence is that these commercial uses will have a direct or indirect negative impact on the nearby residential properties and should not coexist in close proximity to one another.

Based on these findings and the determination that the Amendment was inconsistent with FLUE Policy 17.2.7, the ALJ recommended that the Commission conclude that the Amendment was not in compliance with the Act.

The Commission adopted the ALJ's findings and conclusions, except that it modified the finding that the Amendment would "logically lead to further requests for reclassifying CL land to expand the new RV park or to allow other non-residential uses." The Commission concluded that this finding was mere conjecture, unsupported by competent, substantial evidence. It modified the finding to read, "Unlike the presence of ... pre-existing, non-conforming uses, permitting the addition of an RV park in the middle of a large tract of vacant CL land now would set a precedent that an RV park, a Commercial Land Use, is compatible with the Low Intensity Coastal and Lakes Land Use designation in this vicinity." Based on the adoption of the ALJ's findings and conclusions, as modified, the Commission held that the Amendment had no legal effect.

II. Analysis

A. Standard of Review

The amendment at issue in this case was adopted under the authority of section 163.3187(1)(c), Florida Statutes (2008). Section 163.3187(3)(a) provides for review of amendments adopted under section 163.3187(1)(c) under the following terms:

> The state land planning agency shall not review or issue a notice of intent for small scale development amendments which satisfy the requirements of paragraph ***27** (1)(c). Any affected person may file a petition with the Division of Administrative Hearings pursuant to *ss. 120.569* and *120.57* to request a hearing to challenge the compliance of a small scale development amendment with this act within 30 days following the local government's adoption of the amendment, shall serve a copy of the petition on the local government, and shall furnish a copy to the state land planning agency. An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days following the filing of a petition and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervenor. In the proceeding, the local government's determination that the small scale development amendment is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance with the requirements of this act. In any proceeding initiated pursuant to this subsection, the state land planning agency may intervene.

§ 163.3187(3)(a).

Because Appellant is challenging the Administration Commission's final agency action in this appeal, *see id.,* this Court's standard of review is governed by section 120.68(7), Florida Statutes (2010). That section provides in pertinent part as follows:

> The court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that:
>
> ....

(b) The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing conducted pursuant to *ss. 120.569* and *120.57;* however, the court shall not substitute its judgment for that of the agency as to the weight of the evidence on any disputed finding of fact; [or]

....

(d) The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action....

§ 120.68(7).

In this Court, Appellant challenges the sufficiency of the evidence supporting the findings of inconsistency with both policies.[3] In addition, Appellant challenges the ALJ's interpretation of the policy requiring that future development be directed toward areas of the County with minimal environmental limitations. The separate arguments concerning each policy will be addressed in turn.

B. FLUE Policy 17.2.7

With regard to FLUE Policy 17.2.7, Appellant raises two arguments: first, that ***28** the ALJ erred in relying on the County Staff's finding of "severe environmental limitations" because the County Staff recommended approval of the application; and second, that the ALJ erred in failing to apply the FLUE policies that are more specific to RV parks in the Coastal Area in lieu of FLUE Policy 17.2.7, which is a general planning policy applicable to all land use decisions countywide. We agree with the second point.

i. The County Staff's Report

Appellant insists that the ALJ was required to give the County Staff's recommendation great weight. Even assuming that the County Staff's report was entitled to great weight in this case, there is no basis in the record for believing that the ALJ did not give it due consideration. To the contrary, the ALJ recited it heavily and relied on the concrete findings within it that showed the environmental limitations of the subject property, even though the ALJ disagreed with the ultimate conclusion. If an ALJ were not entitled to disagree, then the ALJ's review would serve no purpose. To the extent Appellant argues that the recommendation of the County Staff was not given sufficient weight, this assertion is unreviewable because "[i]t is not the role of the

appellate court to reweigh evidence anew." *Young v. Dep't of Educ., Div. of Vocational Rehab.*, 943 So.2d 901, 902 (Fla. 1st DCA 2006). The ALJ's finding that the subject property had severe environmental limitations was thoroughly supported by the County Staff's report. Whether those limitations required a finding that the Amendment was inconsistent with FLUE Policy 17.2.7 is, however, a separate matter.

ii. Interpretation of the Plan

Appellant's argument that the ALJ erred in relying on a general policy in the Plan where more specific policies existed is an issue of law to be reviewed de novo. *See Nassau County v. Willis,* 41 So.3d 270, 278 (Fla. 1st DCA 2010). In reviewing this issue de novo, however, we bear in mind that the ALJ was required under section 163.3187(3)(a) to presume that the County's determination that the Amendment complied with the Act (and, thus, was consistent with the Plan) was correct.

Rules of statutory construction are applicable to the interpretation of comprehensive plans. *See Great Outdoors Trading, Inc. v. City of High Springs,* 550 So.2d 483, 485 (Fla. 1st DCA 1989) (noting that the rules of statutory construction apply to municipal ordinances and city charters); *Willis,* 41 So.3d at 279 (noting that a comprehensive plan is like a "constitution for all future development within the governmental boundary") (citation omitted). Appellant argues that this case implicates the rules of construction that specific provisions control over general ones and that one provision should not be read in such a way that it renders another provision meaningless. Both rules are well-established. *See Murray v. Mariner Health,* 994 So.2d 1051, 1061 (Fla.2008). Another rule of construction relevant to this issue is that all provisions on related subjects be read in pari materia and harmonized so that each is given effect. *Cone v. State, Dep't of Health,* 886 So.2d 1007, 1010 (Fla. 1st DCA 2004).

Here, the ALJ concluded that the Amendment conflicted with FLUE Policy 17.2.7, which provides, "The County shall guide future development to the most appropriate areas, as depicted on the GFLUM, specifically those with minimal environmental limitations and the availability of necessary services." (CP 10–155). Appellant contends that FLUE Policies 17.6.5 and 17.6.12, which are more specific to RV parks in the Coastal Area, indicate ***29** that the Amendment was consistent with the Plan. Those policies provide as follows:

> Policy 17.6.5 Specialized commercial needs, such as water-dependent and water-related uses, temporary accommodations for tourists and campers, as well as neighborhood commercial uses and services serving residential communities within the general Coastal, Lakes, and Rivers Areas shall be provided for within the Future Land Use Plan and standards for development provided within the County LDC.

Policy 17.6.12 Recreational vehicle (RV) parks and campgrounds shall be designed according to a detailed master plan, shall preserve a minimum of 30 percent of the property in open space, shall provide a minimum of an additional 10 percent of the property as recreation areas, and generally shall conform to the commercial development standards in the Land Development Code.... In order to minimize the adverse impact of development on the resources and natural features of the Coastal, Lakes, and Rivers Region, the LDC shall be amended to include additional review criteria for all new RVP projects located in this region. Such criteria may include:

- Restrictions on density
- Enhanced open space requirements
- Wetland protection
- Upland preservation
- Clustering
- Connection to regional central water and sewer service

Appellant is correct in noting that the development of new RV parks in Coastal Areas was specifically anticipated by FLUE Policy 17.6.12. This observation does not, however, mandate approval of an RVP designation for the particular parcel at issue. Thus, it was appropriate for the ALJ to resort to other portions of the Plan to determine whether approval of the RVP designation for the subject property was proper. The policy that most directly relates to this inquiry is FLUE Policy 17.2.7, which articulates the County's general preference for guiding future development to the "most appropriate areas," which are areas "with minimal environmental limitations."

Two additional provisions of the Plan provide more context for the policies at issue. First, the Plan describes the "Coastal Area" as follows:

> The Coastal Area parallels the Gulf of Mexico, and the boundary may be described as following the west side of US–19 north from the Hernando County line to the Withlacoochee River. This boundary is the basis for an environmentally sensitive overlay zone to be used for land use regulatory purposes....

Second, under the heading "Development in Wetland and Coastal Areas," the Plan notes the following:

> Future development in the Coastal, Lake, and River Areas will require careful management in order to reduce potential problems and impacts on the environment. Development within these areas will be limited to low, [sic] intensity uses. In addition, all development will be required to meet standards for development and obtain necessary permits from appropriate regulatory agencies.

These two provisions show that, under the Plan, the entire Coastal Area is considered environmentally sensitive, and yet "[f]uture development" of this environmentally sensitive area is expected. Thus, when all the pertinent provisions of the Plan are considered in pari materia, the mere fact ***30** that an area has environmental limitations is not a basis to prohibit development as long as the development is carried out in accordance with the limitations provided by the Plan and the LDC. Therefore, the ALJ's finding of "severe environmental limitations" was insufficient to justify overriding the County's determination that the Amendment was proper, particularly in light of the presumption required by section 163.3187(3)(a). The ALJ properly found the existence of wetlands and karst sensitivity in the area, but there was no competent, substantial evidence that these limitations were so severe as to require a prohibition on the development of an RV park under the restrictions that would be imposed by the LDC. In sum, when FLUE Policy 17.2.7 and the evidence related to that policy are viewed in the context of all relevant provisions of the Plan, the conclusion that the Amendment is inconsistent with that policy is unsupported.

C. FLUE Policy 17.2.8

With regard to FLUE Policy 17.2.8, Appellant argues that the ALJ erred in relying on the testimony of Appellee and his neighbor as a basis for finding incompatibility of the subject property's new future land use designation with the surrounding uses. In particular, he argues that this testimony was "unacceptable lay testimony" and that no competent, substantial evidence showed a lack of compatibility, as that term is defined by Florida Administrative Code Rule 9J–5.003(23). We agree.

Initially, we note that the reliance on the definitions provided in Florida Administrative Code Rule 9J–5.003 was proper because the Plan does not define the term "compatible," and because section 163.3184(1)(b) defines "in compliance" in pertinent part as "consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J–5, Florida Administrative Code." Therefore, to show that the Amendment provided for an incompatible land use, Appellee was required to prove that, because of the new future land use category assigned to Appellant's property, the land uses or conditions in the area could not "coexist ... in a stable fashion over time

such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition." *See* Fla. R. Admin. Code 9J–5.003(23).

Lay witnesses may offer their views in land use cases about matters not requiring expert testimony. *Metro. Dade County v. Blumenthal,* 675 So.2d 598, 601 (Fla. 3d DCA 1995). For example, lay witnesses may testify about the natural beauty of an area because this is not an issue requiring expertise. *Blumenthal,* 675 So.2d at 601. Lay witnesses' speculation about potential "traffic problems, light and noise pollution," and general unfavorable impacts of a proposed land use are not, however, considered competent, substantial evidence. *Pollard v. Palm Beach County,* 560 So.2d 1358, 1359–60 (Fla. 4th DCA 1990). Similarly, lay witnesses' opinions that a proposed land use will devalue homes in the area are insufficient to support a finding that such devaluation will occur. *See City of Apopka v. Orange County,* 299 So.2d 657, 659–60 (Fla. 4th DCA 1974) (citation omitted). There must be evidence other than the lay witnesses' opinions to support such claims. *See BML Invs. v. City of Casselberry,* 476 So.2d 713, 715 (Fla. 5th DCA 1985); *City of Apopka,* 299 So.2d at 660.

Based on these standards, it was error for the ALJ to rely on Appellee's testimony concerning potential light pollution, increased traffic, and negative impacts on ***31** the value of the homes in the area. There were no facts to support his concerns, and in fact, the County Staff's report indicates that the traffic issue was studied by an expert and determined that increased traffic would not unduly burden the area.

Although it was proper for the ALJ to consider Appellee's observations that, with the exception of the vested non-conforming uses, the area is predominantly residential and that it is peaceful, Appellee presented no competent, substantial evidence to support his claim that the new RV park would unduly interfere with those characteristics of the area. The mere fact that Appellee's property has a different future land use designation than Appellant's re-classified property is insufficient. *See Hillsborough County v. Westshore Realty, Inc.,* 444 So.2d 25, 27 (Fla. 2d DCA 1983) (holding that the mere fact that property is in close proximity to another property with a less restrictive classification does not require reclassification). Additionally, while it may have been noteworthy that Appellant presently fails to maintain its vested one-acre RV park in an attractive manner, the concern that the yet-to-be-developed RV park would be maintained in the same way is speculative and does not establish long-term negative impacts stemming from the reclassification of the subject property.

In sum, based on the applicable definition of "compatibility," Appellant's argument that there was insufficient evidence to support a finding that the RV park was incompatible is well-taken. It appears that, in finding the proposed use incompatible with the surrounding uses, the ALJ gave undue emphasis to Appellee's preference not to have an RV park as a neighbor. However, this preference in itself is insufficient to override Appellant's desire to build an RV park on its land. *See*

Conetta v. City of Sarasota, 400 So.2d 1051, 1053 (Fla. 2d DCA 1981) (suggesting that a land-use decision should not be "based primarily on the sentiments of other residents"). As a result, we hold that the ALJ erred in concluding that the Amendment was inconsistent with FLUE Policy 17.2.8.

III. Conclusion

For the reasons explained above, both of the ALJ's ultimate conclusions as to inconsistency of the Amendment with the remaining portions of the Plan were erroneous. As a result, we reverse and remand to the Commission for reinstatement of the ordinance approving the Amendment.

REVERSED and REMANDED.

WEBSTER and MARSTILLER, JJ., Concur.

All Citations

52 So.3d 19, 35 Fla. L. Weekly D2759

Footnotes

1 As provided in the Plan, the CLC category allows commercial uses that are "water related, water dependent, or necessary for the support of the immediate population," i.e. "neighborhood commercial uses, personal services, or professional services." This category is intended "for a single business entity on a single parcel of property."

2 According to Dr. Pitts, karst is a "limestone underground sort of rock structure that is very porous" and through which "pollutants can very easily travel."

3 In challenging the sufficiency of the evidence, Appellant argues that the ALJ did not view the evidence with an eye toward the proper standard. He contends the ALJ should have considered whether the County's determination that the Amendment was proper was "fairly debatable," based on the standard recognized in *Coastal Development of North Florida, Inc. v. City of Jacksonville Beach,* 788 So.2d 204 (Fla.2001). The argument that the ALJ applied the wrong standard is not properly before us because Appellant stood silent when Appellee argued to the ALJ that the "fairly debatable" standard did not apply and when the ALJ invited Appellant to provide contrary authority. *See Dep't of Bus. & Prof'l. Regulation,*

Constr. Indus. Licensing Bd. v. Harden, 10 So.3d 647, 649 (Fla. 1st DCA 2009) (recognizing the preservation rule in administrative proceedings).

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752 So.2d 708
District Court of Appeal of Florida,
Third District.

JESUS FELLOWSHIP, INC., Petitioner,
v.
MIAMI-DADE COUNTY, Florida, Respondent.

No. 3D99-1073.
|
Feb. 23, 2000.

Synopsis

After the county commission denied a portion of church's zoning application to allow private school, church petitioned for writ of certiorari and the Circuit Court, Appellate Division, Dade County, Fredricka Smith, Arthur Rothenburg, and Thomas Wilson Jr., JJ., affirmed commission's denial. Church petitioned for writ of certiorari. The District Court of Appeal, Fletcher, J., held that church was entitled to approval of zoning application for special exceptions and unusual use to permit private school with grades K-12 and 524 students.

Circuit Court order quashed and case remanded with instructions.

Attorneys and Law Firms

***708** Mathew D. Staver and Erick W. Stanley, Liberty Counsel (Orlando); DiBartolomeo & DiBartolomeo and Dean D. DiBartolomeo, Miami; Bilzin Sumberg Dunn Price & Axelrod and Michael W. Larkin and Jerry B. Proctor, Miami; for petitioner.

Robert A. Ginsberg, County Attorney, Augusto Maxwell, Assistant County Attorney; Kathryn Knieriem Estevez, Miami; Adorno & Zeder, Fort Lauderdale, and George F. Knox, Miami, for respondent.

Before JORGENSON, COPE, and FLETCHER, JJ.

Opinion

FLETCHER, Judge.

Jesus Fellowship, Inc. [Church] petitions this court for a writ of certiorari asking that we vacate an order entered by the circuit court, acting in its appellate capacity, which order affirmed the decision

of the Miami-Dade County Commission [Commission] denying a portion of the Church's zoning application. We grant the petition and quash the circuit court's decision.

The Church owns 12.2 acres in a residential area zoned for one-acre estate ***709** homes.[1] In 1997, the Church filed a zoning application for special exceptions and an unusual use to permit the expansion of the Church's religious facilities and to permit a private school and a day care center. After reviewing the application the county's professional staff recommended denial of the requests. At the public hearing before the Zoning Appeals Board[2] [ZAB] the Church agreed to several changes which satisfied the professional staff, bringing about its recommendation of approval. Among the Church's concessions was a limitation to an enrollment of 524 students. The ZAB approved the application with the changes.

The ZAB decision was appealed to the Commission by a number of objectors. The county's professional staff continued to recommend approval with the ZAB-authorized 524 students. The Commission approved the Church's application generally but denied it in part, limiting the school to grades K-6 and 150 students. The Church petitioned the circuit court for a writ of certiorari alleging, *inter alia,* that the Commission's decision reducing the number of students and grades was not supported by substantial competent evidence. The circuit court upheld the Commission's partial denial.

This court's review of the circuit court's decision is limited to determining whether the circuit court afforded due process and correctly applied the correct law. *Maturo v. City of Coral Gables,* 619 So.2d 455 (Fla. 3d DCA 1993); *see also Herrera v. City of Miami,* 600 So.2d 561 (Fla. 3d DCA), *review denied,* 613 So.2d 2 (Fla.1992). Our review of the record indicates that the circuit court missed its mark. It failed to correctly apply the correct law as its decision allows the use of incompetent evidence to support the Commission's decision and fails to apply the principles applicable to special exceptions and unusual uses.

An applicant seeking special exceptions and unusual uses need only demonstrate to the decision-making body that its proposal is consistent with the county's land use plan; that the uses are specifically authorized as special exceptions and unusual uses in the applicable zoning district; and that the requests meet with the applicable zoning code standards of review. If this is accomplished, then the application must be granted unless the opposition carries its burden, which is to demonstrate that the applicant's requests do not meet the standards and are in fact adverse to the public interest.[3] *See Irvine v. Duval County Planning Comm.,* 495 So.2d 167 (Fla.1986); *Metropolitan Dade County v. Fuller,* 497 So.2d 1322 (Fla. 3d DCA 1986).

The basis for the circuit court's errors here was its conclusion that the simple fact that the Commission had before it the county zoning maps, the professional staff recommendations, aerial photographs, and testimony in objection was a sufficient basis for the Commission's denial. The

mere presence in the record of these items is not, however, sufficient. They must be or contain relevant valid evidence which supports the Commission's decision.

In reaching its conclusion the circuit court relied on *Metropolitan Dade County v. Blumenthal,* 675 So.2d 598 (Fla. 3d DCA 1995), *review dismissed,* 680 So.2d 421 (Fla.1996). Therein the zoning maps and testimony contained evidence of the surrounding densities in the area, in a case involving a rezoning, i.e., a change of residential density, and not, as here, special exceptions or unusual uses, which do not involve a district boundary change (rezoning). In *Blumenthal* the maps were ***710** relevant evidence necessary for the Commission to view in order to compare the existing surrounding districts' densities to assure consistency therewith (either a like density or a consistent step up-or down-in density). In the Church's case the maps of the surrounding zoning districts are not evidence which support the Commission's decision. The only zoning district inquiry here was whether the subject property is in a zoning district which permits the requested uses. This was not an issue as the land use plan and the zoning district permit the Church's request for the special exceptions and unusual use.

Further, the circuit court concluded that the professional staff's report was evidence supporting the Commission's denial. This clearly is not the case as the staff's report to the Commission was for approval, the staff unequivocally stating that all of the applicable standards were met by the requests. This is not evidence supporting the denial.

Additionally, the testimony offered by the objectors does not qualify as supportive evidence (or evidence at all in most cases) as a thorough review of the objectors' case demonstrates:

The first witness, an engineer, complained that there would be more traffic on the neighborhood streets, [4] but quickly announced that he was not testifying as an expert. Where technical expertise is required lay opinion testimony is not valid evidence upon which a special exception determination can be based in whole or in part. *See Pollard v. Palm Beach County,* 560 So.2d 1358 (Fla. 4th DCA 1990); *City of Apopka v. Orange County,* 299 So.2d 657 (Fla. 4th DCA 1974).

The objectors' second witness testified that he wished to preserve the residential character of his neighborhood and was concerned about the loss of what he described as "green space." However, churches and schools are part of the residential neighborhood character per the land use plan and the applicable zoning. As to his concerns regarding green space, the Church did not seek a variance thereof. The amount of green space to be provided meets the county's code standard. The testimony of this witness does not support the denial. *Irvine,* 495 So.2d 167; *Fuller,* 497 So.2d 1322.

The third objecting witness submitted numerous letters of protest and complained of past violations on the property. The letters are not evidence. *City of Apopka,* 299 So.2d 657. Past violations are not a basis to deny a present pending application that meets the code standards. [5]

The next witness called by the objectors was the Church's reverend. The transcript [6] reveals an examination that meandered through the operation of the Church; how the expansion is to be financed; and the make-up of the congregation. This line of questioning prompted Commission members to inquire as to its relevancy to land use issues. The answer to their inquiry, of course, is that it does not bear on the special exception/unusual use standards, thus is not relevant. *Irvine,* 495 So.2d 167; *Fuller,* 497 So.2d 1322.

The objectors' final witness was Guillermo Olmedillo, the director of planning. Olmedillo's testimony reveals only that it fortified his written opinion that the Church's application met all code standards. [7]

Nowhere in the hearing record does there appear any evidence relating to the restriction to grades K-6 and to 150 students. After the evidentiary hearing closed, the restriction appeared, without a ***711** warning of its impending arrival, as a "suggestion" by the objectors' attorney. T.150. It was promptly pounced upon by the Commission, put into the form of the denial motion, and passed.

In summary, the Church presented sufficient evidence to carry its burden; the objectors presented only testimony and documents that support the Church's application or which the courts have held not to be evidence. When the circuit court decided there was *evidence* (substantial, competent) to support the Commission's denial of the application, it failed to apply the correct law as to the granting or denial of special exceptions and unusual uses, and failed to apply the correct law as to what constitutes competent evidence in such cases. As a result we quash the circuit court's order and remand the case with instructions to the circuit court to direct the Commission to remove the limitation to K-6 and 150 students and to grant the application with grades K-12 and 524 students. [8]

All Citations

752 So.2d 708, 25 Fla. L. Weekly D481, 25 Fla. L. Weekly D1179

Footnotes

1 Churches and schools are permitted uses in residential areas under the county's land use plan. *See Machado v. Musgrove,* 519 So.2d 629 (Fla. 3d DCA 1987), *cert. denied,* 529 So.2d 693 (Fla.1988).

2 As it was then constituted.

3 Of course, if the opposition demonstrates that a request is inconsistent with the zoning authority's land use plan, then denial is in order. Such is not the case here as we observed in footnote 1.

4 However, the only ingress and egress proposed for the site is 87th Avenue, not a "neighborhood" street; rather it is a state minor arterial road.

5 It does, however, show lax enforcement by the county in the past.

6 Twenty-six (26) pages of transcript.

7 For example:

> "Q. So therefore is it not fair to say that the application pursuant to ascertainable standards is compatible and completely consistent with the standards delineated in the Dade County Zoning Code?
>
> A. It is consistent with the Dade County Zoning Code, yes."

T.68.

8 We do not reach the other issues and express no opinion one way or another on them.

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863 So.2d 375
District Court of Appeal of Florida,
Third District.

MIAMI–DADE COUNTY, Petitioner,
v.
OMNIPOINT HOLDINGS, INC., Respondent.

No. 3D01–2347.
|
Dec. 10, 2003.

Synopsis
Background: County sought petition for writ of certiorari to quash decision of the Circuit Court, Dade County, Amy Steele Donner, Gisela Cardonne, Manuel A. Crespo, JJ., directing county's community zoning appeals board to grant applicant permission to erect telecommunications monopole. The District Court of Appeal, 811 So.2d 767, denied petition and sua sponte declared portions of county code governing unusual uses, modifications of prior approvals, and nonuse variances facially unconstitutional. County petitioned for further review. The Supreme Court, Bell, J., quashed and remanded, 863 So.2d 195, 2003 WL 22208012.

Holdings: On remand, the District Court of Appeal, Fletcher, J., held that:

trial court could not consider Federal Telecommunications Act when considering petition for certiorari, and

District Court of Appeal could not review the sufficiency of the evidence to support the zoning board's decision but rather could only review whether trial court applied correct law to information offered to zoning board as evidence.

Petition denied.

Attorneys and Law Firms

***376** Robert A. Ginsburg, County Attorney, Jay W. Williams, Assistant County Attorney, for petitioner.

Hayes & Martohue and Deborah L. Martohue (St.Petersburg), for respondent.

Before GERSTEN, GODERICH, and FLETCHER, JJ.

ON REMAND

FLETCHER, Judge.

In *Miami–Dade County v. Omnipoint Holdings, Inc.*, 863 So.2d 195, 2003 WL 22208012 (Fla. Sept. 25, 2003), the Florida Supreme Court quashed this court's decision in *Miami–Dade County v. Omnipoint Holdings, Inc.*, 811 So.2d 767 (Fla. 3d DCA 2002) and remanded the cause with instructions for this court to review again the circuit court's certiorari decision, this time limiting our review to the standards established in *City of Deerfield Beach v. Vaillant,* 419 So.2d 624 (Fla.1982), *Broward County v. G.B.V. Int'l, Ltd.,* 787 So.2d 838 (Fla.2001), and *Florida Power & Light Co. v. City of Dania,* 761 So.2d 1089 (Fla.2000). As a result this court is limited in its review on remand to the only remaining issue: whether the circuit court applied the correct law. *Vaillant* at 626; *G.B.V.* at 843; and *Florida Power* at 1092. (The issue as to whether the circuit court afforded procedural due process was not raised by the parties, thus need not be addressed.)

Our determination here begins with the language of *Vaillant, G.B.V.*, and *Florida Power* as stated in *G.B.V.* at 842:

> "A decision granting or denying a [quasi-judicial] application *is governed by local regulations, which must be uniformly administered.* The allocation of burdens expressed in *Irvine v. Duval County Planning Commission,* 495 So.2d 167 (Fla.1986), is applicable to such proceedings:
>
> > [O]nce the petitioner met the initial burden of showing that his application met the statutory criteria for granting such [applications], 'the burden was upon the Planning Commission to demonstrate, by competent substantial evidence presented at the hearing and made part of the record, that the [application] requested by petitioner did not meet such standards and was, in fact, adverse to the public interest.' " [e.s.]

The *G.B.V.* court went on to say:

> "To deny a [quasi-judicial] application, a local government agency must show by competent substantial evidence that the application does not meet the *published criteria.*" [e.s.]

Neither a quasi-judicial body nor a reviewing circuit court is permitted to add to or detract from these criteria (the local regulations) when making its assigned determination. [1] Thus in *Miami–Dade County v.* ***377** *Omnipoint Holdings, Inc.*, 863 So.2d 195, 2003 WL 22208012 (Fla. Sept.

25, 2003) the Florida Supreme Court held that certiorari review is not the proper vehicle to challenge the constitutionality of a statute or an ordinance.

Put another way, quasi-judicial boards do not have the power to ignore, invalidate or declare unenforceable the legislated criteria they utilize in making their quasi-judicial determinations. *See Baker v. Metropolitan Dade County,* 774 So.2d 14, 19–20 nn. 12–14 (Fla. 3d DCA 2001), *rev. denied,* 791 So.2d 1099 (2001). Thus quasi-judicial boards cannot make decisions based on anything but the local criteria enacted to govern their actions.

In the instant case the circuit court appellate division was petitioned by Omnipoint Holdings, Inc. to quash the Miami–Dade County zoning board's denial of Omnipoint's application (to construct a communications tower) on two grounds. First, Omnipoint argued that the board's denial is violative of the Federal Telecommunications Act, 47 U.S.C. § 332 (1996). This Act allows local governments to regulate the placement of personal wireless facilities, so long as such regulation does not unreasonably discriminate among like service providers, or prohibit the provision of wireless services. Based on Omnipoint's argument the circuit court concluded that the zoning board's denial violates the Act and thus must be quashed. By considering the Act, however, the circuit court did not apply the correct law. This is so as the Federal Telecommunications Act is not a part of the local zoning criteria, thus the circuit court's decision on certiorari review cannot validly be bottomed on the Federal Act. [2]

The circuit court gave a second reason for its quashal of the zoning board's denial: that the zoning board's decision is not supported by substantial competent evidence (which is defined as "such relevant evidence as a reasonable mind would accept as adequate to support a conclusion." [3]) Whether there was substantial competent evidence is an issue outside our review authority. We are not, however, precluded from reviewing the circuit court's decision to assure that the court applied the correct law to the information offered to the zoning board as evidence. For example, in *Machado v. Musgrove,* 519 So.2d 629 (Fla. 3d DCA 1987), *rev. denied,* 529 So.2d 693 and *rev. denied,* 529 So.2d 694 (Fla.1988), this court observed that a zoning staff report that was irrelevant to the issue involved was entitled to no consideration in arriving at a conclusion as to whether the substantial competent evidence test had been met. In *Jesus Fellowship, Inc. v. Miami–Dade County,* 752 So.2d 708 (Fla. 3d DCA 2000), this court concluded, *inter alia,* that the circuit court, by approving the use of lay opinion testimony where technical expertise was required, failed to apply the correct law. [4]

Our review of the circuit court's decision here leads us to the conclusion that the circuit court applied correct law in the process of reaching its conclusion as to the sufficiency of the evidence. As it not our ***378** function to pass on the sufficiency of the evidence itself, we stop at this point. Accordingly, the petition for writ of certiorari is denied.

All Citations

863 So.2d 375, 28 Fla. L. Weekly D2839

Footnotes

1 *See City of Miami v. Save Brickell Ave., Inc.*, 426 So.2d 1100 (Fla. 3d DCA 1983), at 1104.

2 The Act may, of course, be the basis for an original action challenging a local zoning decision.

3 *DeGroot v. Sheffield,* 95 So.2d 912 (Fla.1957).

4 Additional examples include *Metropolitan Dade County v. Blumenthal,* 675 So.2d 598 (Fla. 3d DCA 1995), *rev. dismissed,* 680 So.2d 421 (Fla.1996)(fact based lay testimony is perfectly proper); *Pollard v. Palm Beach County,* 560 So.2d 1358 (Fla. 4th DCA 1990)(lay persons' opinions unsubstantiated by any competent facts are not evidence).

End of Document

2023 Thomson Reuters. No claim to original U.S. Government Works.

PARTY OF RECORD

Rome, Ashley

From: Hearings
Sent: Wednesday, January 4, 2023 10:22 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: MM 22-1228
Attachments: Public Comment opposing MM 22-1228.pdf

From: Scott Andrews <sda1961@gmail.com>
Sent: Tuesday, January 3, 2023 10:33 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Please find my comments attached,

I am writing in opposition to the rezoning proposal MM 22-1228.

Scott Andrews
5311 Clover Mist Drive
Apollo Beach, FL 33572
818-568-6220

Received January 4, 2023
Development Services

To: Zoning Hearing Master

From: Scott Andrews
5311 Clover Mist Drive
Apollo Beach, FL 33572
818-568-6220
sda1961@gmail.com

Re: MM 22-1228 (hearing on Jan. 17, 2023)

Date: Jan. 3, 2023

I am writing to oppose the proposed rezoning of several acres near U.S. Highway 41 and Leisley Road. It is my understanding that this rezoning is intended to accommodate a Walmart Supercenter, among other commercial operations, and a 300-unit apartment complex.

A Walmart Supercenter at this location is not intended to fulfill a retail need for Apollo Beach and Ruskin; instead, it is designed to support Walmart's effort to saturate every market. Two Walmart Supercenters already exist within 9 miles of this location – to the north in Gibsonton and to the south in Sun City Center.

This area is already saturated with grocery venues. This stretch of US 41 has two Publix and two Winn-Dixie stores, with another Publix planned for the corner of Big Bend and US 41. This area already supports several Dollar General-type stores. A Walmart Supercenter will possibly put them out of business, or at least threaten their viability.

As for the smaller commercial ventures planned for the site – Apollo Beach already has vacant commercial real estate. Fill those sites before adding new ones.

A Walmart Supercenter will attract a lot of vehicle traffic from outside of Apollo Beach on U.S. Highway 41. This congestion will reduce the quality of life and potentially reduce property values; an attraction of homes in this area is the existence of green space (do not speed its rate of disappearance!) and relatively non-dense population. The increased traffic may also increase automobile insurance for residents of the area.

U.S. Highway 41 is busy enough as it is, and the housing already under construction in this area will stress it further. A major commercial attraction, such as a Walmart Supercenter and the surrounding stores/restaurants, will be more traffic than 41 can handle – and that will require more construction, which will create more congestion (see Big Bend Road for an example).

A Walmart Supercenter also will increase the crime rate of the area. Such a store is an inherent target of shoplifting, and its large parking lot is an inherent target of break-ins and car thefts. This will increase the crime statistics, which could reduce home values. The criminals attracted to the Walmart Supercenter may also be tempted to check out nearby neighborhoods for crimes of opportunity. Apollo Beach does not have its own police force and is dependent upon the county for law enforcement.

I also believe a car wash is intended for this site. Apollo Beach/Ruskin already has those. We have more car washes and self-storage facilities than is reasonable.

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Proposed WalMart
Date:	Thursday, January 5, 2023 9:12:23 AM

Hello again, here is also a Walmart email for the record.

Thank you!

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Thursday, January 5, 2023 9:07 AM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Proposed WalMart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 5, 2023 9:06 AM

Name: David Smith

Address: 356 COCKLE SHELL LOOP
Apollo Beach, FL 33572

Phone Number: (813) 812-6913

Email Address: cj99dls@hotmail.com

Subject: Proposed WalMart

Message: I ask that you oppose WalMart's application to build a supercenter adjacent to Harbour Isles on U.S. 41 in Apollo Beach. A big box store does not conform to the goal of a small town feeling. It will adversely impact home prices in the immediate vicinity, increase traffic on an already heavily used US 41, create safety issues within Harbour Isles due to cut-thru traffic, and will no doubt significantly increase crime in Harbour Isles and surrounding communities (which already appears to be on the rise in the local area). As an alternative to building the retail outlet next to Harbour Isles, suggest you encourage WalMart to locate either across from McDonald's in Ruskin

(which appears to have previously had a large store several years ago), or locate on Big Bend road, which is more of an industrial/commercial area.
Thank you,
David Smith

1053864590

Mozilla/5.0 (Windows NT 6.3; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zone change
Date:	Sunday, January 8, 2023 2:04:31 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 2:04 PM

Name: Tracy Alves

Address: 6514 King Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 644-1405

Email Address: sunnychichome@gmail.com

Subject: Zone change

Message: I'm writing as a resident of Apollo Beach. I'd like to voice me opinion on zoning in our small town. We do NOT want any big box store coming to the area. It would take away from our local businesses and or roads are in no way ready for all the traffic. We moved to Apollo Beach from Riverview to get away from the nightmare of the roads and traffic. Please listen to all our residents as we voice our opinions on this matter.

Thank you,
Tracy Alves

1054917975

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zone change
Date:	Sunday, January 8, 2023 2:04:28 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 2:04 PM

Name: Tracy Alves

Address: 6514 King Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 644-1405

Email Address: sunnychichome@gmail.com

Subject: Zone change

Message: I'm writing as a resident of Apollo Beach. I'd like to voice me opinion on zoning in our small town. We do NOT want any big box store coming to the area. It would take away from our local businesses and or roads are in no way ready for all the traffic. We moved to Apollo Beach from Riverview to get away from the nightmare of the roads and traffic. Please listen to all our residents as we voice our opinions on this matter.

Thank you,
Tracy Alves

1054917975

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed WalMart
Date:	Tuesday, December 13, 2022 9:13:40 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 9:13 AM

Name: Joan Andersen

Address: 832 Symphony Isles Blvd
Apollo Beach, FL 33572

Phone Number: (703) 615-1241

Email Address: LV2CK@hotmail.com

Subject: Proposed WalMart

Message: I have been reading about a proposed WalMart to be located on Route 41 in Apollo Beach FL. I am against this proposal. Our area has already seen incredible housing growth making it difficult to get around - increased drive times, increased accidents. Adding a WalMart will exacerbate the traffic problems we already have. Apollo Beach is becoming another Brandon, from which some residents of Apollo Beach fled to live a quieter life style, which is no more. Please don't make our area worse.

1045935446

Mozilla/5.0 (Windows NT 6.3; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - VOTE NO FOR BIG BOX STORES IN APOLLO BEACH
Date:	Saturday, January 7, 2023 4:11:42 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 4:11 PM

Name: Melissa Argo

Address: 915 Sago Palm Way
Apollo Beach, FL 33572

Phone Number: (404) 625-4167

Email Address: melargo36@gmail.com

Subject: VOTE NO FOR BIG BOX STORES IN APOLLO BEACH

Message: Dear Commissioner,

Please vote no for Big Box stores in Apollo Beach. We do not have the infrastructure to support the additional traffic. As a resident of Apollo Beach , I'd rather see our community support small business owners and be thoughtful of how our community should grow. Let Gibsonton support the Big Box store growth.

Thank you for your consideration

Melissa Argo

1054726589

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - VOTE NO FOR BIG BOX STORES IN APOLLO BEACH
Date:	Saturday, January 7, 2023 4:11:44 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 4:11 PM

Name: Melissa Argo

Address: 915 Sago Palm Way
Apollo Beach, FL 33572

Phone Number: (404) 625-4167

Email Address: melargo36@gmail.com

Subject: VOTE NO FOR BIG BOX STORES IN APOLLO BEACH

Message: Dear Commissioner,

Please vote no for Big Box stores in Apollo Beach. We do not have the infrastructure to support the additional traffic. As a resident of Apollo Beach , I'd rather see our community support small business owners and be thoughtful of how our community should grow. Let Gibsonton support the Big Box store growth.

Thank you for your consideration

Melissa Argo

1054726589

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From: Pike, Isabella
To: Medrano, Maricela
Subject: FW: (WEB mail) - Proposed Walmart on 41
Date: Monday, December 19, 2022 8:57:36 AM
Attachments: image001.png

Good Morning ma'am,

Here is another Walmart email for the record.

Thank you,

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Friday, December 16, 2022 1:36 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Proposed Walmart on 41

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 16, 2022 1:35 PM

Name: Corrine & Nels Baden

Address: 314 Bluewater Falls Ct
Apollo Beach, FL 33572

Phone Number: (763) 458-9434

Email Address: cknb575@comcast.net

Subject: Proposed Walmart on 41

Message: Respectfully requesting that you reconsider and remove Walmart from consideration for development along US 41 in Apollo Beach. Much residential development is ongoing and traffic is getting bad! The character of Apollo Beach and surrounds can be significantly impacted by a Walmart which can decimate local businesses and make traffic intolerable. US-75 is a nightmare to drive and 41 has always been a safer alternative to drive. Please don't wreck what we have now. Thank you.

1047675607

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart on 41
Date:	Friday, December 16, 2022 1:35:38 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 16, 2022 1:35 PM

Name: Corrine & Nels Baden

Address: 314 Bluewater Falls Ct
Apollo Beach, FL 33572

Phone Number: (763) 458-9434

Email Address: cknb575@comcast.net

Subject: Proposed Walmart on 41

Message: Respectfully requesting that you reconsider and remove Walmart from consideration for development along US 41 in Apollo Beach. Much residential development is ongoing and traffic is getting bad! The character of Apollo Beach and surrounds can be significantly impacted by a Walmart which can decimate local businesses and make traffic intolerable. US-75 is a nightmare to drive and 41 has always been a safer alternative to drive. Please don't wreck what we have now. Thank you.

1047675607

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart in Apollo Beach
Date:	Wednesday, December 14, 2022 8:15:34 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 8:15 AM

Name: Bonita Barron

Address: 6506 Clair Nest Court
Apollo Beach, FL 33572

Phone Number: (210) 807-0852

Email Address: bonitabarron@brighthouse.com

Subject: Proposed Walmart in Apollo Beach

Message: I implore you to deny the building of the proposed Walmart in Apollo Beach. With two other Walmarts in the near vicinity, another is not needed. Additionally, the infrastructure of our community cannot sustain the increased traffic. We are already suffering from over development without consideration for traffic flow. Please, do not approve the addition of this unnecessary business to what was once a charming community.

1046491216

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Proposed Wal-Mart
Date:	Monday, January 9, 2023 2:32:29 PM
Attachments:	image001.png

Hi again!
Please see below and add to the official record for MM22-1228.

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 2:23 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Proposed Wal-Mart

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 9, 2023 2:22 PM

Name: Joelle Benedict

Address: 616 Balibay Road
Apollo Beach, FL 33572

Phone Number: (610) 507-9625

Email Address: jakeb@ptd.net

Subject: Proposed Wal-Mart

Message: Dr. Mr. Owen,

I am writing to express my displeasure at the proposed Wal-Mart complex to be built in Apollo Beach. In the past five years, we have watched the Apollo Beach area grow substantially. Although I welcome the attraction our lovely Apollo Beach is getting, I am dismayed at the traffic and lack of long-range planning. I believe we need to slow the building progress down and do an evaluation of what Apollo Beach residents want and need. If we do not take the time now to plan, all of our green space is going to be made into a parking lot. Please, let us catch our collective breath, and pause. Small businesses create communities, not big box centers. Help us build a community, help us make good neighbors.

Respectfully submitted,
Joelle Benedict

1055292822

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - WalMart NOT needed
Date:	Tuesday, December 27, 2022 8:09:08 AM
Attachments:	image001.png

Ms. Medrano,

Good morning ma'am, here is an email regarding the Walmart.

Thank you,

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Friday, December 23, 2022 9:21 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - WalMart NOT needed

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 23, 2022 9:21 PM

Name: Regina Bennett

Address: 1713 Bonita Bluff Ct
Ruskin, FL 33570

Phone Number: (716) 310-1676

Email Address: rmbnp2010@gmail.com

Subject: WalMart NOT needed

Message: We could use a Target, as there are too many Walmarts. Nicer upscale boutiques would be preferable. DENY any WALMART development!!
WE need infrastructure, no more development of housing communites and stores. We do not want to look like the slums, Why not invest in a Hyde Park type location? Keep a lid on things, How about a moratorium? Many cities have them ie Portland, OR in 1990s. Work on Traffic issures, decrease congestion, and limit builder/developer initiatives. The county should be paying for all these CDDs. Being form DC and the West Coast, this is NOT what homeowners should be paying to jsut to recieve services.

1050350639

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - WalMart NOT needed
Date:	Wednesday, December 28, 2022 7:50:07 PM
Attachments:	image001.png

Hi Maricela!
Please add the below opposition email to the official record for MM 22-1228.

Thank you!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Friday, December 23, 2022 9:21 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - WalMart NOT needed

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 23, 2022 9:21 PM

Name: Regina Bennett

Address: 1713 Bonita Bluff Ct
Ruskin, FL 33570

Phone Number: (716) 310-1676

Email Address: rmbnp2010@gmail.com

Subject: WalMart NOT needed

Message: We could use a Target, as there are too many Walmarts. Nicer upscale boutiques would be preferable. DENY any WALMART development!!
WE need infrastructure, no more development of housing communites and stores. We do not want to look like the slums, Why not invest in a Hyde Park type location? Keep a lid on things, How about a moratorium? Many cities have them ie Portland, OR in 1990s. Work on Traffic issures, decrease congestion, and limit builder/developer initiatives. The county should be paying for all these CDDs. Being form DC and the West Coast, this is NOT what homeowners should be paying to jsut to recieve services.

1050350639

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - rezoning in area just south of Apollo Beach for big box store.
Date:	Sunday, January 8, 2023 2:40:54 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 2:40 PM

Name: Dennis Bernier

Address: 1016 Silver Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 629-3358

Email Address: Dennisbrnr@gmail.com

Subject: rezoning in area just south of Apollo Beach for big box store.

Message: I am not in favor of fezoning this property for a wal mart or any other big box store. This will really hurt the small businesses in the area.

1054925977

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - rezoning in area just south of Apollo Beach for big box store.
Date:	Sunday, January 8, 2023 2:40:54 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 2:40 PM

Name: Dennis Bernier

Address: 1016 Silver Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 629-3358

Email Address: Dennisbrnr@gmail.com

Subject: rezoning in area just south of Apollo Beach for big box store.

Message: I am not in favor of fezoning this property for a wal mart or any other big box store. This will really hurt the small businesses in the area.

1054925977

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

Rome, Ashley

From: Almand, Sherrie
Sent: Tuesday, January 10, 2023 3:39 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: (WEB mail) - Zoning change in bApollo Beach

And another one. 😉 Please put this email into the official record for MM22-1228.

As always, thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, January 10, 2023 3:37 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Zoning change in bApollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:37 PM

Name: Patricia Bewley

Address: 6453 Lake Sunrise DR
Apollo Beach, FL 33572

Phone Number: (813) 404-6274

Email Address: p.bewley@verizon.net

Subject: Zoning change in bApollo Beach

Message: I am strongly opposed to the rezoning at SR 41 and Leisey Rd. Since moving to Apollo Beach in 1993, I have watched as rezoning resulted in road, school, water, and sewer resources become unable to handle the impacts, while the developers found tax loopholes to avoid paying for their impact. We simply cannot handle the impact of a big box store in Apollo Beach. And it will certainly detract from our overall quality of life. Therefore I am asking all of you to vote NO on this rezoning.

1055809581

Mozilla/5.0 (Linux; Android 13; SM-S906U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36 EdgA/108.0.1462.54

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning change in bApollo Beach
Date:	Tuesday, January 10, 2023 3:37:19 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:37 PM

Name: Patricia Bewley

Address: 6453 Lake Sunrise DR
Apollo Beach, FL 33572

Phone Number: (813) 404-6274

Email Address: p.bewley@verizon.net

Subject: Zoning change in bApollo Beach

Message: I am strongly opposed to the rezoning at SR 41 and Leisey Rd. Since moving to Apollo Beach in 1993, I have watched as rezoning resulted in road, school, water, and sewer resources become unable to handle the impacts, while the developers found tax loopholes to avoid paying for their impact. We simply cannot handle the impact of a big box store in Apollo Beach. And it will certainly detract from our overall quality of life. Therefore I am asking all of you to vote NO on this rezoning.

1055809581

Mozilla/5.0 (Linux; Android 13; SM-S906U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36 EdgA/108.0.1462.54

From:	Almand, Sherrie
To:	Timoteo, Rosalina
Cc:	Rome, Ashley
Subject:	FW: (WEB mail) - Zoning change in bApollo Beach
Date:	Tuesday, January 10, 2023 3:39:00 PM
Attachments:	image001.png

And another one. Please put this email into the official record for MM22-1228.

As always, thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, January 10, 2023 3:37 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Zoning change in bApollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
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5 | Commissioner Donna Cameron Cepeda (District 5)
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7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:37 PM

Name: Patricia Bewley

Address: 6453 Lake Sunrise DR
Apollo Beach, FL 33572

Phone Number: (813) 404-6274

Email Address: p.bewley@verizon.net

Subject: Zoning change in bApollo Beach

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1055809581

Mozilla/5.0 (Linux; Android 13; SM-S906U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36 EdgA/108.0.1462.54

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Growth Apollo Beach
Date:	Friday, December 30, 2022 1:46:00 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 1:45 PM

Name: Richard Biber

Address: 5423 Hammock View Lane
Apollo Beach, FL 33572

Phone Number: (954) 383-3995

Email Address: bgmustang@hotmail.com

Subject: Growth Apollo Beach

Message: As a home owner and boardmember of Harbour Isles, I adamently oppose the continued growth in our community. The continued growth without proper infrastructure is devaluing our homes and causing undo hardships on a already deteriated transportation system. We do not want growth with proper infrastructure already in place. New builds are not required to build landscaping to the roadways around them. Only entrance flowers to sell condos/appts and everyone else foots the build in sewer upgrade costs and cheap plastic fencing aesthetics. For anything approved, a roadway beautification must be included and extended to the median and any maintenance or upgrade costs are established within a CDD. NOT dumped on the surrounding communities.

Thank you

1052174873

Mozilla/5.0 (Linux; Android 13; SM-G998U) AppleWebKit/537.36 (KHTML, like Gecko)

Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No walmart
Date:	Monday, December 12, 2022 7:36:47 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:36 PM

Name: Jenni Blast

Address: 109 harbor village lane
Apollo Beach, FL 33572

Phone Number: (813) 641-8300

Email Address: psell@kw.com

Subject: No walmart

Message: Please stop Walmart from being Added to Apollo beach business we do not want them here!! Stay out of the beach areas.. no need more traffic and congestion they can go somewhere else!!

1045682630

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone11,8;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/2;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No walmart
Date:	Monday, December 12, 2022 7:36:47 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:36 PM

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Address: 109 harbor village lane
Apollo Beach, FL 33572

Phone Number: (813) 641-8300

Email Address: psell@kw.com

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1045682630

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone11,8;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/2;FBID/phone;FBLC/en_US;FBOP/5]

From:	Garcia, David
To:	karenboreham67@gmail.com
Subject:	RE: (WEB mail) - Proposed Walmart at Apollo Beach
Date:	Tuesday, December 13, 2022 3:51:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

---

Ms. Boreham,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 1:50 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Proposed Walmart at Apollo Beach

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 1:49 PM

Name: Karen Boreham

Address: 816 Manns Harbor Drive
Apollo Beach, FL 33572

Phone Number: (405) 365-5641

Email Address: karenboreham67@gmail.com

Subject: Proposed Walmart at Apollo Beach

Message: To whom it may concern,

Please note that as a resident of Apollo Beach, I am strongly against the new proposed Walmart Super Centre. Historically Walmart Super Centres cause many problems including lowering house prices, a detrimental effect on local businesses and higher crime rates.

We live in a high end gated community and a Walmart is not the right fit for this area.

Yours sincerely,

Karen Boreham

1046102684

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone12,1;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/2;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Traffic in the South Shore Area
Date:	Saturday, January 7, 2023 1:47:57 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 1:47 PM

Name: Marilyn Boyer

Address: 349 Hope Bay Loop
Apollo Beach 33572

Phone Number: (813) 220-6534

Email Address: mboy_52@yahoo.com

Subject: Traffic in the South Shore Area

Message: I just sent the following email to the traffic department. I do NOT KNOW what this board of Commissioners is thinking approving all the new building in our area of Apollo Beach. Our roads CANNOT safely accommodate all the traffic which is a result of all the new housing areas along Hwy 41 and 19th St. Our community, Harbour Isles, is becoming land-locked. We have 3 possibilities of ingress and egress. This being 12th St, 19th St, and Hwy 41. There is only a light on US HWY 41, which was put up when a death occurred a few years back. Now there are so many new housing areas on 19th St that it is impossible during rush hours/school hours to exit our community. THERE IS NO LIGHT at 19th and Jeweled Cone, it is 2 lane, and the traffic is horrendous. Same issue on 12th St where you built a school bus storage station after you closed the one on Big Bend. At least Big Bend was multi-laned. NOW, 12th St exit for our community, is a nightmare also with the amount of traffic going E on 12th St from Hwy 41 and the school bus traffic. The light at Hwy 41 and Spindle Shell is NOT programmed to give a safe green arrow for Harbour Isles residents trying to enter our community. I have reported this issue before to traffic control and was told it would be evaluated at a later date. Later meaning someone is killed trying to turn left from Hwy 41 into our community. AND NOW YOU WANT TO PUT IN A WALMART ON A ROAD WHICH HAS ALREADY BECOME A TRAFFIC

NIGHTMARE. SHAME ON YOU! improve the infrastructure here first. If that Walmart goes in here, we will become as crowded as Big Bend is and we only have 2 lanes on each side to travel on. I am totally against that Walmart or any other business on 41 until you do something to alleviate all the traffic and lack of roads /lights at intersections. Below is my letter to traffic office for Hillsborough County sent today.

I swear this light is of no help to those traveling south on Hwy 41 and attempting to turn left into Harbour Isles. With all the increase in traffic, EVEN THOUGH a vehicle crosses the little white line in the left turn lane, you do NOT get an opportunity to have a light to turn left. I just sat thru that light 2x because no left turn arrow was given, the traffic coming north on Hwy 41 was a steady line, there was NO opportunity to make the left turn. A vehicle in front of me was out in the intersection waiting to turn, NEVER had the opportunity. The light changed to red, I had to back up so the car in front which was trying to turn left but couldn't. We DID NOT get a left turn arrow on the next green light EVEN THOUGH we had both crossed the white line which I was previously told by this organization would trigger a left turn arrow. HOW DO YOU EXPECT US TO EXIT/ENTER Harbour Isles when the light doesn't give a safe green turn arrow? It is not like we can go to another street and safely exit. 19th St is now so congested with all the new construction along it, it is only a 2 lane road and the county has NOT improved the number of lanes but continues to approve new housing communities. 12th St is a joke as well now that the school bus parking lot has opened. NEITHER 12th St or 19th St are safe to try and use during rush hours/school hours. And now the only road where there is a light is also difficult because there is no green left turn arrow on EVERY rotation of the light. This is needed! Does someone have to die there trying to make a turn before this organization realizes the left turn arrows should happen on each rotation of the light? I am writing all the county commissioners. It is bad enough there has been no infrastructure improvements to the roads but there are sure a lot of approvals for new building along inadequate roads.

1054699236

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/105.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Please, NO WALMART
Date:	Monday, January 2, 2023 12:15:57 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 2, 2023 12:15 PM

Name: Justin Bremer

Address: 5717 Sea Turtle Place
Apollo Beach , FL 33572

Phone Number: (815) 298-1710

Email Address: justinbremer@hotmail.com

Subject: Please, NO WALMART

Message: I'm writing to express that as a district 4 resident I am strongly opposed to a Walmart in Apollo Beach. Growth here has been explosive here as it is and I do not want to lose the small bayside town feeling that makes Apollo Beach what it is.

Highway 41 is already becoming the new 301 with horrendous traffic and without solid plans to address this problem first I am opposed to any big box stores in Apollo Beach let alone a Walmart.

We do not want Walmart or the clientele that accompanies them.

Thank you,
Justin Bremer

1052764027

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0_3 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Property development
Date:	Monday, January 2, 2023 6:48:54 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 6:48 PM

Name: Gary Bridges

Address: 344 Cockle Shell Loop
Apollo Beach , FL 33572

Phone Number: (941) 624-1290

Email Address: colgaryjbridges@gmail.com

Subject: Property development

Message: There is a proposed plan to develop 300 acres along 41 directly across from Windix shopping plaza here in Apollo Beach. We will have four major grocery stores within 1.5 miles of our Harbor Isle subdivision. We will have three car washes within 2 miles of our subdivision. We will have God knows how many vacant store front within a half mile of our subdivision. There is no traffic exchange that will support this unless another traffic lane is going to be put in across from the Windix plaz and further tie up traffic on 41. And another 300 apartments to increase our property crime and lover the value of current homes. I am opposed to this development. I agree that development is coming but it needs to be thought out better then with has been happening for the past five years. I know, money talks so I am probably releasing my frustration with Hillsborough government that continues to treat Southeast Hillsborough as the bastard child at the family reunion.

1052867635

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like

Gecko) Version/16.2 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Property development
Date:	Monday, January 2, 2023 6:48:56 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 6:48 PM

Name: Gary Bridges

Address: 344 Cockle Shell Loop
Apollo Beach , FL 33572

Phone Number: (941) 624-1290

Email Address: colgaryjbridges@gmail.com

Subject: Property development

Message: There is a proposed plan to develop 300 acres along 41 directly across from Windix shopping plaza here in Apollo Beach. We will have four major grocery stores within 1.5 miles of our Harbor Isle subdivision. We will have three car washes within 2 miles of our subdivision. We will have God knows how many vacant store front within a half mile of our subdivision. There is no traffic exchange that will support this unless another traffic lane is going to be put in across from the Windix plaz and further tie up traffic on 41. And another 300 apartments to increase our property crime and lover the value of current homes. I am opposed to this development. I agree that development is coming but it needs to be thought out better then with has been happening for the past five years. I know, money talks so I am probably releasing my frustration with Hillsborough government that continues to treat Southeast Hillsborough as the bastard child at the family reunion.

1052867635

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like

Gecko) Version/16.2 Safari/605.1.15

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - WALLMART on 41 33572
Date:	Wednesday, December 14, 2022 3:18:05 PM
Attachments:	image001.png

Here is another email for the record.

Thank you.

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Wednesday, December 14, 2022 3:16 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - WALLMART on 41 33572

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 3:15 PM

Name: Patricia & David Brown

Address: 640 Flamingo DR
Apollo Beach, FL 33572

Phone Number: (813) 922-4739

Email Address: padabro823@gmail.com

Subject: WALLMART on 41 33572

Message: I am in agreement to build a new wallmart

1046695624

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - WALLMART on 41 33572
Date:	Wednesday, December 14, 2022 3:18:05 PM
Attachments:	image001.png

Here is another email for the record.

Thank you.

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Wednesday, December 14, 2022 3:16 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - WALLMART on 41 33572

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7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 3:15 PM

Name: Patricia & David Brown

Address: 640 Flamingo DR
Apollo Beach, FL 33572

Phone Number: (813) 922-4739

Email Address: padabro823@gmail.com

Subject: WALLMART on 41 33572

Message: I am in agreement to build a new wallmart

1046695624

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - New Wal-Mart for Apollo Beach
Date:	Wednesday, January 11, 2023 4:50:52 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 4:50 PM

Name: Judy Brown

Address: 877 Symphony Isles Blvd.
Apollo Beach, FL 33572

Phone Number: (402) 658-6883

Email Address: judybrown449@gmail.com

Subject: New Wal-Mart for Apollo Beach

Message: I and my husband support construction of the proposed new Wal-Mart to be located in Apollo Beach. We appreciate your service!

1056300396

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.54

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Walmart in apollo beach
Date:	Tuesday, December 20, 2022 11:20:43 AM
Attachments:	image001.png

Good morning Ms. Medrano,

Here is another Walmart email for the record.

Thank you,

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 20, 2022 11:16 AM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart in apollo beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 20, 2022 11:15 AM

Name: Caroline Brys

Address: 725 Jamaica Circle West
Apollo beach , FL 33572

Phone Number: (813) 900-9368

Email Address: carolinevictoriabaker@yahoo.com

Subject: Walmart in apollo beach

Message: Apollo Beach is already at full capacity and has people stacked on top of each other I don't think that a Walmart is gonna enhance the nice community that we have in Apollo Beach it's turning into Brandon but without any road structure. The roads are awful, traffic and accidents are at a all time high. I don't think anything should be built until infrastructure is fixed. Closing the fire station on golf and sea rather than adding a second one.

1049020368

Mozilla/5.0 (Linux; Android 13; SM-S908U Build/TP1A.220624.014; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/107.0.5304.141 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in apollo beach
Date:	Tuesday, December 20, 2022 11:15:42 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 20, 2022 11:15 AM

Name: Caroline Brys

Address: 725 Jamaica Circle West
Apollo beach , FL 33572

Phone Number: (813) 900-9368

Email Address: carolinevictoriabaker@yahoo.com

Subject: Walmart in apollo beach

Message: Apollo Beach is already at full capacity and has people stacked on top of each other I don't think that a Walmart is gonna enhance the nice community that we have in Apollo Beach it's turning into Brandon but without any road structure. The roads are awful, traffic and accidents are at a all time high. I don't think anything should be built until infrastructure is fixed. Closing the fire station on golf and sea rather than adding a second one.

1049020368

Mozilla/5.0 (Linux; Android 13; SM-S908U Build/TP1A.220624.014; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/107.0.5304.141 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - PRS 22-1609
Date:	Monday, January 2, 2023 9:41:22 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 9:41 AM

Name: Robert Burkhead

Address: 707 Bunker View Drive
Apollo Beach, FL 33572

Phone Number: (813) 507-5430

Email Address: bburkhead62@gmail.com

Subject: PRS 22-1609

Message: Dear Commissioners,

My wife and I are asking that you please not approve the Rezoning of the AB Golf Course (PRS 22-1609). We do not need any more housing in our area. Marisol Point (Marabay) is not built out yet and we already see the effects of increased traffic. Our wildlife is disappearing too. We also have at least 13 homes that will be going up across from Marisol Point. Less than a half mile from our subdivision (Golf and Sea Village) we have Mangrove Point and Mangrove Manor which are mega-sized housing developments. The infrastructure, our schools and particularly the traffic & environmental impact concerns me very much. Please do not allow more homes to be built in our area. Let the golf course remain a golf course or turn it into a park where everyone can enjoy the area.

Thank you in advance for you concern and NO Vote,

Regards,
Robert Burkhead

1052727040

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.54

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228
Date:	Monday, December 12, 2022 11:53:24 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 11:53 PM

Name: Tyler Burkholder

Address: 1667 Bonita Bluff Ct
Ruskin, FL 33570

Phone Number: (941) 914-0393

Email Address: ki4nud@gmail.com

Subject: MM 22-1228

Message: Please vote no to allowing Walmart in Apollo beach

1045759391

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - New Proposed Walmart
Date:	Thursday, December 15, 2022 6:43:32 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 15, 2022 6:43 PM

Name: Diana Caglayan

Address: 143 Mangrove Manor Drive
Apollo Beach, FL 33572

Phone Number: (516) 670-4473

Email Address: diana.goldmanotr@gmail.com

Subject: New Proposed Walmart

Message: Commissioner Owen,

I am writing this email to oppose the new proposal to build a Walmart on 41. Apollo Beach is a wonderful community that prides itself on family businesses. We, as a community, do not want to turn our small boating community into a busy, shopping town. Additionally there are already 2 walmarts surrounding Apollo Beach. One in Gibsonton and one in Wimmamua. Please don't allow our small town to turn into a busy neighborhood like Brandon. We don't want to see our proprerty values drop and do not want the incoming traffic that a walmart superstore will bring. Please do not allow a walmart superstore to be built on 41 in Apollo Beach.

Thanks,
Diana Caglayan

1047321717

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - New Walmart Superstore on 41
Date:	Thursday, December 15, 2022 6:45:30 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 15, 2022 6:45 PM

Name: Eric Caglayan

Address: 143 Mangrove Manor Drive
Apollo Beach, FL 33572

Phone Number: (516) 509-6017

Email Address: diana.goldmanotr@gmail.com

Subject: New Walmart Superstore on 41

Message: Commissioner Owen,

I am writing this email to oppose the new proposal to build a Walmart on 41. Apollo Beach is a wonderful community that prides itself on family businesses. We, as a community, do not want to turn our small boating community into a busy, shopping town. Additionally there are already 2 walmarts surrounding Apollo Beach. One in Gibsonton and one in Wimmamua. Please don't allow our small town to turn into a busy neighborhood like Brandon. We don't want to see our proprerty values drop and do not want the incoming traffic that a walmart superstore will bring. Please do not allow a walmart superstore to be built on 41 in Apollo Beach.

Thanks,
Eric Caglayan

1047322272

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Opposed to Walmart in Apollo Beach
Date:	Friday, December 16, 2022 11:15:31 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 16, 2022 11:15 AM

Name: Sam Caglayan

Address: 5326 Sandy Shell Drive
Apollo Beach , FL 33572

Phone Number: (813) 498-8514

Email Address: samcaglayan@aol.com

Subject: Opposed to Walmart in Apollo Beach

Message: Hi Commissioner Owen, I strongly oppose Walmart coming to Apollo Beach . Strong majority of Apollo Beach residents over 90% of them oppose to Walmart possibly coming to Apollo Beach. Apollo Beach is a small town and due to recent migration of people the traffic here is already a big problem. There is a major car accident on US Highway 41 every week. Crime has also risen over the past few years. Walmart coming to Apollo Beach will create enormous traffic, more accidents and more crime to our small town. Please vote NO for Walmart in Apollo Beach, I thank you for your time and support.

1047603223

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Norris, Marylou
Sent: Wednesday, December 14, 2022 9:37 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: (WEB mail) - Walmart

From: Gormly, Adam <Gormlya@HillsboroughCounty.ORG>
Sent: Tuesday, December 13, 2022 5:12 PM
To: Norris, Marylou <NorrisM@hillsboroughcounty.org>; Grady, Brian <GradyB@HillsboroughCounty.ORG>; Heinrich, Michelle <HeinrichM@HillsboroughCounty.ORG>
Cc: Pike, Isabella <PikeI@hillsboroughcounty.org>
Subject: FW: (WEB mail) - Walmart

Please add to the record for MM 22-1228.

Thank you.

Adam Gormly
Director
Development Services Department

P: (813) 276-8422
E: GormlyA@HCFLGov.net
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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Please note: All correspondence to or from this office is subject to Florida's Public Records law

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From: Pike, Isabella <PikeI@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 3:07 PM
To: Gormly, Adam <Gormlya@HillsboroughCounty.ORG>
Subject: FW: (WEB mail) - Walmart

Thank you for working with me, here is another email about the Walmart.

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 2:59 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 2:59 PM

Name: Dusty Calvo

Address: 5464 sunset falls dr
Apollo Beach, FL 33572

Phone Number: (239) 272-6491

Email Address: dusty8448@gmail.com

Subject: Walmart

Message: Please and I say it again please do not allow Walmart in our beautiful little community. We do not need Walmart here to destroy our community and way of life. There are so many bad experiences with having Walmart here from increase traffic and accidents to increase of crime the list could go on and on. We have a beautiful area don't destroy it embrace it keep it beautiful as it is thank you Dusty

1046143358

Mozilla/5.0 (Linux; Android 13; SM-S901U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/104.0.0.0 Mobile Safari/537.36

From:	Garcia, David
To:	dusty8448@gmail.com
Subject:	RE: (WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 3:38:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

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Dusty,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 2:59 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 2:59 PM

Name: Dusty Calvo

Address: 5464 sunset falls dr
Apollo Beach, FL 33572

Phone Number: (239) 272-6491

Email Address: dusty8448@gmail.com

Subject: Walmart

Message: Please and I say it again please do not allow Walmart in our beautiful little community. We do not need Walmart here to destroy our community and way of life. There are so many bad experiences with having Walmart here from increase traffic

and accidents to increase of crime the list could go on and on. We have a beautiful area don't destroy it embrace it keep it beautiful as it is thank you Dusty

1046143358

Mozilla/5.0 (Linux; Android 13; SM-S901U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/104.0.0.0 Mobile Safari/537.36

Rome, Ashley

From: Hearings
Sent: Tuesday, January 10, 2023 12:11 PM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Zoning Hearing on 1/17/23 - MM22-1228 - agenda and speaking

---

From: Nicole Cameron <ncameron@law-cameron.com>
Sent: Tuesday, January 10, 2023 9:12 AM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Zoning Hearing on 1/17/23 - MM22-1228 - agenda and speaking

External email: Use caution when clicking on links, opening attachments or replying to this email.

I signed up to speak at the 12/12/22 hearing on MM22-1228, but the hearing was continued to 1/17/23. Is there an agenda yet? Can I verify that the 1/17/23 hearing is still going for MM22-1228?

I wish to participate at that hearing also. May I do that, even if I submit an opposition letter?

Nicole M. Cameron

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Disappointed in development approval
Date:	Friday, December 30, 2022 9:50:42 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 9:50 PM

Name: Nicole Capitano

Address: 10123 Courtney palms blvd
Apt 102
Tampa , FL 33619

Phone Number: (813) 545-0119

Email Address: nicole.capitano15@gmail.com

Subject: Disappointed in development approval

Message: Hello,
I am disappointed with the approval for Coke Florida's new headquarters and distribution center that is being built on at 301 and Selmon. I own and occupy a condo in the Courtney Palms Condo community. Since the new development has been in progress, I have felt immense pressure to sell my condo and move. I have been living in Hillsborough county my whole life and I'm not sure if it's the place for me anymore. This development is going to ruin my life.
Happy holidays

1052288386

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Opposition to big box store zoning
Date:	Tuesday, January 10, 2023 7:56:47 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 7:56 AM

Name: Gail Cappiello

Address: 6525 King Palm Wsy
Apollo Beach , FL 33572

Phone Number: (631) 361-6163

Email Address: gailcappiello@gmail.com

Subject: Opposition to big box store zoning

Message: I am against zoning change to allow the construction of a “single tenant big box store” in Apollo Beach.

1055577521

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Opposition to big box store zoning
Date:	Tuesday, January 10, 2023 7:56:49 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 7:56 AM

Name: Gail Cappiello

Address: 6525 King Palm Wsy
Apollo Beach , FL 33572

Phone Number: (631) 361-6163

Email Address: gailcappiello@gmail.com

Subject: Opposition to big box store zoning

Message: I am against zoning change to allow the construction of a “single tenant big box store” in Apollo Beach.

1055577521

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Opposition to big box store zoning
Date:	Tuesday, January 10, 2023 7:56:49 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 7:56 AM

Name: Gail Cappiello

Address: 6525 King Palm Wsy
Apollo Beach , FL 33572

Phone Number: (631) 361-6163

Email Address: gailcappiello@gmail.com

Subject: Opposition to big box store zoning

Message: I am against zoning change to allow the construction of a “single tenant big box store” in Apollo Beach.

1055577521

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No to Walmart
Date:	Wednesday, December 14, 2022 6:19:54 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 14, 2022 6:19 AM

Name: Stephanie Caputo

Address: 412 Manns Harbor Drive
Apollo Beach, FL 33572

Phone Number: (732) 272-2335

Email Address: scapoots@gmail.com

Subject: No to Walmart

Message: We do not need a Walmart in Apollo beach. We have two within 20 min. This is wreck havoc on our community by way of traffic, property values, crime and it's just an eye sore. We do not need this here.

1046453473

Mozilla/5.0 (Linux; Android 13; SM-G998U Build/TP1A.220624.014; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/108.0.5359.79 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 7:51:05 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 7:50 AM

Name: Kim Capwell

Address: 5419 Wishing Arch Dr
Apollo Beach, FL 33572

Phone Number: (920) 378-1805

Email Address: kimcapwell@gmail.com

Subject: Walmart

Message: We do not need nor want a Walmart in Apollo Beach. What we need is a Target and Walgreens. Let's keep this community a little more upscale. We don't want our housing values to drop and there are 2 Walmarts close by. Thank you. Kim

1045900277

Mozilla/5.0 (Linux; Android 13; SM-S908U Build/TP1A.220624.014; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/107.0.5304.141 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - WALMART in Apollo Beach
Date:	Sunday, December 18, 2022 2:19:40 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 18, 2022 2:19 PM

Name: Monique Cardona

Address: 714 Winterside Dr
Apollo beach, FL 33572

Phone Number: (305) 979-2522

Email Address: mcardona05@yahoo.com

Subject: WALMART in Apollo Beach

Message: I have been notified that a Walmart or big box store and 300 apartments are in the works for the property across from the Mirabay shopping center. We really hope that is not the case and hope you can shut down any plans of that happening. This would be very disheartening and cause crime rates to spike and property values to decline in an already difficult market.
You consideration is much appreciated.

Concerned neighbor.

1048234164

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone11,8;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/2;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - A Big NO to Walmart in Apollo Beach
Date:	Monday, December 12, 2022 10:48:43 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 10:48 PM

Name: Terri Casey

Address: 308 Mystic Falls Drive
Apollo Beach, FL 33572

Phone Number: (813) 296-1804

Email Address: Jmartort@verizon.net

Subject: A Big NO to Walmart in Apollo Beach

Message: It's a really bad idea to put a Walmart Store in this small housing community. Ruskin/Apollo Beach has a reputation for crime already. Homeless people all around behind these shopping centers, supermarkets. Walmart allows trailers and RV's and trucks to park overnight. How unsafe is that in this community. Instead of dragging this community down, help to improve it. Walmart will just add another problem. There is so much more land and rural spaces on 41 South on the south side of College. Ample are for parking and not so highly residential. I object to this type of business in Apollo Beach. Thank you.

1045743704

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Safari/605.1.15

Rome, Ashley

From: Hearings
Sent: Tuesday, January 10, 2023 1:07 PM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: opposition to the rezoning application MM 22-1228

From: Megan Cassidy <mncass1011@gmail.com>
Sent: Tuesday, January 10, 2023 9:16 AM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: opposition to the rezoning application MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population.

We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan.

Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities.
Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed.

Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Megan & Timothy Cassidy
315 Hope Bay Loop, Apollo Beach, FL 33572
813-541-5948

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Walmart Superstore
Date:	Friday, December 16, 2022 12:04:01 PM
Attachments:	image001.png

Here is a Walmart email for the record.

Thank you!

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Thursday, December 15, 2022 7:01 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart Superstore

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 15, 2022 7:01 PM

Name: Dottie Cesario

Address: 1024 Bal Harbour Drive
Apollo Beach, FL 33572

Phone Number: (813) 494-5775

Email Address: dottiecesario@verizon.net

Subject: Walmart Superstore

Message: PLEASE - protect the integrity of our neighborhood. The people who live here, move here and have made this area home did so because of the quaintness. We already have far too much new home contstruction. the infrastructure can't handle it. And the character of our neighborhoods in APollo beach is being destroyed - A big box store of ANY kind further destroys that. we can drive to Gibsonton Road or up into Riverview if we need a big box store. Please Please Please say no to a big box department store. we have enough dollar stores and grocery stores and gas stations - those serve any immediate, tru needs. NO big box stores ..... we beg you - the majority of the residents DO NOT WANT these things in our neighborhood.

1047327291

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart Superstore
Date:	Thursday, December 15, 2022 7:01:22 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 15, 2022 7:01 PM

Name: Dottie Cesario

Address: 1024 Bal Harbour Drive
Apollo Beach, FL 33572

Phone Number: (813) 494-5775

Email Address: dottiecesario@verizon.net

Subject: Walmart Superstore

Message: PLEASE - protect the integrity of our neighborhood. The people who live here, move here and have made this area home did so because of the quaintness. We already have far too much new home contstruction. the infrastructure can't handle it. And the character of our neighborhoods in APollo beach is being destroyed - A big box store of ANY kind further destroys that. we can drive to Gibsonton Road or up into Riverview if we need a big box store. Please Please Please say no to a big box department store. we have enough dollar stores and grocery stores and gas stations - those serve any immediate, tru needs. NO big box stores ..... we beg you - the majority of the residents DO NOT WANT these things in our neighborhood.

1047327291

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Re: Proposed Walmart on 41 near Apollo Beach
Date:	Tuesday, December 13, 2022 7:58:33 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 7:58 AM

Name: Denise Chandler

Address: 323 Shore Crab Way
Apollo Beach, FL 33572

Phone Number:

Email Address: deniseschandler@outlook.com

Subject: Re: Proposed Walmart on 41 near Apollo Beach

Message: I am opposed to having a Walmart near Apollo Beach. There are two within a10 to 20 minute drive. We do not need the crime and congestion it will bring to that corner of the road.

1045903130

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - No to WALMART on 19th Ave Ruskin
Date:	Monday, December 19, 2022 9:17:52 AM
Attachments:	image001.png

Walmart constituent concern.

Thank you,

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 19, 2022 9:09 AM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - No to WALMART on 19th Ave Ruskin

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 9:08 AM

Name: Melissa Christenson

Address: 169 Star Shell Drive
Apollo Beach, FL 33572-3517

Phone Number: (813) 391-7846

Email Address: navymom123.mc@gmail.com

Subject: No to WALMART on 19th Ave Ruskin

Message: Good morning I would like to voice my concerns regarding a Walmart being built on 19th Ave in Ruskin. The infrastructure is unable to handle this type of chain store as well as the added traffic on top of the traffic that is already here due to the large amount of new homes being built. Please we implore you to say NO to another Walmart in this area.

1048485895

Mozilla/5.0 (Linux; Android 13; SAMSUNG SM-N986U) AppleWebKit/537.36 (KHTML, like Gecko) SamsungBrowser/19.0 Chrome/102.0.5005.125 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No to WALMART on 19th Ave Ruskin
Date:	Monday, December 19, 2022 9:08:46 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 9:08 AM

Name: Melissa Christenson

Address: 169 Star Shell Drive
Apollo Beach, FL 33572-3517

Phone Number: (813) 391-7846

Email Address: navymom123.mc@gmail.com

Subject: No to WALMART on 19th Ave Ruskin

Message: Good morning I would like to voice my concerns regarding a Walmart being built on 19th Ave in Ruskin. The infrastructure is unable to handle this type of chain store as well as the added traffic on top of the traffic that is already here due to the large amount of new homes being built. Please we implore you to say NO to another Walmart in this area.

1048485895

Mozilla/5.0 (Linux; Android 13; SAMSUNG SM-N986U) AppleWebKit/537.36 (KHTML, like Gecko) SamsungBrowser/19.0 Chrome/102.0.5005.125 Mobile Safari/537.36

From:	Garcia, David
To:	shelleywrae@gmail.com
Subject:	RE: (WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 3:47:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

---

Rochelle,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 2:45 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 2:44 PM

Name: Rochelle Clark

Address: 507 Beacon Sound Way
Apollo Beach , FL 33572

Phone Number: (973) 650-5866

Email Address: shelleywrae@gmail.com

Subject: Walmart

Message: Please do not allow Walmart to come to Apollo Beach. We have a super Center within 15 minutes from us already and do not want all the negative aspects that Walmart brings in our town.

1046133899

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like

Gecko) Mobile/20B101
[FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Walmart
Date:	Friday, December 30, 2022 12:31:13 PM
Attachments:	image001.png

Hi Maricela,
Please add these opposition emails to the official record for MM 22-1228. Thank you!

Respectfully,

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Friday, December 30, 2022 11:59 AM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 11:59 AM

Name: Lisa Colafrancesco-Machado

Address: 5428 Sandy Shell Dr
Apollo Beach, FL 33572

Phone Number:

Email Address:

Subject: Walmart

Message: I live in Harbour Isles and have a hard time getting on and off 41! Please reject the plans to build the shopping center on 41.

1052140619

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Walmart
Date:	Friday, December 30, 2022 11:59:10 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 11:59 AM

Name: Lisa Colafrancesco-Machado

Address: 5428 Sandy Shell Dr
Apollo Beach, FL 33572

Phone Number:

Email Address:

Subject: Walmart

Message: I live in Harbour Isles and have a hard time getting on and off 41! Please reject the plans to build the shopping center on 41.

1052140619

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposal for a Big Box Store in Apollo
Date:	Sunday, January 8, 2023 12:30:13 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 8, 2023 12:30 PM

Name: Vicki A Collins

Address: 5660 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (813) 922-4578

Email Address: vfcollins@hotmail.com

Subject: Proposal for a Big Box Store in Apollo

Message: We do not need any more Big Box Stores. We have Publix 1/2 miles away and another 1 3/4 miles and one going up in Waterset. We have Winn Dixie and 3 Wal Marts within a 3 mile radius. The other day Friday 6 Jan. 2023 I left my home and travel on 41 a two lone road with more lights now then ever and it took me with all the traffic at 10:30am over 21 minutes to travel 1 3/4 miles to Publix. We do not need any more stores, our area roads can not take any more traffic. Crime is going up and now the few local businesses can not survey.

1054895491

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning application for single tenant big box store
Date:	Saturday, January 7, 2023 6:08:40 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 6:08 PM

Name: Corey Combes

Address: 1027 Bal Harbour
Apollo Beach , FL 33572

Phone Number: (716) 393-7665

Email Address: ccombes365@gmail.com

Subject: Zoning application for single tenant big box store

Message: I am opposed to the re-zoning allowing the development of a box box store at US 41 and leisey rd. This will cause traffic issues and we just don't want this type of development on an already congested road.

1054746449

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning application for single tenant big box store
Date:	Saturday, January 7, 2023 6:08:41 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 6:08 PM

Name: Corey Combes

Address: 1027 Bal Harbour
Apollo Beach , FL 33572

Phone Number: (716) 393-7665

Email Address: ccombes365@gmail.com

Subject: Zoning application for single tenant big box store

Message: I am opposed to the re-zoning allowing the development of a box box store at US 41 and leisey rd. This will cause traffic issues and we just don't want this type of development on an already congested road.

1054746449

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning change in Apollo beach
Date:	Saturday, January 7, 2023 5:57:19 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 5:57 PM

Name: Melissa Combes

Address: 1027 Bal Harbour Drive
Apollo Beach, FL 33572

Phone Number:

Email Address: bluevelvet916@gmail.com

Subject: Zoning change in Apollo beach

Message: We do not want the 71 acres of farmland rezonef to commercial and residential land where more housing and more stores are built. Apollo beach is losing its charm with all of this building. We need green space. It’s great to see trees, farms and cows here! The farmland makes Apollo beach special. Please say no to resigning.
Thank you, Melissa Combes

1054744581

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning change in Apollo beach
Date:	Saturday, January 7, 2023 5:57:18 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 5:57 PM

Name: Melissa Combes

Address: 1027 Bal Harbour Drive
Apollo Beach, FL 33572

Phone Number:

Email Address: bluevelvet916@gmail.com

Subject: Zoning change in Apollo beach

Message: We do not want the 71 acres of farmland rezonef to commercial and residential land where more housing and more stores are built. Apollo beach is losing its charm with all of this building. We need green space. It’s great to see trees, farms and cows here! The farmland makes Apollo beach special. Please say no to resigning.
Thank you, Melissa Combes

1054744581

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No walmart
Date:	Monday, December 12, 2022 7:24:59 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:24 PM

Name: Carrie Conley

Address: 5540 Del Coronado dr
Apollo Beach, FL 33572

Phone Number:

Email Address: cfisher74@gmail.com

Subject: No walmart

Message: Please don't let them put a Walmart in our town. It takes away the simple, quaintness of this place

1045678724

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - No walmart
Date:	Tuesday, December 13, 2022 8:10:00 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 7:25 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - No walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:24 PM

Name: Carrie Conley

Address: 5540 Del Coronado dr
Apollo Beach, FL 33572

Phone Number:

Email Address: cfisher74@gmail.com

Subject: No walmart

Message: Please don't let them put a Walmart in our town. It takes away the simple, quaintness of this place

1045678724

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/

en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Rezoning
Date:	Monday, December 19, 2022 8:59:59 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 19, 2022 8:59 AM

Name: Judy Conord

Address: 5719 Sea Turtle Place
Apollo Beach, FL 33572

Phone Number: (813) 352-3779

Email Address: heyjude414@verizon.net

Subject: Rezoning

Message: Please be aware that the proposed rezoning of Highway 41 to include a big box superstore is a detriment to our community. This will impact housing immediately adjacent, across the Highway and further create increased traffic and congestion. There are currently Walmart shopping centers to the South and North of this site. Please help us keep some semblance of sanity to our communities!

Thank you.

1048481640

Mozilla/5.0 (Linux; Android 11; SM-A505U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Walmart in Apollo Beach
Date:	Monday, December 19, 2022 10:17:56 AM
Attachments:	image001.png

Here is another one. Thank you.

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 19, 2022 9:59 AM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 9:58 AM

Name: Deborah Conrad-Goff

Address: 238 Star Shell Dr

Apollo Beach, FL 33572

Phone Number: (845) 541-9231

Email Address: Deb_goff@yahoo.com

Subject: Walmart in Apollo Beach

Message: Apollo Beach needs retail and restaurants. A Wal-Mart will decrease our property values and cause a tremendous amount of traffic on 41. The traffic is already heavy on 41 in Apollo Beach. What used to be a 5 minute drive from Harbour Isles to Apollo Beach Blvd now takes 10 minutes. Please don't allow a Wal-Mart to be built in our little town.

1048508845

Mozilla/5.0 (Linux; Android 13; SM-G990U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Apollo Beach
Date:	Monday, December 19, 2022 9:58:35 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 9:58 AM

Name: Deborah Conrad-Goff

Address: 238 Star Shell Dr
Apollo Beach, FL 33572

Phone Number: (845) 541-9231

Email Address: Deb_goff@yahoo.com

Subject: Walmart in Apollo Beach

Message: Apollo Beach needs retail and restaurants. A Wal-Mart will decrease our property values and cause a tremendous amount of traffic on 41. The traffic is already heavy on 41 in Apollo Beach. What used to be a 5 minute drive from Harbour Isles to Apollo Beach Blvd now takes 10 minutes. Please don't allow a Wal-Mart to be built in our little town.

1048508845

Mozilla/5.0 (Linux; Android 13; SM-G990U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Saturday, December 31, 2022 1:38:35 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 31, 2022 1:38 PM

Name: MYRTLE COOK

Address: 5831 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (770) 853-1295

Email Address: myrtlefsu@yahoo.com

Subject: Walmart

Message: NO WALMART IN RUSKIN.

1052398312

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Walmart
Date:	Saturday, December 31, 2022 1:38:36 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 31, 2022 1:38 PM

Name: MYRTLE COOK

Address: 5831 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (770) 853-1295

Email Address: myrtlefsu@yahoo.com

Subject: Walmart

Message: NO WALMART IN RUSKIN.

1052398312

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - New Businesses in Ruskin, Apollo Beach, and surrounding communities
Date:	Saturday, December 31, 2022 1:43:18 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 31, 2022 1:43 PM

Name: MYRTLE COOK

Address: 5831 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (770) 853-1295

Email Address: myrtlefsu@yahoo.com

Subject: New Businesses in Ruskin, Apollo Beach, and surrounding communities

Message: NO NEW BUSINESSES in this area. We are swamped now and the traffic is TERRIBLE. We are close enough to get to nearby WALMARTS, car washes, etc. WE ARE SWAMPED AND MORE TRAFFIC WOULD BE A FIASCO...as it already is. The accidents are ongoing. NO NEW BUSINESSES.....

1052399369

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Building Opposal
Date:	Tuesday, January 10, 2023 11:00:46 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 11:00 AM

Name: Cortland Cooper

Address: 349 Apollo Beach Blvd #205
Apollo Beach , FL 33572

Phone Number: (813) 453-1349

Email Address: cortlandfsu16@gmail.com

Subject: Building Opposal

Message: Hi my name is Mr. Cortland I am an Apollo Beach native and have lived in Apollo Beach my whole life and I am highly against Walmart being built in Apollo Beach on Leisy Rd /US Hwy 41 and I am requesting you all to please not allow Walmart to be built over there we do not need a Walmart considering the demographics of the people that live here the traffic is bad enough and adding a Walmart there would just be contributing to more car accidents on US Hwy 41 we have had quite a few fatal car accidents and we don't need any more . Putting a Walmart in Apollo Beach would be no different than putting a Walmart in FishHawk. Please do not approve for Walmart on being built here none of us Apollo Beach residents want it here please respect what we want in this town. Thank you for taking the time to reading this.

1055651195

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Building Opposal
Date:	Tuesday, January 10, 2023 11:00:46 AM

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Date and Time Submitted: Jan 10, 2023 11:00 AM

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Phone Number: (813) 453-1349

Email Address: cortlandfsu16@gmail.com

Subject: Building Opposal

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7 | Commissioner Joshua Wostal (District 7)

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Apollo Beach , FL 33572

Phone Number: (813) 453-1349

Email Address: cortlandfsu16@gmail.com

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Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart
Date:	Monday, December 12, 2022 7:30:09 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:30 PM

Name: Amy Couchman

Address: 5733 Tortoise pl
Apollo Beach, FL 33572

Phone Number: (813) 545-4236

Email Address: aburdano@hotmail.com

Subject: No Walmart

Message: No Walmart in Apollo Beach. This will bring down property values.

1045680438

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - No Walmart
Date:	Tuesday, December 13, 2022 8:10:11 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 7:30 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - No Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Address: 5733 Tortoise pl
Apollo Beach, FL 33572

Phone Number: (813) 545-4236

Email Address: aburdano@hotmail.com

Subject: No Walmart

Message: No Walmart in Apollo Beach. This will bring down property values.

1045680438

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No big box store in Apollo Beach
Date:	Monday, January 9, 2023 9:50:07 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 9:50 PM

Name: Laura Craig

Address: 6348 Cocoa Lane
Apollo Beach, FL 33572

Phone Number: (813) 484-0712

Email Address: crabbylaura69@aol.com

Subject: No big box store in Apollo Beach

Message: Apollo Beach is a residential/farming community that is no place for ANY big box store. The infrastructure can not handle any more influx of development. It's bursting at the seams. Our once quiet little community is turning into another Dale Mabry. Tomato and tree farms are now thousands of houses, traffic, dead wildlife, and the never ending sound of construction. Apollo Beach must remain true to small businesses and restaurants.

1055481246

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
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1055481246

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Bo's store proposal in Apollo beach
Date:	Monday, December 19, 2022 2:11:42 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 19, 2022 2:11 PM

Name: Tim Crowley

Address: 5723 Tortoise Place
Apollo Beach, FL 33562

Phone Number: (609) 230-9661

Email Address: tcrowley66@gmail.com

Subject: Big Bo's store proposal in Apollo beach

Message: Good day. With the upcoming proposal of a larger retailer along Rte 41 in Apollo Beach, I would ask for your support of our community to oppose this proposal. While I am a supporter of economic development in the area, this parcel is not well situated for the increase in traffic that would follow such a venture. Further the road noise is already discernible a half a mile away from my home as it is without the increased traffic. Please support the MiraBay community in opposing this request at the January hearing. This voter appreciates the support.

1048637646

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone14,7;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - MM 22-1228
Date:	Tuesday, December 13, 2022 5:39:04 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:38 PM

Name: Kathryn Curtis

Address: 530 Winterside Drive
Apollo Beach, FL 33572

Phone Number:

Email Address: kathycinva@yahoo.com

Subject: MM 22-1228

Message: To Whom It May Concern,

Please do not approve the proposal for a Walmart in Apollo Beach, FL. While South County is in need of infrastructure to support the residential growth, we already have a Walmart 20 minutes in either Gibsonton or Wimauma as well as a Walmart Marketplace in Riverview.

However, it would be wonderful to have additional restuarants for family dining and gathering.

Sincerely,

Kathryn Curtis

1046249594

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228
Date:	Tuesday, December 13, 2022 5:38:45 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:38 PM

Name: Kathryn Curtis

Address: 530 Winterside Drive
Apollo Beach, FL 33572

Phone Number:

Email Address: kathycinva@yahoo.com

Subject: MM 22-1228

Message: To Whom It May Concern,

Please do not approve the proposal for a Walmart in Apollo Beach, FL. While South County is in need of infrastructure to support the residential growth, we already have a Walmart 20 minutes in either Gibsonton or Wimauma as well as a Walmart Marketplace in Riverview.

However, it would be wonderful to have additional restuarants for family dining and gathering.

Sincerely,

Kathryn Curtis

1046249594

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	Garcia, David
To:	invictuser@aol.com
Subject:	RE: (WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 3:46:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

---

Elizabeth,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 2:51 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 2:51 PM

Name: Elizabeth Czerwonka

Address: 6603 Stingray court
Apollo beach 33572

Phone Number: (813) 641-6507

Email Address: invictuser@aol.com

Subject: Walmart

Message: I do not want a Walmart in our community. The police were just at my house today due to theft. I feel Walmart, and statistics have proven this, will increase the crime in the area. I pay very high taxes as it is and I am not getting my moneys worth already. We do not need another Walmart we need more police surveillance in the area, we need more beautification in the area but we most certainly do not need a Walmart.

1046137926

Mozilla/5.0 (iPhone; CPU iPhone OS 15_5 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big box store Rt. 41 Apollo Beach
Date:	Saturday, January 7, 2023 4:39:41 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 7, 2023 4:39 PM

Name: Linda Daugherty

Address: 5253 Brighton Shore Drive
Apollo Beach , FL 33572

Phone Number: (813) 393-7467

Email Address: ldoc31@tampabay.rr.com

Subject: Big box store Rt. 41 Apollo Beach

Message: This does not belong in this area. It borders two residential neighborhoods and will be across from a lovely shopping center with a Winn Dixie. The traffic and noise will affect all of us who live nearby. I'm not against progress but this is a ridiculous thing to try and bring to this area.

1054731431

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Hwy 41 Rezoning in Apollo Beach
Date:	Wednesday, January 11, 2023 4:39:30 PM
Attachments:	image001.png

It's me again! Please add this email to the official record of MM22-1228.

Thank you!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Wednesday, January 11, 2023 3:49 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Hwy 41 Rezoning in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 3:49 PM

Name: Brian Dee

Address: 6303 wisteria ln
Apollo beach, FL 33572

Phone Number: (813) 505-4155

Email Address: briandee@c21be.com

Subject: Hwy 41 Rezoning in Apollo Beach

Message: Dear Commissioners:
As residents of Apollo Beach, we are not looking for a zoning change to add yet another big box store/gas station/fast food shopping center and 300 apartments. This is a quiet waterfront community between the many shopping areas available. Every big box store you can imagine is within 15 minutes of my home, including Lowes, two Home Depot, a Target, two Walmart, two Bells, plus 4 big box food stores within 5 miles - not to mention Amazon 10 minutes away and delivering products within 4 hours. Hwy 41 is a miserable 4 lane highway which has not even had the paving completed within the past year, and drainage ditches everywhere all incomplete and most with no one working on them. The Big Bend - Hwy 41 intersection is ridiculous in its present state, and that could have been completed ages ago. And of course the I-75 interchange at Big Bend is a long way from completion just to accommodate present needs of residents. Apollo Beach Blvd is in desperate need of re-paving, but what we get are occasional patching of the potholes, and that is done poorly!
This area is not ready for nor wanting another big box store and its associated proposed fast foods, gas, and car wash – 4 of which already exist on Hwy 41 within 5 miles. The Mirabay shopping center across the street has had a hard time filling its smaller shops, so building more of anything now seems crazy. However a nice smaller development with commercial enterprises as presently zoned – and not a strip mall with no landscaping – would be more becoming of the area. The impact of the new development of over 600 residences on either side of Hwy 41 by DR Horton has yet to be felt on Hwy 41, but it is certain to make the present traffic problems worse once occupied.
Let's finish the undone projects and improvements already on the table and not projected for completion for years to come. Let's plan a spectacular community shopping center properly landscaped and with nice smaller stores that better serve the needs of the local community after the improvements cited are completed.
Thank you for your consideration
Brian and Mary Dee
6303 Wisteria Lane
Apollo Beach, Fl 33572

1056267982

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Hwy 41 Rezoning in Apollo Beach
Date:	Wednesday, January 11, 2023 3:49:15 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 3:49 PM

Name: Brian Dee

Address: 6303 wisteria ln
Apollo beach, FL 33572

Phone Number: (813) 505-4155

Email Address: briandee@c21be.com

Subject: Hwy 41 Rezoning in Apollo Beach

Message: Dear Commissioners:
As residents of Apollo Beach, we are not looking for a zoning change to add yet another big box store/gas station/fast food shopping center and 300 apartments. This is a quiet waterfront community between the many shopping areas available. Every big box store you can imagine is within 15 minutes of my home, including Lowes, two Home Depot, a Target, two Walmart, two Bells, plus 4 big box food stores within 5 miles - not to mention Amazon 10 minutes away and delivering products within 4 hours. Hwy 41 is a miserable 4 lane highway which has not even had the paving completed within the past year, and drainage ditches everywhere all incomplete and most with no one working on them. The Big Bend - Hwy 41 intersection is ridiculous in its present state, and that could have been completed ages ago. And of course the I-75 interchange at Big Bend is a long way from completion just to accommodate present needs of residents. Apollo Beach Blvd is in desperate need of re-paving, but what we get are occasional patching of the potholes, and that is done poorly!
This area is not ready for nor wanting another big box store and its associated proposed fast foods, gas, and car wash – 4 of which already exist on Hwy 41 within 5 miles. The Mirabay shopping center across the street has had a hard time filling its smaller shops, so building more of anything now seems crazy. However a nice

smaller development with commercial enterprises as presently zoned – and not a strip mall with no landscaping – would be more becoming of the area. The impact of the new development of over 600 residences on either side of Hwy 41 by DR Horton has yet to be felt on Hwy 41, but it is certain to make the present traffic problems worse once occupied.

Let's finish the undone projects and improvements already on the table and not projected for completion for years to come. Let's plan a spectacular community shopping center properly landscaped and with nice smaller stores that better serve the needs of the local community after the improvements cited are completed.

Thank you for your consideration

Brian and Mary Dee
6303 Wisteria Lane
Apollo Beach, Fl 33572

1056267982

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Monday, December 12, 2022 9:21:44 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 9:21 PM

Name: Tina Delgado

Address: 421 Brandywine Falls Ct
Apollo Beach, FL 33572

Phone Number: (813) 922-9327

Email Address: tinaldelgado@gmail.com

Subject: Walmart

Message: There's a post going around Facebook stating there may be a Walmart coming to Apollo Beach. I'm opposed to that whole heartedly.

1045717508

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone14,2;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_Qaau_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - STOP THE URBAN SPREAD IN SOUTH HILLSBOROUGH
Date:	Friday, December 30, 2022 6:01:11 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 6:01 PM

Name: Jane Deutschmann

Address: 16217 Cape Coral Drive
Wimauma , FL 33598

Phone Number: (727) 644-5588

Email Address: jane.deutschmann@gmail.com

Subject: STOP THE URBAN SPREAD IN SOUTH HILLSBOROUGH

Message: SPRAWL in south HILLSBOROUGH County is outrageous!! It needs to stop. END it NOW.
Apollo Beach, Wimauma, Riverview.
We don’t have enough resources to to keep up: fire departments, schools etc.. The traffic is a constant gridlock

1052246512

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO Discount Superstore (Big Box Store) in Apollo Beach
Date:	Monday, January 9, 2023 4:34:42 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 4:34 PM

Name: Sean Donahoe

Address: 5216 Brighton Shore Drive
Apollo Beach, FL 33572

Phone Number: (813) 649-9678

Email Address: sean.patrick@donahoes.com

Subject: NO Discount Superstore (Big Box Store) in Apollo Beach

Message: Please DO NOT vote for a zoning change that would allow for a single tenant big box superstore or other large scale retail construction at SR 41 and Leisey Road in Apollo Beach. This area of the county is so overbuilt without any consideration of impacts to our overburdened infrastructure in South Hillsborough County. We already have enough large superstore type retail within a 10-15 mile radius. The proposed zoning change will bring enormous traffic burdens to any already challenged traffic corridor on SR 41, with few options for alternate North/South flow to Tampa or Bradenton with very limited East/West connections to I-75. This proposal is not in keeping with the county vision for the Apollo Beach area and will run even more of our precious local retail establishments out of business. We moved here 8 years ago for the small town feel, but it has taken just that short period to turn what was once a bucolic paradise into unmitigated sprawl. Please vote no on this proposed rezoning.

Mozilla/5.0 (Linux; Android 12; moto g stylus 5G) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

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From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart
Date:	Saturday, December 31, 2022 11:11:03 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 31, 2022 11:10 AM

Name: Michele Donofrio

Address: 6433 Triton Lane
Apollo Beach , FL 33572

Phone Number: (631) 294-6292

Email Address: tcb5863@gmail.com

Subject: No Walmart

Message: We’re have enough traffic and enough Walmart and apartments in our area already. It will bring nothing but more crime to the area..

1052368868

Mozilla/5.0 (iPad; CPU OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPad12,1;FBMD/iPad;FBSN/iPadOS;FBSV/15.6.1;FBSS/2;FBID/tablet;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No Walmart
Date:	Saturday, December 31, 2022 11:11:01 AM

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Rome, Ashley

From: Zoning Intake-DSD
Sent: Thursday, January 12, 2023 1:52 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: opposition to the rezoning application MM 22-1228

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Carrie Elwell <carrieelwell@outlook.com>
Sent: Thursday, January 12, 2023 1:50 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: opposition to the rezoning application MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228. We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities.

Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Carrie & Kevin Elwell
5323 Fishersound Lane
Apollo Beach FL 33572
813.728.8838

From: Owen, Michael
To: Almand, Sherrie
Subject: Fwd: opposition to the rezoning application MM 22-1228
Date: Friday, January 13, 2023 1:37:42 PM

Get Outlook for iOS

From: Carrie Elwell <carrieelwell@outlook.com>
Sent: Thursday, January 12, 2023 1:50:05 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: opposition to the rezoning application MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

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5323 Fishersound Lane
Apollo Beach FL 33572
813.728.8838

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Rezoning to allow Big Box Store in Apollo Beach
Date:	Sunday, January 8, 2023 12:46:18 PM
Attachments:	51883785_Rezoning to allow Big Box Store in Apollo Beach.pdf

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The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:44 PM

Name: Cynthia Foreman

Address: 6429 Lake Sunrise Dr.
Apollo Beach, FL 33572

Phone Number: (361) 945-5494

Email Address: cindyaltea@icloud.com

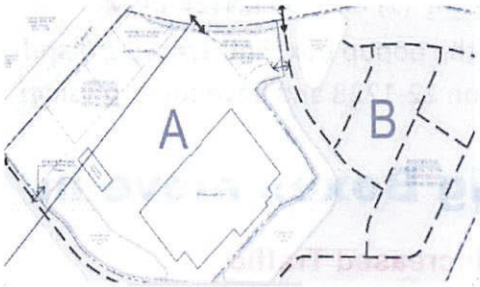
Subject: Rezoning to allow Big Box Store in Apollo Beach

Message: Regarding the attached: please note that I am in favor of the rezoning to allow a big box store and fast food restaurants inApollo Beach because the closest facilities of this type are not conveniently near enough.

1054898631

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

Received January 9, 2023
Development Services



ARE YOU AWARE?

County Commissioners are about to vote on a zoning change to allow construction of a "Single Tennant Big Box Superstore" (thought to be a Walmart) in Apollo Beach.

This impacts us all. 71 acres of farmland will be rezoned into 26.09 acres of commercial property and 40.38 acres of residential. This property is at SR 41 and Leisey Rd: Directly across from Winn Dixie; Next to Harbor Isles; Across from Mirabay, and ~1.5 miles from Del Webb, Apollo Beach Blvd, and Waterset.

The Proposal (as listed on the site plan)

The analysis conducted for the major modification of the Planned Development was based on the following land uses:

- MULTI-FAMILY (ITE LUC 220) - 303 DWELLING UNITS
- DISCOUNT SUPERSTORE (ITE LUC 813) - 208,000 SF
- DISCOUNT GAS (ITE LUC 945) - 16 FUELING POSITIONS
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- FAST FOOD RESTAURANT W DRIVE THRU (ITE LUC 934) - 4,500 SF
- HIGH TURNOVER RESTAURANT (ITE LUC 932) - 6,000 SF
- CAR WASH (ITE LUC 948) - 1 TUNNEL

There is VERY little time left to meet the commission deadlines. Let our commissioners know that we do not want big box-store development here in Apollo Beach.

DEADLINES		ACTIONS TO TAKE NOW	
Jan 12th	**Last Day to Submit Public Feedback** online to County Commissioners	**Contact Our Commissioners** https://hcflgov.formstack.com/forms/contact_commissioner? ALL Commissioners will vote, and using this QR Code or URL will allow you to send an email to all of them at once. **PLEASE NOTE:** the zoning change would permit ANY big box store, so don't say you would rather have a Costco or Home Depot – because that basically is a vote in favor of the zoning change. **Be clear that we don't want the zoning change to allow ANY big-box superstores directly in Apollo Beach.**	
Jan 16th	**Last Day to take the 4-question poll** for or against allowing the zoning change and big box store, and then **sign the petition if you are against the zoning change.**	**Poll**	**Take a Poll and Sign a Petition** Use these QR Codes to access the 4-question poll and signature petition posted on Next Door and Facebook, created by Citizens for a Sustainable South Shore. They are a small, but dedicated group committed to **helping our community become aware** of events that impact our future. **The poll results and petitions will be presented directly to the County Commissioners at the January 17th Commission Meeting.** For more information, contact Citizens for a Sustainable Southshore through Next Door, Facebook or at savesouthshore@gmail.com
		Petition	
Jan 17th	County Commission Meeting	**Attend the Commission Meeting in Person or Remote** If you wish to attend the hearing either in person or by virtual participation, please register at the following link http://hcflgov.net/SpeakUp. You can register up to 30 minutes prior to the start of the hearing.	

Please see the reverse side for information on accessing the zoning and development proposal, and to better understand the importance of this vote.

22-1228

Received January 9, 2023
Development Services

Access the Full Proposal at https://www.hillsboroughcounty.org/pgm (1) Click on **ENTER PGM STORE**. (2) Use **public** for both the username and password. (3) Click **Login** (4) In the popup box, find **Tracking #** and enter **22-1228** (5) Choose the folder titled: **Document Repository Public** (6) Click on 22-1228 and have fun browsing!

Here are some facts to consider when Big Boxes move in

The Local Economy Suffers

Many studies have shown that Big Box is a killer of local mom and pop businesses. Business News Daily (attached) outlines some reasons why.

- Due to the volume of sales, they can absorb lower profit margins than local businesses.
- Hourly wages, on average, are $3.00 / hour less than the averages offered at existing local businesses.
- They can use large-corporation tax loopholes to pay very little in taxes while using extraordinary amounts of county resources

We need to attract local businesses that provide competitive wages to keep our local economy strong while showcasing our community's culture and history.

Big Box Superstores Attract Crime

Higher-than average crime rates at big box stores are well documented. Many have become national news, including kidnappings, murders and mass shootouts. "Fights regularly break out at Walmarts across the nation. Crime at Walmart is so rampant in certain cities that police departments say their resources are being stretched thin responding to calls."

Transportation / Increased Traffic

Our roads are in disrepair and are already overburdened. The area cannot absorb the additional traffic a big box store and over 300 apartments would generate.

Resource Depletion

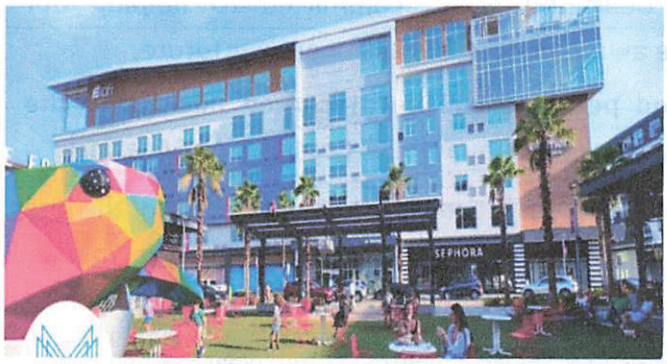
Growth is inevitable, we just need to be smart about HOW we grow! Who says we must have big box to be progressive? Also, we must first have **and** be able to sustain the resources (fire, police, schools, natural resources) to support the development proposed.

Negative Environmental Impact

Walmart and other big box stores fail on sustainability and contribute greatly to the sprawl killing our communities. "Studies have shown that big box retail takes away almost 3,000 acres of farmland, wetlands, and other green spaces every year. That's the size of the state of Delaware". We must come up with viable alternatives to big box that include SMART development that incorporate environmentally-friendly design elements.

There Are Better Visions

The type of growth that follows big box is NOT the answer for Apollo Beach. We must be thoughtful and responsible in our growth. For example, new trends in contemporary mixed-use development meet the need for commercial growth **and** housing, but in a way that **supports local businesses and retains a sense of community** by incorporating shared areas to host events and serve as community gathering spots. Think Midtown Tampa. Shopping, housing, outdoor cafés and gathering spots. Places that become "destinations" for both locals and snowbirds. Places where revenue that is generated here stays here. Places that provide our local community with more opportunities to earn living wages.



It is time to weigh in Apollo Beach

Our Town. Our Residents. Our way of Life.

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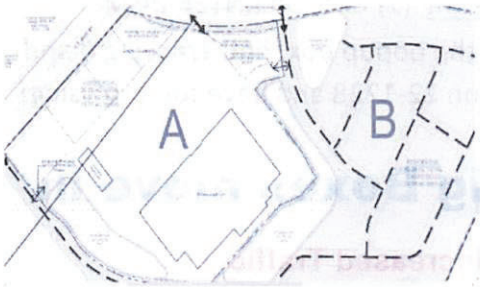

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Here are some facts to consider when Big Boxes move in

The Local Economy Suffers

Many studies have shown that Big Box is a killer of local mom and pop businesses. Business News Daily (attached) outlines some reasons why.

- Due to the volume of sales, they can absorb lower profit margins than local businesses.
- Hourly wages, on average, are $3.00 / hour less than the averages offered at existing local businesses.
- They can use large-corporation tax loopholes to pay very little in taxes while using extraordinary amounts of county resources

We need to attract local businesses that provide competitive wages to keep our local economy strong while showcasing our community's culture and history.

Big Box Superstores Attract Crime

Higher-than average crime rates at big box stores are well documented. Many have become national news, including kidnappings, murders and mass shootouts. "Fights regularly break out at Walmarts across the nation. Crime at Walmart is so rampant in certain cities that police departments say their resources are being stretched thin responding to calls."

Transportation / Increased Traffic

Our roads are in disrepair and are already overburdened. The area cannot absorb the additional traffic a big box store and over 300 apartments would generate.

Resource Depletion

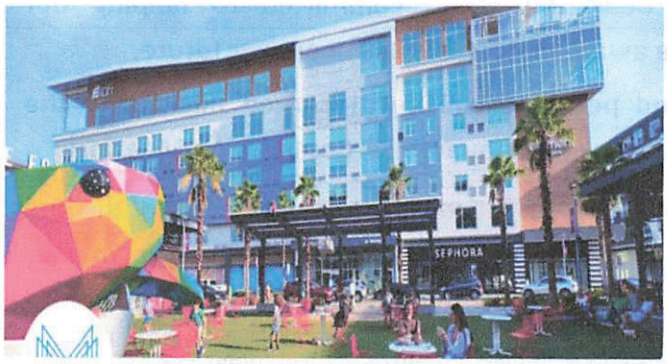
Growth is inevitable, we just need to be smart about HOW we grow! Who says we must have big box to be progressive? Also, we must first have **and** be able to sustain the resources (fire, police, schools, natural resources) to support the development proposed.

Negative Environmental Impact

Walmart and other big box stores fail on sustainability and contribute greatly to the sprawl killing our communities. "Studies have shown that big box retail takes away almost 3,000 acres of farmland, wetlands, and other green spaces every year. That's the size of the state of Delaware". We must come up with viable alternatives to big box that include SMART development that incorporate environmentally-friendly design elements.

There Are Better Visions

The type of growth that follows big box is NOT the answer for Apollo Beach. We must be thoughtful and responsible in our growth. For example, new trends in contemporary mixed-use development meet the need for commercial growth **and** housing, but in a way that **supports local businesses and retains a sense of community** by incorporating shared areas to host events and serve as community gathering spots. Think Midtown Tampa. Shopping, housing, outdoor cafés and gathering spots. Places that become "destinations" for both locals and snowbirds. Places where revenue that is generated here stays here. Places that provide our local community with more opportunities to earn living wages.



It is time to weigh in Apollo Beach

Our Town. Our Residents. Our way of Life.

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Rezoning Southshore re:walmart
Date:	Saturday, January 7, 2023 6:22:31 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 6:22 PM

Name: Lauren Fuchsen

Address: 6513 abaco drive
Apollo beach , FL 33572

Phone Number: (813) 520-6856

Email Address: rn.um.lauren@gmail.com

Subject: Rezoning Southshore re:walmart

Message: I will keep this short and sweet. I know most of you will not read all the emails or emails in their entirety. We have suffered enough at the hands of greed and poor planning. We cannot even love our cars and now deal with the big bend exit fiasco adding 15-20 minutes to the already inflated drive times due to the amount of housing you all voted to put in our area. We have no Infrastructure. We have no interest in this store or any more stores coming to the area. We would like to keep some small semblance of a residential neighborhood. Please do not vote yes to rezoning. Please leave the few pierce of land left here untouched. Please STOP THE SPRAWL.

1054748647

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Rezoning Southshore re:walmart
Date:	Saturday, January 7, 2023 6:22:30 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 6:22 PM

Name: Lauren Fuchsen

Address: 6513 abaco drive
Apollo beach , FL 33572

Phone Number: (813) 520-6856

Email Address: rn.um.lauren@gmail.com

Subject: Rezoning Southshore re:walmart

Message: I will keep this short and sweet. I know most of you will not read all the emails or emails in their entirety. We have suffered enough at the hands of greed and poor planning. We cannot even love our cars and now deal with the big bend exit fiasco adding 15-20 minutes to the already inflated drive times due to the amount of housing you all voted to put in our area. We have no Infrastructure. We have no interest in this store or any more stores coming to the area. We would like to keep some small semblance of a residential neighborhood. Please do not vote yes to rezoning. Please leave the few pierce of land left here untouched. Please STOP THE SPRAWL.

1054748647

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO TO COMMERCIAL DEVEOPMENT ON US 41 IN APOLLO BEACH
Date:	Monday, January 9, 2023 12:54:10 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 12:54 PM

Name: Joanne Gadek

Address: 5525 Sunset Falls Dr.
Apollo Beach, FL 33572

Phone Number: (813) 260-6220

Email Address: gadeksunset@gmail.com

Subject: NO TO COMMERCIAL DEVEOPMENT ON US 41 IN APOLLO BEACH

Message: Believe the reference number is MM 22-1228. Have lived here since 1988. Worked as Executive Director at the Apollo Beach Chamber for almost 17 years. Have seen so many of the infrastructure problems be tossed aside after Commissioners sided with developers.

PLEASE RECONSIDER YOUR POSSIBLE INCREASE DEVEOPMENT,

1055249463

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO TO COMMERCIAL DEVEOPMENT ON US 41 IN APOLLO BEACH
Date:	Monday, January 9, 2023 12:54:10 PM

The following Commissioner(s) received a direct copy of this email:

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3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 12:54 PM

Name: Joanne Gadek

Address: 5525 Sunset Falls Dr.
Apollo Beach, FL 33572

Phone Number: (813) 260-6220

Email Address: gadeksunset@gmail.com

Subject: NO TO COMMERCIAL DEVEOPMENT ON US 41 IN APOLLO BEACH

Message: Believe the reference number is MM 22-1228. Have lived here since 1988. Worked as Executive Director at the Apollo Beach Chamber for almost 17 years. Have seen so many of the infrastructure problems be tossed aside after Commissioners sided with developers.

PLEASE RECONSIDER YOUR POSSIBLE INCREASE DEVEOPMENT,

1055249463

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Thursday, December 15, 2022 7:42:52 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 15, 2022 7:42 PM

Name: Dana Gallahan

Address: 6602 Blackfin Way
Apollo Beach, FL 33572

Phone Number: (727) 919-2352

Email Address: dlgallahan@yahoo.com

Subject: Walmart

Message: Please do not allow Walmart to build another store in our area. Traffic is already atrocious and housing developments and apartments are going up everywhere. There is already a Walmart less than 10 miles from here on GIBSONTON. It has to stop somewhere.

1047339898

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B110 [FBAN/FBIOS;FBDV/iPhone14,3;FBMD/iPhone;FBSN/iOS;FBSV/16.1.2;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Walmart
Date:	Monday, December 19, 2022 9:10:33 AM

Here is another one.

Thank you.

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Saturday, December 17, 2022 8:15 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 17, 2022 8:14 PM

Name: Stacy Gallina

Address: 7327 Guilford Pine LN
Apollo Beach, FL 33572

Phone Number: (410) 952-4747

Email Address: stacygallina@gmail.com

Subject: Walmart

Message: I am writing to state my displeasure of finding out that there may be a Walmart coming to my community. We already have two Walmart's within 20 minutes. There is zero need for another. Apollo Beach is being built more than the local infrastructure can sustain. If something needs to be built in that area, what about a nice boutique, restaurant or recreation area: such as pickleball and so forth?

I am aware that many of my fellow neighbors do not want Walmart to come to our area and we would greatly appreciate if you took our displeasure into consideration.

Regards,
Stacy

1048089665

Mozilla/5.0 (Linux; Android 10) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Saturday, December 17, 2022 8:14:48 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 17, 2022 8:14 PM

Name: Stacy Gallina

Address: 7327 Guilford Pine LN
Apollo Beach, FL 33572

Phone Number: (410) 952-4747

Email Address: stacygallina@gmail.com

Subject: Walmart

Message: I am writing to state my displeasure of finding out that there may be a Walmart coming to my community. We already have two Walmart's within 20 minutes. There is zero need for another. Apollo Beach is being built more than the local infrastructure can sustain. If something needs to be built in that area, what about a nice boutique, restaurant or recreation area: such as pickleball and so forth?

I am aware that many of my fellow neighbors do not want Walmart to come to our area and we would greatly appreciate if you took our displeasure into consideration.

Regards,
Stacy

1048089665

Mozilla/5.0 (Linux; Android 10) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Do Not Change Zoning to Allow Big Box Superstores in Apollo Beach
Date:	Monday, January 9, 2023 1:20:03 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:19 PM

Name: Gary Garbelman

Address: 6504 King Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 731-4291

Email Address: cgarbel1@verizon.net

Subject: Do Not Change Zoning to Allow Big Box Superstores in Apollo Beach

Message: To all, enough is enough. Growth with thoughtful consideration toward the community is a crime. We are packed in South Hillsborough like sardines as it is. Please do not re-zone for Big- Box stores. There are better plans that would compliment the area.

1055262176

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Do Not Change Zoning to Allow Big Box Superstores in Apollo Beach
Date:	Monday, January 9, 2023 2:20:32 PM
Attachments:	image001.png

Hi!
Please see below. Here is one that came in just a bit ago. Please enter into the official record for MM22-1228.

Thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 1:20 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Do Not Change Zoning to Allow Big Box Superstores in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:19 PM

Name: Gary Garbelman

Address: 6504 King Palm Way

Apollo Beach, FL 33572

Phone Number: (813) 731-4291

Email Address: cgarbel1@verizon.net

Subject: Do Not Change Zoning to Allow Big Box Superstores in Apollo Beach

Message: To all, enough is enough. Growth with thoughtful consideration toward the community is a crime. We are packed in South Hillsborough like sardines as it is. Please do not re-zone for Big- Box stores. There are better plans that would compliment the area.

1055262176

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Rezoning for South Hillsborough County January 17th Meeting
Date:	Monday, January 9, 2023 8:01:13 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 8:01 AM

Name: Amy Gaubert

Address: 6319 Cottonwood Ln
Apollo Beach, FL 33572

Phone Number: (813) 344-6220

Email Address: agaubert@msn.com

Subject: Rezoning for South Hillsborough County January 17th Meeting

Message: Please do not vote in favor of the rezoning. Our area cannot handle this. The roads are a mess and this will make it worse. This area cannot handle the growth that is happening right now, yet everyone continues to approve more and more. Please listen to the residents of this area and vote NO to rezone this area for big box commercial and residential units.

1055121418

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/86.0.4240.198 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Rezoning for South Hillsborough County January 17th Meeting
Date:	Monday, January 9, 2023 8:01:11 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 8:01 AM

Name: Amy Gaubert

Address: 6319 Cottonwood Ln
Apollo Beach, FL 33572

Phone Number: (813) 344-6220

Email Address: agaubert@msn.com

Subject: Rezoning for South Hillsborough County January 17th Meeting

Message: Please do not vote in favor of the rezoning. Our area cannot handle this. The roads are a mess and this will make it worse. This area cannot handle the growth that is happening right now, yet everyone continues to approve more and more. Please listen to the residents of this area and vote NO to rezone this area for big box commercial and residential units.

1055121418

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/86.0.4240.198 Safari/537.36

From: Zoning Intake-DSD
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: MM 22-1228
Date: Monday, December 12, 2022 7:57:58 AM
Attachments: image001.png

Opposition letter.

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Jeannette Gibbons <jgibbons@trinitask.com>
Sent: Sunday, December 11, 2022 9:04 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

I am a resident of Mirabay at 5614 Seagrass Place. We have lived here for 13 years and we are so dissapointed with how this area is being developed. To add insult to injury, this proposal for the zoning for Walmart to be added to the already poorly planned developments puts another nail in the coffin for any hopes of keeping our area from becoming a complete dump. We absolutely disapprove of this plan. No consideration is being taken for the property values of the residents that have initially invested in this area. The increased traffic for this area without any road improvements is also putting all residents at risk if and when we are required to evacuate due to a storm.
Thank you for your tome and consideration.
Jeannette Gibbons

Rome, Ashley

From: Hearings
Sent: Thursday, January 12, 2023 5:11 PM
To: Rome, Ashley; Timoteo, Rosalina
Cc: Ball, Fred (Sam)
Subject: FW: MM 22-1228

----- Original Email -----

From: Tracy Gilmour <tracytgilmour@gmail.com>
Sent: Thursday, January 12, 2023 2:27 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

My husband and I reside at 712 Manns Harbor Drive in Mirabay. This development is one of the few upscale developments in Apollo Beach. I would venture to say home values in this neighborhood average above $700,000. I am not opposed to a Walmart (or similar big box store) in the area, however, I am vehemently opposed to Walmart in this location. It is too close to the entrance to Mirabay and will negatively impact the ambience of our development. I do realize there is a great need for retail development in this area, I just really believe this is not the right fit for this tract of land.

I do understand it is challenging to rule against this use but if granted it will permanently turn Apollo Beach into a low to middle income development. With development along the water limited and at a premium along 41 this would be really sad.

If this does move forward and the zoning change is granted then please, please require a substantial landscape buffer between this use and HWY 41. And only allow low profile signage, not the massive signs typically associated with type of use.

Tracy Gilmour
712 Manns Harbor Dr
Apollo Beach, FL 33572

TracyTGilmour@gmail.com

817.538.3678

Rome, Ashley

From: Hearings
Sent: Tuesday, January 10, 2023 8:17 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Rezoning Application MM 22-1228

From: Debbie Goff <dgoff1116@gmail.com>
Sent: Monday, January 9, 2023 7:55 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Rezoning Application MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens, I am writing to express my strong opposition to the rezoning application MM 22-1228. We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure. Deborah Conrad-Goff

John J. Goff 238 Star Shell Drive, Apollo Beach FL 33572 845-541-9231

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Big box store in Apollo Bch Fl
Date:	Sunday, January 8, 2023 8:41:17 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 8:41 AM

Name: Gerald Gower Jr

Address: 6435 lake sunrise dr
Apollo Bch , FL 33572

Phone Number:

Email Address: grgowerjr@gmail.com

Subject: Big box store in Apollo Bch Fl

Message: I do not want a big box store of any kind in my community.Also the need for roads and better planning for development are drastically needed. You are slowly ruining the reason we all live here,with your rapid growth and lack of foresight.

1054852530

Mozilla/5.0 (Linux; Android 12; SM-A326U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big box store in Apollo Bch Fl
Date:	Sunday, January 8, 2023 8:41:18 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 8:41 AM

Name: Gerald Gower Jr

Address: 6435 lake sunrise dr
Apollo Bch , FL 33572

Phone Number:

Email Address: grgowerjr@gmail.com

Subject: Big box store in Apollo Bch Fl

Message: I do not want a big box store of any kind in my community.Also the need for roads and better planning for development are drastically needed. You are slowly ruining the reason we all live here,with your rapid growth and lack of foresight.

1054852530

Mozilla/5.0 (Linux; Android 12; SM-A326U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Commercial use of land at U.S 41 and Leisey Rd. ,Apollo Beach
Date:	Sunday, January 8, 2023 5:58:24 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 5:58 PM

Name: Amy Grady

Address: 5610 Seagrass Pl
Apollo Beach, FL 33572

Phone Number: (813) 447-9688

Email Address: amorgan1770@gmail.com

Subject: Commercial use of land at U.S 41 and Leisey Rd. ,Apollo Beach

Message: I am opposed to bid box superstore construction in our residential area. This type of business should not be placed in our area. Traffic is already a huge problem in this area. Big Bend near I-75 is in the process of major expansion to accommodate traffic that area. That is a more suitable place for development of this type.

1054970769

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Commercial use of land at U.S 41 and Leisey Rd. ,Apollo Beach
Date:	Sunday, January 8, 2023 5:58:21 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 5:58 PM

Name: Amy Grady

Address: 5610 Seagrass Pl
Apollo Beach, FL 33572

Phone Number: (813) 447-9688

Email Address: amorgan1770@gmail.com

Subject: Commercial use of land at U.S 41 and Leisey Rd. ,Apollo Beach

Message: I am opposed to bid box superstore construction in our residential area. This type of business should not be placed in our area. Traffic is already a huge problem in this area. Big Bend near I-75 is in the process of major expansion to accommodate traffic that area. That is a more suitable place for development of this type.

1054970769

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Please Say No to Apollo Beach Walmart
Date:	Monday, December 12, 2022 7:17:35 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:17 PM

Name: Renate Greenfield

Address: 436 Cedar Falls Dr
Apollo Beach, FL 33572-3139

Phone Number: (813) 431-8257

Email Address: renategreenfield@yahoo.com

Subject: Please Say No to Apollo Beach Walmart

Message: We do not need one here! We have 2 close by already and Route 41 can hardly keep up with all the traffic due to an explosion of new subdivisions being currently built. As long as our streets cannot accommodate current traffic, a store like Walmart would create a nightmare!

1045676292

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - Please Say No to Apollo Beach Walmart
Date:	Tuesday, December 13, 2022 8:09:52 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 7:18 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Please Say No to Apollo Beach Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:17 PM

Name: Renate Greenfield

Address: 436 Cedar Falls Dr
Apollo Beach, FL 33572-3139

Phone Number: (813) 431-8257

Email Address: renategreenfield@yahoo.com

Subject: Please Say No to Apollo Beach Walmart

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1045676292

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like

Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Big Box good n Apollo Beach
Date:	Saturday, January 7, 2023 4:23:02 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 4:22 PM

Name: David Griffith

Address: 6331 Wisteria Ln
Apollo Beach, FL 33572

Phone Number: (813) 331-3402

Email Address: dgriffith57@gmail.com

Subject: Big Box good n Apollo Beach

Message: Please do not allow a Big Box store in Apollo Beach.

1054728577

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box good n Apollo Beach
Date:	Saturday, January 7, 2023 4:23:06 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 4:22 PM

Name: David Griffith

Address: 6331 Wisteria Ln
Apollo Beach, FL 33572

Phone Number: (813) 331-3402

Email Address: dgriffith57@gmail.com

Subject: Big Box good n Apollo Beach

Message: Please do not allow a Big Box store in Apollo Beach.

1054728577

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO BIG BOX STORE LIKE WALMART IN APOLLO BEACH
Date:	Thursday, January 5, 2023 5:08:36 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 5, 2023 5:08 AM

Name: Tamaro Gustafson

Address: 425 Islebay Drive
Apollo Beach, FL 33572

Phone Number:

Email Address: tami53077@aol.com

Subject: NO BIG BOX STORE LIKE WALMART IN APOLLO BEACH

Message: Do not approve construction of a big box store like Walmart in Apollo beach. We have 2 Walmarts 20 minutes away. Do NOT destroy Apollo Beach by putting a big box store like Walmart here!!!!

1053821244

Mozilla/5.0 (iPhone; CPU iPhone OS 15_7_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19H117 [FBAN/FBIOS;FBDV/iPhone9,2;FBMD/iPhone;FBSN/iOS;FBSV/15.7.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Please no Walmart here in Apollo Beach
Date:	Monday, December 12, 2022 8:33:37 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 8:33 PM

Name: Eileen Hall

Address: 5712 Tides Place
Apollo Beach, FL 33572

Phone Number: (813) 714-0615

Email Address: eileenhallinfl@gmail.com

Subject: Please no Walmart here in Apollo Beach

Message: There are already two Walmarts within 7 miles of us in either direction. We do NOT need the traffic, congestion, all night floodlights, etc. plus it would put so many of our small local businesses out of business. The change in the water drainage will floor our section of villas just across 41. Please please please do not grant them this permit.

1045701717

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - Please no Walmart here in Apollo Beach
Date:	Tuesday, December 13, 2022 8:10:32 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 8:34 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Please no Walmart here in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 8:33 PM

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Address: 5712 Tides Place
Apollo Beach, FL 33572

Phone Number: (813) 714-0615

Email Address: eileenhallinfl@gmail.com

Subject: Please no Walmart here in Apollo Beach

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1045701717

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone13,4;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart proposed on us41
Date:	Sunday, January 8, 2023 7:14:29 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 8, 2023 7:14 PM

Name: Heather Hand

Address: 507 Manns harbor drive
Apollo Beach, FL 33572

Phone Number: (813) 924-2489

Email Address: sierrad3@yahoo.com

Subject: Walmart proposed on us41

Message: Hi
I am against this proposal to build a Walmart on us 41 in Apollo beach. We already have 2 of these close by- Gibsonton and sun city. This brings traffic our roads cannot handle along with overnight guests allowed to
Stay in Walmart parking lots overnight. Apollo beach is a small community who does not need these big box low paying jobs that bring crime and potential violence.

1054986809

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning in Apollo Beach
Date:	Tuesday, January 10, 2023 12:37:29 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 12:37 PM

Name: Julie Hansen-Jones

Address: 1010 Spindle Palm Way
Apollo Beach , FL 33572

Phone Number: (727) 743-3453

Email Address: st_somewhere@earthlink.net

Subject: Zoning in Apollo Beach

Message: Commissioners,
I would like to let it be known as a long time resident of Apollo Beach how very disappointed I am in the haphazard, thoughtless development in Apollo Beach. We have too many homes and not enough infrastructure. No one can seem to decide if we’re upscale waterfront or industrial. The latest I see up for your consideration is more housing and a large box store. I AM TOTALLY AGAINST BOTH OF THOSE ITEMS AND STRONGLY ENCOURAGE YOU TO VOTE MORE RESPONSIBLY FOR OUR AREA. As it is, you can hardly move due to traffic. Accidents and crime have increased. It’s time to put on the brakes and reassess what the area truly needs and how to grow responsibly. We in the south county are not here just to increase the coffers for Tampa. Thank you for your consideration.

1055702901

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning in Apollo Beach
Date:	Tuesday, January 10, 2023 12:37:33 PM

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3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

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1055702901

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - MM 22-1228
Date:	Wednesday, January 11, 2023 11:08:33 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 11:08 AM

Name: GAIL HARDISON

Address: 342 COCKLE SHELL LOOP
APOLLO BEACH, FL 33572

Phone Number: (813) 505-9138

Email Address: GAILHARDISON@GMAIL.COM

Subject: MM 22-1228

Message: Michael Owen congratulations on your election to represent District 4 in Apollo Beach. We know you will represent us in the rezoning MM 22-1228. Over 70 % of the AB residents object to the rezoning of this plot of land for a Big BOX TENANT,303
apartment units, gas station with a car wash wash. This will greatly impact our area with an infrastructure that can't handle the added traffic,crime,decrease property values,,loss of mom and pop businesses. WHY is all land rezoned from agriculture to building concrete masses of homes and apartments. AB was and is mainly a retirement area.. WHY can't parks be built and restaurants built around them with walking and biking paths like they have in Denver, it brings the community together, a recreation center instead of these massive concrete buildings.? Who approved HIGHWAY 41 to have 4 car washes within a 4 miles span? insane planning. PLUS storage units on every corner. THESE ARE ALL EYE SORES AND NOT NEEDED. Please stop this rezoning . We don't want to be another 301 or BBDB in New Tampa. ITS TIME TO RETHINK PLANNING. Did you know there are 2 Super Walmarts 8 miles in either direction and a Neighborhood one 6 miles away. Who needs or wants one every 8 miles. Have any of the commissioners ever been to the areas they rezone? I doubt it. Thank you Gail Hardison

1056128440

Mozilla/5.0 (Windows NT 6.1; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228
Date:	Wednesday, January 11, 2023 11:08:28 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 11:08 AM

Name: GAIL HARDISON

Address: 342 COCKLE SHELL LOOP
APOLLO BEACH, FL 33572

Phone Number: (813) 505-9138

Email Address: GAILHARDISON@GMAIL.COM

Subject: MM 22-1228

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1056128440

Mozilla/5.0 (Windows NT 6.1; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Planned Walmart shopping center Hwy 41 Apollo Beach
Date:	Wednesday, December 14, 2022 11:57:53 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 14, 2022 11:57 AM

Name: Bryan Harper

Address: 5231 Moon Shell Dr
Apollo Beach , FL 33572

Phone Number: (813) 967-6239

Email Address: bharper@mwcsfl.com

Subject: Planned Walmart shopping center Hwy 41 Apollo Beach

Message: Sir,

I am writing this to stress how much we do not need or can handle a Walmart at this time. The Hillsborough county bus depot you approved is already ruined 12th st and all the planned developments that have been approved are overwhelming our infrastructure. Our area can't not handle the traffic and the growth has exceeded our ability to operate in our area safely. It's is time you start working for the communities you represent and not yourself. DO NOT allow this Walmart to happen.

Thank you.

1046590478

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, January 10, 2023 12:37 PM
To: Rome, Ashley
Subject: FW: OPPOSED TO REZONING APPLICATION MM22-1228

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: mike@helmmail.net <mike@helmmail.net>
Sent: Tuesday, January 10, 2023 11:48 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Cc: Shirley Helm <williamssj2003@aol.com>
Subject: OPPOSED TO REZONING APPLICATION MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens. We are writing to express our strong opposition to the rezoning application MM 22-1228. We are long term Apollo Beach residents, multiple property owners in good standing on your tax rolls, and reliable, educated voters in the county elections.
We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. And the unending expansion of industrial and large commercial development in our area has

been overwhelming. eg. TECO and Home Depot to the north, Amazon Warehouse to the south. The traffic on 41 has become unsafe and untenable.

The proposed development will be detrimental to the area, and nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities.

Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.

I urge you to disapprove the proposed rezoning and development.

Thank you for your consideration and I will be happy to take any questions from you at any time.

Mike Helm and Shirley Williams
807 Islebay Drive
Apollo Beach FL 33572
Cell: 916.826.7517
eFax: 916.720.0177

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: OPPOSED TO REZONING APPLICATION MM22-1228
Date:	Friday, January 13, 2023 1:39:42 PM

Get Outlook for iOS

From: mike@helmmail.net <mike@helmmail.net>
Sent: Tuesday, January 10, 2023 11:47:48 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Cc: Shirley Helm <williamssj2003@aol.com>
Subject: OPPOSED TO REZONING APPLICATION MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

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Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.
I urge you to disapprove the proposed rezoning and development.
Thank you for your consideration and I will be happy to take any questions from you at any time.
Mike Helm and Shirley Williams

807 Islebay Drive
Apollo Beach FL 33572
Cell: 916.826.7517
eFax: 916.720.0177

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Apollo
Date:	Wednesday, December 14, 2022 9:49:25 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)
6 | Commissioner Pat Kemp (District 6)

Date and Time Submitted: Dec 14, 2022 9:49 AM

Name: Jeanette Heruman

Address: 1024 New Winsor Loop
Sun City Loop, FL 33573

Phone Number:

Email Address: jheuman3@gmail.com

Subject: Walmart in Apollo

Message: I hope you give lots of consideration and investigation into going forward with a plan that will change the area forever and the environmental impact as well

1046534132

Mozilla/5.0 (Windows NT 10.0; WOW64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/101.0.4951.54 Safari/537.36

Rome, Ashley

From: Zoning Intake-DSD
Sent: Wednesday, January 11, 2023 8:27 AM
To: Rome, Ashley
Subject: FW: MM22-1228 Zoning Application

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: ianhess78@gmail.com <ianhess78@gmail.com>
Sent: Tuesday, January 10, 2023 8:12 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228 Zoning Application

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population.

We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan.

Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed.

Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Ian Hess

316 Hope Bay Loop
Apollo Beach, FL 33572
813-785-3725

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: MM22-1228 Zoning Application
Date:	Friday, January 13, 2023 1:39:06 PM

Get Outlook for iOS

From: ianhess78@gmail.com <ianhess78@gmail.com>
Sent: Tuesday, January 10, 2023 8:12:27 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228 Zoning Application

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

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We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan.

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I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Ian Hess

316 Hope Bay Loop
Apollo Beach, FL 33572
813-785-3725

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No big box stores in apollo beach.
Date:	Saturday, December 31, 2022 3:45:06 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 31, 2022 3:44 PM

Name: Jacquie Hoffman

Address: 6132 voyagers Place
Apollo beach, FL 33572

Phone Number: (412) 992-1521

Email Address: jacquiebonneau@yahoo.com

Subject: No big box stores in apollo beach.

Message: Please do not approve or allow big box stores such as Walmart or target to be built in apollo beach.

Thank you

1052423008

Mozilla/5.0 (Linux; Android 10; SM-G965U Build/QP1A.190711.020; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/108.0.5359.128 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/396.1.0.28.104;]

Rome, Ashley

From: Zoning Intake-DSD
Sent: Wednesday, January 11, 2023 9:38 AM
To: Rome, Ashley
Subject: FW: Zoning change request

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Bob Hogue <rahogue@gmail.com>
Sent: Wednesday, January 11, 2023 9:33 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: Zoning change request

External email: Use caution when clicking on links, opening attachments or replying to this email.

Re: Application MM 22-1228

I am writing to express my opposition to the request to add over 300 housing units behind a new superstore in Apollo Beach. The area in question is near the intersection of Leisey Road and U.S. Route 41 North.

I have lived in the Harbour Isles community in Apollo Beach since 2013. During that time, I have seen an alarming increase in traffic congestion due to the new housing being built along U.S. 41. This proposed new housing will only add to the problem. I also worry about possible impacts to the water system, including a drop in water pressure.

Please do not approve this zoning change request. The uncontrolled growth in this area has already gone too far.

Robert Hogue
350 Cockle Shell Loop
Apollo Beach, FL 33572
Ph. 813-423-8123

From: Owen, Michael
To: Almand, Sherrie
Subject: Fwd: Zoning change request
Date: Friday, January 13, 2023 1:38:38 PM

Get Outlook for iOS

From: Bob Hogue <rahogue@gmail.com>
Sent: Wednesday, January 11, 2023 9:33:19 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: Zoning change request

External email: Use caution when clicking on links, opening attachments or replying to this email.

Re: Application MM 22-1228

I am writing to express my opposition to the request to add over 300 housing units behind a new superstore in Apollo Beach. The area in question is near the intersection of Leisey Road and U.S. Route 41 North.

I have lived in the Harbour Isles community in Apollo Beach since 2013. During that time, I have seen an alarming increase in traffic congestion due to the new housing being built along U.S. 41. This proposed new housing will only add to the problem. I also worry about possible impacts to the water system, including a drop in water pressure.

Please do not approve this zoning change request. The uncontrolled growth in this area has already gone too far.

Robert Hogue
350 Cockle Shell Loop
Apollo Beach, FL 33572
Ph. 813-423-8123

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - Walmart in my neighborhood
Date:	Tuesday, December 13, 2022 9:10:29 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 9:10 AM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart in my neighborhood

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 9:09 AM

Name: Yoko Holcombe

Address: 308
Royal Bonnet Dr.
Apollo Beach, FL 33572

Phone Number: (813) 399-8296

Email Address: yokoholcombe@gmail.com

Subject: Walmart in my neighborhood

Message: Please don't build another Walmart here. I like to see some nice restaurants and stores which we don't have here. We only have wear houses , storages , etc.

NO. TO WALMART !!!!!!

1045933584

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, December 27, 2022 7:47 AM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: Opposition to MM 22-1228

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Cindy Hoos <tropical1294@hotmail.com>
Sent: Friday, December 23, 2022 3:23 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: Opposition to MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

While the speculation for MM 22-1228 is a Walmart and other free standing businesses/restaurants, I am concerned about the traffic and other negative effects of whatever is developed of that size on that property. I do not believe that it fits in with the small town atmosphere of Apollo Beach and our roads cannot support it.

Apollo Beach has retained its small, waterside town feel which is what makes it a desirable place to live. There are currently only a few chain businesses and most residents enjoy and support the small, individual businesses located here. We do not want to be another Brandon or Riverview with wall to wall stores and traffic woes.

On the subject of traffic, our roads cannot support a development of that size. Rt 41 (running north and south) is two lanes wide in each direction in that area and the closest major east and west roads are more than 3 miles in either direction. That means all the traffic accessing these business will be down 41. There is no way it can be supported. Using surrounding Walmarts as an example (Brandon, Bloomingdale, Wimauma, and Gibsonton), none have limited access like this.

I am very familiar with the traffic a development like this can cause as I lived a mile down Culbreath since 1994 and then the Walmart was built on Bloomingdale and Lithia Pinecrest. I saw first hand the traffic and other changes to the community that occurred with that development. I do not want to see the same happen here in Apollo Beach.

Please vote against this major modification as the infrastructure and area atmosphere will not support it.

Thank you,
Cindy Hoos
815 Golf Island Drive
Apollo Beach, FL 33572

Sent from Mail for Windows

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Apollo beach
Date:	Tuesday, January 10, 2023 11:23:18 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 11:23 PM

Name: Caleb Hoover

Address: 1007 Sago Palm Way
Apollo Beach, FL 33572

Phone Number: (440) 452-6476

Email Address: apollocrew399@gmail.com

Subject: Apollo beach

Message: I do not agree with the building of Walmart nor any box store in apollo beach. We do not need more traffic/citizens here in Apollo beach. We the people don’t want the zoning change to allow Any big box superstores in Apollo beach

1055970868

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo beach
Date:	Tuesday, January 10, 2023 11:23:16 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 11:23 PM

Name: Caleb Hoover

Address: 1007 Sago Palm Way
Apollo Beach, FL 33572

Phone Number: (440) 452-6476

Email Address: apollocrew399@gmail.com

Subject: Apollo beach

Message: I do not agree with the building of Walmart nor any box store in apollo beach. We do not need more traffic/citizens here in Apollo beach. We the people don’t want the zoning change to allow Any big box superstores in Apollo beach

1055970868

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart on 31 South
Date:	Tuesday, December 13, 2022 6:04:53 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 6:04 PM

Name: Wayne and Sandra Hopper

Address: 6443 Rubia Circle
(APOLLO BEACH) 6443 Rubia Circle APOLLO BEACH FL 33572, FL 33572-2917

Phone Number: (813) 334-7274

Email Address: SANDYSTRAW@YAHOO.COM

Subject: No Walmart on 31 South

Message: I moved to Apollo Beach in 2000. It was a quiet fishing village west of 41. At one point, I suppose for Waterset, it was expanded east of Rt 41. The influx of people desiring an Apollo Beach address had improved our choice of shopping and restaurants. Most of the retail shopping was confined to Big Bend area. AB has adequate groceries, doctors and salons. Now we are bringing in a superstore??? A low end one at that!!!!!!!!!!!! Hillsborough County needs an upscale area in the south. There are plenty of areas for garden stores and DISCOUNT stores. I went into the Gibsonton walmart once and walked right out. we need restaurants and specialty shoppes, not JUNK!
No Walmart on 41!

1046259775

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.42

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - MM 22 1228 zoning
Date:	Friday, January 6, 2023 2:41:34 PM
Attachments:	image001.png

Hi Maricela!
Please add this opposition to the official record for MM 22-1228. Thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Friday, January 6, 2023 11:42 AM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - MM 22 1228 zoning

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 6, 2023 11:41 AM

Name: PEGGY HORTON

Address: 638 Yardarm Dr
Apollo Beach, FL 33572-2454

Phone Number: (515) 770-9025

Email Address: P_horton@email.com

Subject: MM 22 1228 zoning

Message: Vote no for Walmart bldg. Off of hwy 41. It will be so near residential homes and very close to MUV, a marijuana growing company.

1054356378

Mozilla/5.0 (Linux; Android 12; SM-A125U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development proposal for SR41
Date:	Saturday, January 7, 2023 11:59:11 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 11:59 AM

Name: Penelope Hulbert

Address: 6412 Lake Sunrise Dr
Apollo Beach, FL 33573

Phone Number: (914) 462-7814

Email Address: actionchem@aol.com

Subject: Development proposal for SR41

Message: I am against the current proposal for HWY41 and Leisey Rd. There are several discount superstores close by already. The road is saturated with car washes. There is no need for fast food drive through restaurants since McDonalds and Duncan donuts are already in the area, and another Duncan donuts is coming across from publics. The roads cannot sustain another multi family complex. What we do need are small business restaurants, local boutiques and shops, parkland, fish market, and such. Stop overloading our area with poorly planned ‘ development,

1054673938

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development proposal for SR41
Date:	Saturday, January 7, 2023 12:00:40 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 12:00 PM

Name: Penelope Hulbert

Address: 6412 Lake Sunrise Dr
Apollo Beach, FL 33573

Phone Number: (914) 462-7814

Email Address: actionchem@aol.com

Subject: Development proposal for SR41

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1054674258

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development proposal for SR41
Date:	Saturday, January 7, 2023 11:59:08 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 11:59 AM

Name: Penelope Hulbert

Address: 6412 Lake Sunrise Dr
Apollo Beach, FL 33573

Phone Number: (914) 462-7814

Email Address: actionchem@aol.com

Subject: Development proposal for SR41

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1054673938

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development proposal for SR41
Date:	Saturday, January 7, 2023 12:00:41 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 12:00 PM

Name: Penelope Hulbert

Address: 6412 Lake Sunrise Dr
Apollo Beach, FL 33573

Phone Number: (914) 462-7814

Email Address: actionchem@aol.com

Subject: Development proposal for SR41

Message: I am against the current proposal for HWY41 and Leisey Rd. There are several discount superstores close by already. The road is saturated with car washes. There is no need for fast food drive through restaurants since McDonalds and Duncan donuts are already in the area, and another Duncan donuts is coming across from publics. The roads cannot sustain another multi family complex. What we do need are small business restaurants, local boutiques and shops, parkland, fish market, and such. Stop overloading our area with poorly planned ‘ development,

1054674258

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Do Not REZONE
Date:	Monday, January 9, 2023 1:04:55 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:04 PM

Name: Conelia Hurban

Address: 753 Gran Kaymen Way
Apollo Beach, FL 33572

Phone Number: (863) 604-0014

Email Address: clairehurban@gmail.com

Subject: Do Not REZONE

Message: Good afternoon,
Please do not vote on a zoning change in Apollo Beach to allow a super store of any kind in our town. Voting for this will cause even more congestion in our town which we do not need more of. Apollo Beach does not have the infrastructure that we so desperately need. I beg each of you to vote no on the rezoning of the 71 acres of farmland at SR 41 and Leiden Road.
Sincerely,
Cornelia Hurban

1055254841

Mozilla/5.0 (iPhone; CPU iPhone OS 15_5 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Do Not REZONE
Date:	Monday, January 9, 2023 1:04:54 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:04 PM

Name: Conelia Hurban

Address: 753 Gran Kaymen Way
Apollo Beach, FL 33572

Phone Number: (863) 604-0014

Email Address: clairehurban@gmail.com

Subject: Do Not REZONE

Message: Good afternoon,
Please do not vote on a zoning change in Apollo Beach to allow a super store of any kind in our town. Voting for this will cause even more congestion in our town which we do not need more of. Apollo Beach does not have the infrastructure that we so desperately need. I beg each of you to vote no on the rezoning of the 71 acres of farmland at SR 41 and Leiden Road.
Sincerely,
Cornelia Hurban

1055254841

Mozilla/5.0 (iPhone; CPU iPhone OS 15_5 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, January 10, 2023 8:08 AM
To: Rome, Ashley
Subject: FW: MM22-1228

Good morning,

Please see the email below.

Thank you,

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Vivian Infante <vivian@myinfante.com>
Sent: Monday, January 9, 2023 8:40 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,
I am strongly opposed to the rezoning application MM 22-1228. We purchased our home 17 months ago to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area! All of my neighbors agree that this is a very negative direction in which to take Apollo Beach. This plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not considering the traffic congestion on US 41

and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. I urge you to disapprove the proposed rezoning and development. Please don't ruin Apollo Beach.

Thank you for your l consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Vivian and Ramon Infante
201-281-5339

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: MM 22-1228
Date:	Friday, January 13, 2023 1:40:12 PM

Get Outlook for iOS

From: Vivian Infante <vivian@myinfante.com>
Sent: Monday, January 9, 2023 8:38:49 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,
I am strongly opposed to the rezoning application MM 22-1228. We purchased our home 17 months ago to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area! All of my neighbors agree that this is a very negative direction in which to take Apollo Beach. This plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not considering the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. I urge you to disapprove the proposed rezoning and development. Please don't ruin Apollo Beach.

Thank you for your I consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Vivian and Ramon Infante
201-281-5339

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart in Apollo Beach
Date:	Tuesday, December 13, 2022 5:53:58 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 5:53 AM

Name: Kerry Irvin

Address: 1428 Jumana Loop
Apollo Beach, FL 33572

Phone Number: (813) 597-4064

Email Address: kerryannirvin@gmail.com

Subject: Proposed Walmart in Apollo Beach

Message: Dear Commissioner Owen,

It has come to my attention through our neighborhood association that there is to be an upcoming meeting of the commission to discuss allowing a Walmart to be built in, or near, Apollo Beach.

I would like to share with you why our family is strictly opposed to having a Walmart built within this area. We are home-owners and residents of Apollo Beach and are greatly concerned by this proposal.

1.) There is simply no need. There are multiple Walmart Stores within 20 miles of Apollo Beach.

2.) Traffic is already so terribly congested in and around and through Apollo Beach. A Walmart store would only add to the overwhelming overload of the roads and infrastructure. Road construction is on-going, but even with the improvements being made, it is unlikely the infrastructure will be adequate to support the burgeoning residences being built.

3.) One of the primary attractions of Apollo Beach is the fact that there are so many locally-owned family businesses in this area. It is a widely known fact that these family owned, often multi-generational, businesses are at high risk of closure when a Walmart is added into the community.

4.) The Apollo Beach community is known to support its own. There is not an issue of overwhelming unemployment in this area that would justify having a Walmart as a local employer.

5.) Retail businesses on the scale of Walmart often introduce higher rates of violent and non-violent crime into communities as it draws non-resident individuals and groups to it

Please feel free to contact us should you have any questions about our stance. We appreciate your service to our county and it’s citizens and hope we can rely upon you to help safeguard it.

Sincerely,
Kerry

1045861159

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko)

Mobile/19G82
[FBAN/FBIOS;FBDV/iPhone12,5;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Apollo Beach zoning
Date:	Saturday, January 7, 2023 5:31:53 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 5:31 PM

Name: Keith Ivester

Address: 5727 Tortoise Place
Apollo Beach, FL 33572

Phone Number: (813) 508-1224

Email Address: keithivester@hotmail.com

Subject: Apollo Beach zoning

Message: Do not allow changes to the zoning which would allow any big box store to be built in Apollo Beach.

1054740420

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach zoning
Date:	Saturday, January 7, 2023 5:31:51 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Address: 5727 Tortoise Place
Apollo Beach, FL 33572

Phone Number: (813) 508-1224

Email Address: keithivester@hotmail.com

Subject: Apollo Beach zoning

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1054740420

Mozilla/5.0 (iPhone; CPU iPhone OS 16_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart Super store in Apollo Beach
Date:	Monday, December 19, 2022 6:18:28 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 19, 2022 6:18 PM

Name: Tim Jagodzinski

Address: 605 WINTERSIDE DR
Apollo Beach, FL 33572

Phone Number: (727) 409-0325

Email Address: jag.tim@gmail.com

Subject: Walmart Super store in Apollo Beach

Message: Michael, I am sure you have heard and received many comments about the proposed land re-zoning on highway 41 in Apollo Beach for a superstore. I am totally against this re-zoning for anything other than residential. There is no need for another superstore in the area, and we don't need the additional traffic it will bring. The Institute of Transportation Engineers estimates that one Walmart supercenter receives 10,000 car visits daily. This will be a nightmare for those who live in the area. https://www.ite.org/

1048751455

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

Rome, Ashley

From: Almand, Sherrie
Sent: Tuesday, January 10, 2023 3:20 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: (WEB mail) - MM22-1228

Hi Ladies!
Here is another one. Please add to the official records for MM22-1228. 😊

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, January 10, 2023 3:17 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - MM22-1228

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:17 PM

Name: Donna Johnson

Address: 6508 Solitaire Palm Way
Johnson
Apollo Beach, FL 33572

Phone Number: (813) 417-6426

Email Address: tomjohnson_1@yahoo.com

Subject: MM22-1228

Message: We are writing to ask you to oppose Rezoning MM22-1228 Office Space to Residential (Multi-family) Development in our small-town community of Apollo Beach. Please refer to the 2008 Comprehensive Plan for Unincorporated Hillsborough County (pages 97-103) which discussed the balance of agricultural and agricultural-related uses, where they also encouraged an advisory committee or alliance of associations to provide a unified voice advocating the needs of Apollo Beach.

We moved here 20 years ago because of it's small-town atmosphere, ability to see the stars at night and smell the orange blossoms on a warm breeze. We do not need another big box store or carwash (that would be 3 carwashes, also 3 big box stores, 3 Publix and 2 Winn Dixies all within 5 miles near Hwy 41) nor big semi trucks delivering product to yet another big corporation. We should have a better vision incorporating mixed-use developments that support local businesses and retains a sense of community. Perhaps similar to Sarasota's Palmer Ranch or Ft. Myers/Naples areas with cafes, gathering spots, shopping and more of a "destination".

Traffic is horrendous. Last Sunday at 10:45am there were 32 cars in the left turn lanes at Paseo Al Mar and Hwy 301. Not even one-half of them got through each green light. This was not traffic due to work day or school day and the weather was too cool for departure to the beach. That "flyover" was supposed to alleviate some traffic from Big Bend. The intersection of Apollo Beach Blvd and 41 has traffic backed up blocking access to the Marathon Gas Station and yet another new strip center of Starbucks, ABC Liquor, Salty Shamrocks, etc. I invite each of you to Apollo Beach during busy early morning or late afternoon work days, you will see there has been no consideration for well-thought development, infrastructure or even water source (we are currently on water rationing even with our own well).

Again, please do NOT approve the rezoning for this proposal which includes a big box store, 303 apartments (probably with 2 cars per household), gas, fast food restaurants and yet another car wash which all require more water!!! Plus, think of all the additional traffic on roads that are in disrepair and already overburdened, increased crime, more police, fire stations, schools needed to support the development proposed. We also need smart development that incorporate environmentally-friendly design elements.

1055798488

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - MM22-1228
Date:	Tuesday, January 10, 2023 3:17:08 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:17 PM

Name: Donna Johnson

Address: 6508 Solitaire Palm Way
Johnson
Apollo Beach, FL 33572

Phone Number: (813) 417-6426

Email Address: tomjohnson_1@yahoo.com

Subject: MM22-1228

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1055798488

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	Almand, Sherrie
To:	Timoteo, Rosalina
Cc:	Rome, Ashley
Subject:	FW: (WEB mail) - MM22-1228
Date:	Tuesday, January 10, 2023 3:19:00 PM
Attachments:	image001.png

Hi Ladies!
Here is another one. Please add to the official records for MM22-1228.

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, January 10, 2023 3:17 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - MM22-1228

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 3:17 PM

Name: Donna Johnson

Address: 6508 Solitaire Palm Way
Johnson
Apollo Beach, FL 33572

Phone Number: (813) 417-6426

Email Address: tomjohnson_1@yahoo.com

Subject: MM22-1228

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1055798488

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko)

Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228
Date:	Sunday, January 1, 2023 1:53:57 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 1, 2023 1:53 PM

Name: Karolyn Kerns

Address: 925 Birdie Way
Apollo Beach, FL 33572

Phone Number: (813) 645-2597

Email Address: karolyn@kernsfire.com

Subject: MM 22-1228

Message: Dear Commissioners,

It has come to our attention that there is a variance request for the property in Apollo Beach. I want to let you know that we are against this planned big box store with 300 additional housing units.
We have been residents of Apollo Beach since 1991. We understand the need for responsible growth. However, a big box store is not in keeping with the nature of our community. We already have massive growth along with traffic that cannot easily be absorbed in our area. Please vote “No” to this development. The change to our our neighborhoods will be irreversible and the traffic generated will be unaddressable. The location is not appropriate for the type of commercial retail being proposed.

1052568654

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - MM 22-1228
Date:	Sunday, January 1, 2023 1:53:54 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 1, 2023 1:53 PM

Name: Karolyn Kerns

Address: 925 Birdie Way
Apollo Beach, FL 33572

Phone Number: (813) 645-2597

Email Address: karolyn@kernsfire.com

Subject: MM 22-1228

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1052568654

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - 22-1228 Proposed Land Use Modification for "Discount Superstore"
Date:	Wednesday, December 14, 2022 10:23:28 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 10:23 AM

Name: Justin Kotala

Address: 5404 Coral Shell Way
Apollo Beach, FL 33572

Phone Number: (813) 493-7717

Email Address: jkotala26@gmail.com

Subject: 22-1228 Proposed Land Use Modification for "Discount Superstore"

Message: Dear Commissioners,

I would like to voice my strong opposition to proposal 22-1228 for the construction of a Walmart Superstore at the Council Bay Farms site in Apollo Beach. My home is located directly adjacent to the proposed site within the Harbour Isles community, and as such I feel like the Harbour Isles community residents have a vested interest in the development of this site.

There are several concerns that I have with the proposed location of the Walmart and surrounding retail spaces.

First is the increased traffic that will be brought to the area. As you may be aware, US41 through Apollo Beach is continuing to become more congested by the day. Even with road improvements that are ongoing, things will continue to deteriorate with the continued expansion of the Waterset residential community and the transplantation of people moving into the Apollo beach area. This area of south Hillsborough County was never intended to be a large urban center. Apollo Beach has always been a small town and as such the infrastructure to support masses of people moving through the area is simply not there. Along with transportation, public utilities such as water pressure in the area is already suffering. The addition of a Walmart to this location will only negatively impact the area in terms of increased

traffic, including more semi trucks, as well as increased strain on public utilities that are already stretched thin.

Second is the preservation of local businesses in and around the Apollo Beach area. Apollo Beach has struggled to maintain its small town charm with the recent housing boom in southern Hillsborough County. Several small local businesses have already been forced to close in the wake of the economic downturn of the past several years. As each local business closes, the Apollo Beach area loses a little more of the charm that attracts so many people to this area. My concern is that the "Walmart effect" on local economies is well documented. The results of a Walmart moving into an area include decreased competition due to smaller businesses not being able to compete with the prices of a conglomerate as well as reduced wages for the local workforce. This store will deleteriously impact the Apollo Beach area and force more local businesses to close.

The above mentioned concerns are just some of the ways that the community will be negatively impacted by the addition of a Walmart to the area. When considering that there are two other Walmart locations within 10 miles from the proposed site, the negative impacts that will follow this new site are not worth any positive value brought by the store in this location. Please consider the impact on the residents of the local community and vote no on the site proposal.

Thank you for your time and consideration,

Justin Kotala

1046552290

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - 22-1228 Proposed Land Use Modification for "Discount Superstore"
Date:	Wednesday, December 14, 2022 10:23:31 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 10:23 AM

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Address: 5404 Coral Shell Way
Apollo Beach, FL 33572

Phone Number: (813) 493-7717

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1046552290

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart in Apollo. Beach
Date:	Sunday, January 1, 2023 10:09:56 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 1, 2023 10:09 AM

Name: Bob Krashna

Address: 5617 Golden Isles Drive
Apollo Beach, FL 33572-3368

Phone Number: (412) 276-5609

Email Address: bobcat.105@outlook.com

Subject: No Walmart in Apollo. Beach

Message: We don't need nor want a Walmart in Apollo Beach. Let's keep Apollo beach an upscale water community
You should try to find a Whole Foods, Trader Joe's, or other upscale boutique stores. Walmart would not be good for the community of Apollo Beach.
There are 2 Walmarts within 15 minutes of our community.

1052533616

Mozilla/5.0 (iPad; CPU OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPad7,5;FBMD/iPad;FBSN/iPadOS;FBSV/15.6.1;FBSS/2;FBID/tablet;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No Walmart in Apollo. Beach
Date:	Sunday, January 1, 2023 10:10:00 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
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5 | Commissioner Donna Cameron Cepeda (District 5)
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Message: We don't need nor want a Walmart in Apollo Beach. Let's keep Apollo beach an upscale water community
You should try to find a Whole Foods, Trader Joe's, or other upscale boutique stores. Walmart would not be good for the community of Apollo Beach.
There are 2 Walmarts within 15 minutes of our community.

1052533616

Mozilla/5.0 (iPad; CPU OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPad7,5;FBMD/iPad;FBSN/iPadOS;FBSV/15.6.1;FBSS/2;FBID/tablet;FBLC/en_US;FBOP/5]

Rome, Ashley

From: Hearings
Sent: Friday, December 16, 2022 2:08 PM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Apollo Beach Walmart proposal

From: David Leviton <dsleviton@gmail.com>
Sent: Thursday, December 15, 2022 2:05 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Apollo Beach Walmart proposal

External email: Use caution when clicking on links, opening attachments or replying to this email.

Good Day,

I am writing to share my families displeasure at learning about the potential new Walmart on Hwy 41 in Apollo Beach.

First, with the population explosion in our area, the roads currently can't handle the traffic as it is. When you add a Walmart it will be impossible. The local communities like ours have experienced tremendous increases in our taxes and congestion on the roads. I am also ust speaking about the local roads versus the highways. The roads have potholes and broken roadways all over our neighborhoods. In addition and maybe the most critical relates to the emergency personnel. Since our roads and population increases, we've seen a lack of police response. Adding to the huge road issues, how does an emergency vehicle get to a citizen in need? WITH DIFFICULTY!

We cannot continue to grow in businesses and homes without developing fixes to our roadways and infrastructure. It is a burden to the existing tax payers and an unfair situation to allow Walmart to build where it is not zoned for such a project.

Please don't allow this building to happen!!!

Dave Leviton & Celia Kuznitz-Leviton
Apollo Beach FL
dsleviton@gmail.com
732-580-8157

Live Long & Prosper: Spock 1966

From:	Hearings
To:	Kurt R Kwiatkowski DDS
Subject:	RE: Rezoning MM22-1228
Date:	Monday, December 12, 2022 11:25:36 AM
Attachments:	PGM Store Tutorial.pdf image001.png image002.png Participation in the ZHM Meeting.pdf

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Thank you for contacting Hillsborough County. We have entered your comments included in your email into the 22-1228 application's record. Please note that this application is being heard at the 1/17/23 Zoning Hearing Master (ZHM) Hearing at the County Center, 601 E. Kennedy Blvd., 2nd Floor Boardroom, Tampa, FL 33602 starting at 6:00 p.m.

Please be advised, if you have any further comments or materials to be entered into the records, these must be received by email (**Hearings@HillsboroughCounty.org**) by the cutoff date (2 days before the hearing date by 5:00 p.m.) or if after the cutoff date, must be in person or by proxy at the hearing. Materials cannot be submitted at the hearing through virtual participation. However, please note that audio or video files will not be included in the record via email. These items must be placed on a USB drive and brought to the hearing and delivered to the Clerk.

If you wish to speak at the hearing, either in person or by virtual participation**, starting one week before the hearing,** please sign up at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing. However, if you wish to watch the hearing without participating, you can watch the hearing at:

https://www.youtube.com/results?search_query=Hillsborough+county+meetings

PGM Store Instructions:

For your convenience, please be aware that the staff reports and all application records may be viewed on our website. We have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm**. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Sam Ball at BallF@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know.

Best regards,

Marylou Norris
Administrative Specialist
Community Development Section
Development Services Department

W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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TOGETHER WE CAN CRUSH COVID | Visit CrushCOVIDHC.org

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Kurt R Kwiatkowski DDS <2thdoc14@gmail.com>
Sent: Monday, December 12, 2022 10:27 AM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Rezoning MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Commissioner Owen

I'm writing to ask that you do not consider rezoning of the property near Mirabay that is the site for a large big box retail store. The traffic, accidents and degradation of our local area will have an impact on the life style we chose when moving here. This area is a gem in an otherwise bustling area of development. There are plenty of options for shopping here and this addition would also affect local businesses that have been here many years. Please vote NO.

Dr Kurt R Kwiatkowski
5710 Tybee Island Dr
Apollo Beach Fl 33572

From:	Zoning Intake-DSD
To:	Timoteo, Rosalina
Subject:	FW: Rezoning MM22-1228
Date:	Monday, December 12, 2022 10:31:37 AM
Attachments:	image001.png

Opposition letter

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Kurt R Kwiatkowski DDS <2thdoc14@gmail.com>
Sent: Monday, December 12, 2022 10:28 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: Rezoning MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Commissioner Owen

I'm writing to ask that you do not consider rezoning of the property near Mirabay that is the site for a large big box retail store. The traffic, accidents and degradation of our local area will have an impact on the life style we chose when moving here. This area is a gem in an otherwise bustling area of development. There are plenty of options for shopping here and this addition would also affect local businesses that have been here many years. Please vote NO.

Dr Kurt R Kwiatkowski
5710 Tybee Island Dr
Apollo Beach Fl 33572

Kurt R Kwiatkowski DDS

www.thefutureofdentistry.com
Sent from my iPhone 13 Pro Max

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart Apollo Beach
Date:	Saturday, December 17, 2022 3:40:28 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 17, 2022 3:40 PM

Name: Jessica LaBarre

Address: 5835 Silver Sun Dr
Apollo Beach, FL 33572

Phone Number: (404) 909-0149

Email Address: jessica.r.labarre@gmail.com

Subject: Walmart Apollo Beach

Message: Hello,

It's come to my attention that a Walmart is slotted to be built off 41 in Apollo Beach. My community in Waterset feels strongly that this is NOT a good decision. These massive stores are killing local businesses. We don't want corporate stores we want local business owners.

Can you advise if the status and what we can do to attempt to stop this? Thank you.

1048029777

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B110 [FBAN/FBIOS;FBDV/iPhone14,3;FBMD/iPhone;FBSN/iOS;FBSV/16.1.2;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Store in Apollo Beach!
Date:	Wednesday, January 4, 2023 12:41:57 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 4, 2023 12:41 PM

Name: Pamela Lane

Address: 609 Winterside Drive
Apollo Beach , FL 33572

Phone Number: (813) 760-3663

Email Address: zachsmomma@verizon.net

Subject: Big Box Store in Apollo Beach!

Message: I am writing to voice my concern about the future of Apollo Beach if the proposed Walmart and other projects are allowed to built in our community. The infrastructure of our community cannot take on this project. There are already two other Walmarts within 15 minutes of our community. The roadways are maxed out as it is. This project would make it impossible to traverse through Apollo Beach! I implore you to help our community from keeping this project from happening. Thank you. Pamela Lane

1053536907

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart or large retail store in Apollo Beach
Date:	Monday, December 12, 2022 8:08:44 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 8:08 PM

Name: Eric Lanham

Address: 611 Balibay Road
Apollo Beach, FL 33572

Phone Number: (813) 956-3508

Email Address: lanhame@me.com

Subject: No Walmart or large retail store in Apollo Beach

Message: Please do not approve permit for building the Walmart or other large chain store being proposed in Apollo Beach off of US41. It will disrupt our way and quality of life that we chose when we moved here.
Focus on providing better infrastructure. Fix our road networks.

If you just build, then approve more upscale restaurants or shops that balance out our town.
We pay higher taxes than the majority of Hillsborough county. We deserve better

1045693576

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - No Walmart or large retail store in Apollo Beach
Date:	Tuesday, December 13, 2022 8:10:27 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 8:09 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - No Walmart or large retail store in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 8:08 PM

Name: Eric Lanham

Address: 611 Balibay Road
Apollo Beach, FL 33572

Phone Number: (813) 956-3508

Email Address: lanhame@me.com

Subject: No Walmart or large retail store in Apollo Beach

Message: Please do not approve permit for building the Walmart or other large chain store being proposed in Apollo Beach off of US41. It will disrupt our way and quality of life that we chose when we moved here.
Focus on providing better infrastructure. Fix our road networks.

If you just build, then approve more upscale restaurants or shops that balance out our town.
We pay higher taxes than the majority of Hillsborough county. We deserve better

1045693576

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Stop Big Box Stores
Date:	Monday, January 9, 2023 1:49:11 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:49 PM

Name: Karen L'HommeDieu

Address: 6312 Lake Sunrise Dr
Apollo Beach, FL 33572

Phone Number: (813) 331-5631

Email Address: pixiemom@optonline.net

Subject: Stop Big Box Stores

Message: Bring big box stores to an area like Apollo Beach would hurt our small town community. The greatest impact would be the environment. Ripping down trees to put in parking lots and a huge building doesn't allow for water to disperse during storms, the black pavement adds to the increase of climate temperature, effects birds and other creatures that depend on the environment. There are other sustainable options like buildings that invite both residential living and local businesses but has parks and trees to allow for nature to blossom.
Before anything is built, there needs to be consideration to the roadways and serious environmental impact. Remember, pavement allows for runoff right into Tampa Bay that invites red tides, kills fish, plants, manatee and many other species. We need to think beyond making money and how building will impact the environment especially when we live in a hurricane prone area.

1055276554

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15

(KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Stop Big Box Stores
Date:	Monday, January 9, 2023 2:30:11 PM
Attachments:	image001.png

Hi again!
They just keep coming in. Please see below and add to the official record for MM22-1228.

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 1:49 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Stop Big Box Stores

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:49 PM

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Address: 6312 Lake Sunrise Dr
Apollo Beach, FL 33572

Phone Number: (813) 331-5631

Email Address: pixiemom@optonline.net

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Before anything is built, there needs to be consideration to the roadways and serious environmental impact. Remember, pavement allows for runoff right into Tampa Bay that invites red tides, kills fish, plants, manatee and many other species. We need to think beyond making money and how building will impact the environment especially when we live in a hurricane prone area.

1055276554

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No Big Box Stores in Apollo Beach
Date:	Monday, January 2, 2023 7:55:07 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 7:55 AM

Name: Jeanine Lussier

Address: 477 Flamingo Drive
Apollo Beach , FL 33572

Phone Number: (813) 992-7023

Email Address: jeanine.lussier@outlook.com

Subject: No Big Box Stores in Apollo Beach

Message: Please vote against the placement of big box stores in our community of Apollo Beach. Please support instead the development of a Village style outdoor mall. Something tasteful like what was done up in Midtown Tampa at Dale Mabry and the 275. We certainly have the population to support something like that now with the exponential growth that has occurred in the last four years. It would bring variety and keep the money in our community, rather than having us have to drive all the way up to Tampa to go to REI or Whole Foods or to have a good haircut. It is a great blend of space that allows for small businesses and entrepreneurs, plus spaces for social gatherings, with a few key anchor stores that provide us with variety. No more Walmarts Costco‘s Home Depot‘s – all of those are already within driving distance, but we lack is urban chic - the wave of the future. Don’t put our lovely community 50 years backwards - take us into the future. Jeanine Lussier 477 Flamingo Drive.

1052706168

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15

(KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development in Apollo Beach
Date:	Monday, January 2, 2023 8:00:30 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:00 AM

Name: Jeanine Lussier

Address: 477 Flamingo Drive
Apollo Beach , FL 33572

Phone Number: (813) 992-7023

Email Address: jeanine.lussier@outlook.com

Subject: Development in Apollo Beach

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1052707472

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15

(KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development in Apollo Beach
Date:	Monday, January 2, 2023 8:00:35 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:00 AM

Name: Jeanine Lussier

Address: 477 Flamingo Drive
Apollo Beach , FL 33572

Phone Number: (813) 992-7023

Email Address: jeanine.lussier@outlook.com

Subject: Development in Apollo Beach

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1052707472

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15

(KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - STOP SINGLE TENNANT BIG BOX SUPERSTORES
Date:	Monday, January 9, 2023 5:36:21 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 5:36 PM

Name: Jeffrey MacDonald

Address: 6509 Solitaire Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 599-4816

Email Address: jeff5994816@gmail.com

Subject: STOP SINGLE TENNANT BIG BOX SUPERSTORES

Message: Dear Sir/Mam,

This letter is to plead with you not to allow "Big Box" stores from coming to our community. We moved here because of the sense of community and "Old Florida" feel. Please stand by us in representing the true feelings of our community.
Kindest Regards,
Jeffrey S. MacDonald
6509 Solitaire Palm Way
Apollo Beach, FL 33572

1055400095

Mozilla/5.0 (Linux; Android 13; SM-S908U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - STOP SINGLE TENNANT BIG BOX SUPERSTORES
Date:	Monday, January 9, 2023 5:36:20 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 5:36 PM

Name: Jeffrey MacDonald

Address: 6509 Solitaire Palm Way
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Phone Number: (813) 599-4816

Email Address: jeff5994816@gmail.com

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Apollo Beach, FL 33572

1055400095

Mozilla/5.0 (Linux; Android 13; SM-S908U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach "Single Tennant Big Box Superstore"
Date:	Tuesday, January 10, 2023 10:37:01 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:36 AM

Name: John MacDonald

Address: 1011 Sago Palm Way
Apollo Beach, FL 33572

Phone Number:

Email Address:

Subject: Apollo Beach "Single Tennant Big Box Superstore"

Message: We are against any zoning change for the subject proposed development at SR 41 and Leisey Rd., Apollo Beach. We do not want any big box stores or more housing, fast food restaurants, etc. in this area. South County is already inundated with more traffic than the roads can handle due to the overbuilding of new homes and condos. We have lived in Apollo Beach since 1987 and have seen the terrible increase in traffic and the disrepair of the roads which continues to be a dangerous issue. Also the loss of vacant lands, which are home to the few remaining animals in our area, are forcing these poor animals into residential areas and home yards, example seeing more raccoons, opossums, etc. PLEASE DO NOT APPROVE ANY REZONING CHANGES FOR THIS APOLLO BEACH PROJECT, OR ANY APOLLO BEACH AREA AND SOUTH COUNTY IN GENERAL. Thank you.

1055639472

Mozilla/5.0 (Windows NT 6.1; Win64; x64; rv:108.0) Gecko/20100101 Firefox/108.0

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach "Single Tennant Big Box Superstore"
Date:	Tuesday, January 10, 2023 10:37:01 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:36 AM

Name: John MacDonald

Address: 1011 Sago Palm Way
Apollo Beach, FL 33572

Phone Number:

Email Address:

Subject: Apollo Beach "Single Tennant Big Box Superstore"

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1055639472

Mozilla/5.0 (Windows NT 6.1; Win64; x64; rv:108.0) Gecko/20100101 Firefox/108.0

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - STOP SINGLE TENNANT BIG BOX SUPERSTORES
Date:	Monday, January 9, 2023 5:36:21 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 5:36 PM

Name: Jeffrey MacDonald

Address: 6509 Solitaire Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 599-4816

Email Address: jeff5994816@gmail.com

Subject: STOP SINGLE TENNANT BIG BOX SUPERSTORES

Message: Dear Sir/Mam,

This letter is to plead with you not to allow "Big Box" stores from coming to our community. We moved here because of the sense of community and "Old Florida" feel. Please stand by us in representing the true feelings of our community.
Kindest Regards,
Jeffrey S. MacDonald
6509 Solitaire Palm Way
Apollo Beach, FL 33572

1055400095

Mozilla/5.0 (Linux; Android 13; SM-S908U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Box Store on US 41
Date:	Tuesday, January 10, 2023 2:29:53 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 2:29 PM

Name: Jennifer Maher

Address: 6331 Cocoa Lane
Apollo Beach , FL 33572

Phone Number: (813) 645-1184

Email Address: groovygal8@yahoo.com

Subject: Box Store on US 41

Message: I am opposed to the proposal of a big box store coming to Apollo Beach. The area is already too congested snd we do not have the infrastructure to support this business. It with further negatively impact traffic and out safety.

1055771388

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Box Store on US 41
Date:	Tuesday, January 10, 2023 2:29:55 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 2:29 PM

Name: Jennifer Maher

Address: 6331 Cocoa Lane
Apollo Beach , FL 33572

Phone Number: (813) 645-1184

Email Address: groovygal8@yahoo.com

Subject: Box Store on US 41

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1055771388

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Box Store on US 41
Date:	Tuesday, January 10, 2023 2:29:53 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 2:29 PM

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Address: 6331 Cocoa Lane
Apollo Beach , FL 33572

Phone Number: (813) 645-1184

Email Address: groovygal8@yahoo.com

Subject: Box Store on US 41

Message: I am opposed to the proposal of a big box store coming to Apollo Beach. The area is already too congested snd we do not have the infrastructure to support this business. It with further negatively impact traffic and out safety.

1055771388

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Apollo Beach Golf Course Minor Modification
Date:	Monday, January 9, 2023 2:32:20 PM
Attachments:	image001.png

Hi again!
Please see below and add to the official record for MM22-1228.

Thank you,

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 1:49 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Apollo Beach Golf Course Minor Modification

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:49 PM

Name: John Martin

Address: 831 Birdie Way
Apollo Beach, FL 33572

Phone Number: (813) 690-4638

Email Address: jcmartinab@live.com

Subject: Apollo Beach Golf Course Minor Modification

Message: Commissioners,

My name is John Martin and I have lived in Apollo Beach since 1984 and across the street from the Apollo Beach Golf Course since 1996. I am a retired transportation planner and worked for the Hillsborough County City-County Planning Commission from 1975 until 1986 and was the Principal Planner for the Transportation Section of the Planning Commission from 1981 until 1986. I am quite familiar with the Apollo Beach development, in fact, I worked with the County Attorney's office in writing the original Development Order for the Apollo Beach Development of Regional Impact in 1976-1977. As a result of that Development Order, and the proposed development of Apollo Beach, we included the extension of Apollo Beach Boulevard from US 41 east to US 301 with an I-75 interchange on our Year 2000 and Year 2010 Tampa Urban Area Transportation Study Plans and the Hillsborough County 'Comprehensive Plans for 2000 and 2010. This road construction project was not completed until Summer 2022, 22 years after the horizon year, without the needed I-75 interchange. Our quiet little community has turned into a traffic nightmare at times and there are thousands of approved dwellings in Southshore that are yet to be constructed.
Another issue is that homeowners living on the Apollo Beach Golf Course, including my daughter, purchased their homes at a premium price due to the fact that their home was adjacent to a golf course. This Minor Modification will directly affect the 7 homeowners on Bunker View that will now have homes built behind them, but it will indirectly affect others on Bunker View which now will be looking at homes from their lanai instead of a golf course. In addition, the precedent will be set to continue development through more and more of the golf course, affecting the property values and viewscape of many additional Goff and Sea homeowners.
In summary, the Golf and Sea subdivision will have property value and aesthetic impacts from the proposed Minor Modification and it will also contribute to the current and future congestion in the Southshore area.
I would recommend that the BOCC purchase the Apollo Beach Golf Course as a municipal course. The City of Tampa owns 3 municipal courses which are operated by the Tampa Sports Authority and have done so for many years. This could provide recreation and park amenities for the Southshore area and ;could provide at least some income to the County to help offset expenses..

1055276740

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/103.0.5060.53 Safari/537.36

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	RE: (WEB mail) - Apollo Beach Golf Course Minor Modification
Date:	Monday, January 9, 2023 2:36:17 PM
Attachments:	image002.png

I apologize! The one below **is not** MM22-1228.

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: Almand, Sherrie
Sent: Monday, January 9, 2023 2:32 PM
To: Medrano, Maricela <MedranoM@HillsboroughCounty.ORG>
Subject: FW: (WEB mail) - Apollo Beach Golf Course Minor Modification

Hi again!
Please see below and add to the official record for MM22-1228.

Thank you,

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 1:49 PM

To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Apollo Beach Golf Course Minor Modification

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 1:49 PM

Name: John Martin

Address: 831 Birdie Way
Apollo Beach, FL 33572

Phone Number: (813) 690-4638

Email Address: jcmartinab@live.com

Subject: Apollo Beach Golf Course Minor Modification

Message: Commissioners,

My name is John Martin and I have lived in Apollo Beach since 1984 and across the street from the Apollo Beach Golf Course since 1996. I am a retired transportation planner and worked for the Hillsborough County City-County Planning Commission from 1975 until 1986 and was the Principal Planner for the Transportation Section of the Planning Commission from 1981 until 1986. I am quite familiar with the Apollo Beach development, in fact, I worked with the County Attorney's office in writing the original Development Order for the Apollo Beach Development of Regional Impact in 1976-1977. As a result of that Development Order, and the proposed development of Apollo Beach, we included the extension of Apollo Beach Boulevard from US 41 east to US 301 with an I-75 interchange on our Year 2000 and Year 2010 Tampa Urban Area Transportation Study Plans and the Hillsborough County 'Comprehensive Plans for 2000 and 2010. This road construction project was not completed until Summer 2022, 22 years after the horizon year, without the needed I-75 interchange. Our quiet little community has turned into a traffic nightmare at times and there are thousands of approved dwellings in Southshore that are yet to be constructed.
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In summary, the Golf and Sea subdivision will have property value and aesthetic impacts from the proposed Minor Modification and it will also contribute to the current and future congestion in the Southshore area.
I would recommend that the BOCC purchase the Apollo Beach Golf Course as a municipal course. The City of Tampa owns 3 municipal courses which are operated by the Tampa Sports Authority and have done so for many years. This could provide recreation and park amenities for the Southshore area and ;could provide at least some income to the County to help offset expenses..

1055276740

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/103.0.5060.53 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Apartments and large common Apollo Beach
Date:	Friday, December 30, 2022 8:38:25 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 30, 2022 8:38 AM

Name: Rayu Maty

Address: 906 allegro lane
Apollo beach, FL 33572

Phone Number: (419) 343-6808

Email Address: rmatuszak46@gmail.com

Subject: Apartments and large common Apollo Beach

Message: The growth of apartments, housing and commercial in Apollo Beach has been extreme in the last few years. Roads and infrastructure have not kept pace leading to extreme traffic pressure on schools police, fire and the like.

You must act to limit expansion here!!
We wish to stay a small, quiet community.

Please take appropriate action.
Raymond Matuszak

1052081414

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart construction in Apollo Beach HW41
Date:	Tuesday, December 13, 2022 9:10:37 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 9:10 AM

Name: George Mavromates

Address: 803 Manns Harbor Dr
Apollo Beach, FL 33572

Phone Number: (904) 477-4157

Email Address: Assos90@yahoo.com

Subject: Proposed Walmart construction in Apollo Beach HW41

Message: We have two Walmarts within a 20 min drive and do not need one in our small community of Apollo Beach! We don't want the Walmart Effect, which includes, increased traffic, increased crime, negative environmental impact, decreased property values (there are million-dollar homes in Mira bay across the road from the proposed site), the loss of local mom-and-pop businesses, and decimated local economies due to low-wage workers. Many of us here voted for you and now need your support in voting this down for the betterment of our community.

1045934012

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Vote No to Big Box
Date:	Tuesday, January 10, 2023 10:21:23 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:21 AM

Name: Anthony McKean

Address: 543 Bimini Bay Blvd
Apollo Beach, FL 33572

Phone Number: (863) 640-2798

Email Address: anthonymckean@gmail.com

Subject: Vote No to Big Box

Message: Please vote no to the big box. Apollo Beach is home and known for for its peaceful feel.

Vote No

1055631885

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Vote No to Big Box
Date:	Tuesday, January 10, 2023 10:21:23 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:21 AM

Name: Anthony McKean

Address: 543 Bimini Bay Blvd
Apollo Beach, FL 33572

Phone Number: (863) 640-2798

Email Address: anthonymckean@gmail.com

Subject: Vote No to Big Box

Message: Please vote no to the big box. Apollo Beach is home and known for for its peaceful feel.

Vote No

1055631885

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach Walmart
Date:	Tuesday, December 13, 2022 8:42:06 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 8:42 PM

Name: Juanita Merced

Address: 577 Bimini Bay Blvd
Apollo Beach, FL 33572

Phone Number: (813) 453-6777

Email Address: jmerced0219@aol.com

Subject: Apollo Beach Walmart

Message: I'm not sure if this is the right place for me to vote "NO" to Walmart in Apollo Beach.

1046311181

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Garcia, David
To:	kamsews@gmail.com
Subject:	RE: (WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 3:54:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

---

Kathy,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 1:14 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 1:13 PM

Name: Kathy Merris

Address: 109 St Martins Way Address
Apollo Beach, FL 33572

Phone Number: (813) 645-3039

Email Address: kamsews@gmail.com

Subject: Walmart

Message: I understand you're considering a Walmart for Apollo Beach. We are a small area with Walmart close enough to reach with no difficulty. We already have more traffic than many of our streets can handle. As a resident of Apollo Beach I would like you to vote no on adding a Walmart to Apollo Beach..
Thank you for your consideration
Kathy Merris

1046081212

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

Rome, Ashley

From: Hearings
Sent: Monday, January 9, 2023 1:14 PM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: No To MM 22-1228

From: Michael Meyer <mmeyer012@gmail.com>
Sent: Monday, January 9, 2023 12:57 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: No To MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Hello,

I am writing to express my strong opposition and concern for rezoning proposal MM 22-1228 at 5591 North US Highway 41 Apollo Beach. Relatively recent to the area, I was drawn by the small town feel that reminded me of growing up in northern Florida but with access to the city amenties in Tampa and Sarasota. In my conversations with fellow Apollo Beach residents, the majority that I have interacted with do not want this proposed change and build plan.

There are several concerns that further support not approving the plan: the impact on the district school system, assessment of traffic, roads and pedestrian safety, willdlife and landscape, affect on home value in the area.

To date, the proposed plan fails to address and/or add value to the foundation of the community; which is prideful of the local small businesses. Furthermore, this is not in alignment with Hillsborough Comprehensive Plan for Apollo Beach.

I urge you to deny the proposed rezoning and from the discussions with my community members in Apollo Beach my concerns and request are shared.

Thank You,
Michael Meyer

5241 Moon Shell Drive
Apollo Beach, FL 33572
386-793-4097

Rome, Ashley

From: Hearings
Sent: Tuesday, January 10, 2023 8:20 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Zoning Committee & Commissioner

From: Robert Mitchell <rmitchell527@gmail.com>
Sent: Tuesday, January 10, 2023 4:44 AM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Zoning Committee & Commissioner

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens, I am writing to express my strong opposition to the rezoning application MM 22-1228. We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

--
Robert Mitchell
161 Star Shell Drive
Apollo Beach, Florida,33572
email rmitchell527@gmail.com
Cell 813-690-0622

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, December 13, 2022 9:35 AM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: Walmart

Opposition letter for MM 22-1228.

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

-----Original Message-----
From: Ingrid Moody <alwaysmoody@yahoo.com>
Sent: Monday, December 12, 2022 6:56 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: Walmart

External email: Use caution when clicking on links, opening attachments or replying to this email.

PLEASE NO WALMART IN or NEAR APOLLO BEACH!!!

Ingrid

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228
Date:	Monday, December 12, 2022 7:11:04 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:10 PM

Name: Ingrid Moody

Address: 436 Cedar Falls Dr
Apollo Beach , FL 33572

Phone Number: (917) 626-6932

Email Address: alwaysmoody@yahoo.com

Subject: MM 22-1228

Message: PLEASE NO WALMART IN OR NEAR APOLLO BEACH!!
We love our small businesses and Walmart is nothing but trash!! We have Walmarts in Sun City Center and Gibsonton!!

1045673981

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Hearings
Sent: Wednesday, December 14, 2022 10:12 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Walmart

-----Original Message-----
From: Ingrid Moody <alwaysmoody@yahoo.com>
Sent: Monday, December 12, 2022 6:57 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Walmart

External email: Use caution when clicking on links, opening attachments or replying to this email.

PLEASE NO WALMART IN OR NEAR APOLLO BEACH!!!!

Ingrid

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO WALMART in Apollo beach on 41
Date:	Monday, December 12, 2022 7:27:14 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:27 PM

Name: d'Arcy Muller

Address: 6516 Manila Palm Way
Apollo Beach, FL 33572

Phone Number: (619) 778-5651

Email Address: casailinglady@gmail.com

Subject: NO WALMART in Apollo beach on 41

Message: Our little neighborhood is being over- run me turning
into Brandon and we do NOT want a Walmart here.

There are already TWO Walmarts and a Market writhing 6 miles. We do NOT want a trashy place.

Target. Trader Joe's, Whole Foods …. Those would be better.

NO TO WALMART

1045679462

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone14,3;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - NO WALMART in Apollo beach on 41
Date:	Tuesday, December 13, 2022 8:10:06 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 7:27 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - NO WALMART in Apollo beach on 41

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:27 PM

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Email Address: casailinglady@gmail.com

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Target. Trader Joe's, Whole Foods …. Those would be better.

NO TO WALMART

1045679462

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B101 [FBAN/FBIOS;FBDV/iPhone14,3;FBMD/iPhone;FBSN/iOS;FBSV/16.1.1;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Walmart on us41
Date:	Saturday, January 7, 2023 12:44:34 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 12:44 PM

Name: Kathleen Nader

Address: 918 Spindle Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 597-6855

Email Address: sassy.nader@yahoo.com

Subject: Walmart on us41

Message: Could we not do something better. Like a Traders Joes! Whole Foods, or fresh market. That would be way better than a Walmart

1054685903

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart on us41
Date:	Saturday, January 7, 2023 12:44:43 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 12:44 PM

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Address: 918 Spindle Palm Way
Apollo Beach, FL 33572

Phone Number: (813) 597-6855

Email Address: sassy.nader@yahoo.com

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1054685903

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Monday, December 12, 2022 10:07:39 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 10:07 PM

Name: J Naranjo

Address: 7511 Sea Lilly Crt
Apollo Beach, FL 33572

Phone Number:

Email Address: jmyrtle732@aol.com

Subject: Walmart

Message: We do not need a Walmart in Apollo Beach, this is a small boating community and adding a Walmart will ruin the gulf side town appeal and property values. There are 2 stores within reasonable distances for those seeking Walmart's.

1045731347

Mozilla/5.0 (iPhone; CPU iPhone OS 14_7_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/14.1.2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Apollo Beach Big Box Rezoning
Date:	Sunday, January 8, 2023 1:23:36 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 1:23 PM

Name: Daniel Norman

Address: 6530 Senegal Palm Way
Apollo Beach , FL 33572

Phone Number: (813) 541-9151

Email Address: usfice6@gmail.com

Subject: Apollo Beach Big Box Rezoning

Message: Commissioners,

I would like you to consider rejecting the proposal to rezone the 71 acres of farmland on US41 and Leisley Rd for commercial and residential use. This area has been experiencing exponential residential growth over the last few years. What has been missing with this growth is improvements to the infrastructure in the surrounding areas. A major cause of concern is the growing traffic issues in this part of Hillsborough county. Continued residential growth without accompanying improvements to the infrastructure will only continue to cause further issues for the current residents. I ask that you please reject this proposal as well as take a more proactive approach when evaluating further development in this area and all areas in the county. Infrastructure improvements need to come BEFORE thousands of more residents are added to the mix of the local economies.

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach Big Box Rezoning
Date:	Sunday, January 8, 2023 1:23:39 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 1:23 PM

Name: Daniel Norman

Address: 6530 Senegal Palm Way
Apollo Beach , FL 33572

Phone Number: (813) 541-9151

Email Address: usfice6@gmail.com

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Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO to WALMART on US41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:05:27 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:05 PM

Name: Anthony Nowakowski

Address: 5409 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (248) 709-1332

Email Address: bettytonyn@gmail.com

Subject: NO to WALMART on US41 in Apollo Beach

Message: Apollo Beach does not have the infrastructure or resources to support our already growing area and a big box store would only fan the flames of s and sprawl. Big boxes in our small community will bring crime, pay lower wages to employees and encourage local businesses to pay lower wages in order to compete which would then negatively impact our community. We need to attract businesses that enhance and showcase our community to keep it competitive and strong. Big Box stores will deplete our resources, negatively impacting our community by taking away nearly 3,000 acres of farmland, wetlands and other green spaces. Increased sprawl, increased traffic! We must fix our roads before approving more development! Infrastructure first, then development! Lots of local business studies have shown that big box stores are a killer of mom and pop businesses. We must protect our neighborhood businesses! Not to mention, there are already 2 Walmarts within a 20 minute drive. We say NO to WALMART and NO to BIG BOX stores!

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO to WALMART on US41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:05:25 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:05 PM

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Phone Number: (248) 709-1332

Email Address: bettytonyn@gmail.com

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1054890094

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO TO WALMART on US 41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:04:36 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:04 PM

Name: Elizabeth Nowakowski

Address: 5409 Sunset Falls Drive
Apollo Beach, FL 33572

Phone Number: (248) 602-8390

Email Address: bettytonyn@gmail.com

Subject: NO TO WALMART on US 41 in Apollo Beach

Message: Apollo Beach does not have the infrastructure or resources to support our already growing area and a big box store would only fan the flames of s and sprawl. Big boxes in our small community will bring crime, pay lower wages to employees and encourage local businesses to pay lower wages in order to compete which would then negatively impact our community. We need to attract businesses that enhance and showcase our community to keep it competitive and strong. Big Box stores will deplete our resources, negatively impacting our community by taking away nearly 3,000 acres of farmland, wetlands and other green spaces. Increased sprawl, increased traffic! We must fix our roads before approving more development! Infrastructure first, then development! Lots of local business studies have shown that big box stores are a killer of mom and pop businesses. We must protect our neighborhood businesses! Not to mention, there are already 2 Walmarts within a 20 minute drive. We say NO to WALMART and NO to BIG BOX stores!

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO TO WALMART on US 41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:04:32 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Name: Elizabeth Nowakowski

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Apollo Beach, FL 33572

Phone Number: (248) 602-8390

Email Address: bettytonyn@gmail.com

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Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Say to to Apollo Beach Walmart
Date:	Monday, December 12, 2022 7:36:59 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 7:36 PM

Name: Amy O'Hara

Address: 842 Birdie Way
Apollo Beach , FL 33572

Phone Number: (813) 481-5776

Email Address: amy.ohara@gmail.com

Subject: Say to to Apollo Beach Walmart

Message: Please vote no against the Apollo Beach Walmart. The roads are already well beyond the capacity, and that location wi) cause bo end of traffic problems.

There are 2 Walmart super centers and a Neighborhood market within 10 miles, as well as numerous supermarkets and retail stores. We simply don't need more retail businesses.

Walmart will be the end of many of the small independent businesses in the immediate area...empty storefronts are never good for a local economy.

The addition of a Walmart makes this one more overpopulated, overdeveloped stretch of overcrowded highway and one less unique and friendly small town in Florida (an already disappearing breed).

I bought a home a raised a family here because it was small and family oriented and unique...this will be one more reason why this is no longer the town I've loved for so long

1045682716

Mozilla/5.0 (Linux; Android 12; SM-A536U Build/SP1A.210812.016; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/107.0.5304.141 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - Say to to Apollo Beach Walmart
Date:	Tuesday, December 13, 2022 8:10:23 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 7:37 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Say to to Apollo Beach Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Address: 842 Birdie Way
Apollo Beach , FL 33572

Phone Number: (813) 481-5776

Email Address: amy.ohara@gmail.com

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1045682716

Mozilla/5.0 (Linux; Android 12; SM-A536U Build/SP1A.210812.016; wv) AppleWebKit/537.36 (KHTML, like Gecko) Version/4.0 Chrome/107.0.5304.141 Mobile Safari/537.36 [FB_IAB/FB4A;FBAV/395.0.0.27.214;]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning
Date:	Saturday, January 7, 2023 3:59:28 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 7, 2023 3:59 PM

Name: Stanton Olsen

Address: 1015 Sago Palm Way
Apollo Beach, FL 33572

Phone Number: (757) 254-4099

Email Address: stanton.olsen@gmail.com

Subject: Zoning

Message: We residents don't want zoning changes to allow any big box stores or superstores directly in Apollo Beach!
Thank you.

1054724265

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development in Apollo Beach
Date:	Monday, January 2, 2023 5:13:47 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 5:13 PM

Name: Maurice Palmer

Address: 731 Manns Harbor Drive
Apollo Beach , FL 33572

Phone Number: (609) 827-7857

Email Address: m.palmer57@verizon.net

Subject: Development in Apollo Beach

Message: Please vote no to the application for the apartments and BIG BOX retail on rt 41 in Apollo Beach. the traffic is already too much for the roads. I am in favor of more manageable development appropriate for our area. This area has been residential and farmland use and should mostly remain that way. The residents neither need nor want this proposed project. Everything that project would provide is already available minutes away. I urge you to consider the wants and needs of your constituents, the voters of Southshore, when this project comes up for a vote. Tax dollars aren't the only indication of success. Thank you.

1052841581

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development in Apollo Beach
Date:	Monday, January 2, 2023 5:13:48 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 5:13 PM

Name: Maurice Palmer

Address: 731 Manns Harbor Drive
Apollo Beach , FL 33572

Phone Number: (609) 827-7857

Email Address: m.palmer57@verizon.net

Subject: Development in Apollo Beach

Message: Please vote no to the application for the apartments and BIG BOX retail on rt 41 in Apollo Beach. the traffic is already too much for the roads. I am in favor of more manageable development appropriate for our area. This area has been residential and farmland use and should mostly remain that way. The residents neither need nor want this proposed project. Everything that project would provide is already available minutes away. I urge you to consider the wants and needs of your constituents, the voters of Southshore, when this project comes up for a vote. Tax dollars aren't the only indication of success. Thank you.

1052841581

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - We do not want Walmart
Date:	Thursday, December 15, 2022 3:52:31 PM
Attachments:	image001.png

Hello ma'am,

Here is an email regarding the Walmart in Apollo beach for the record.

Thank you,

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Thursday, December 15, 2022 3:46 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - We do not want Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 15, 2022 3:46 PM

Name: Menora Panthi

Address: 142 Mangrove Manor Drive
Apollo Beach, FL 33572

Phone Number: (614) 776-5707

Email Address: menorapanthi@gmail.com

Subject: We do not want Walmart

Message: Hi,

We don’t want a Walmart in our neighborhood. They are planning on building one right across the street.

We don't want Walmart in our neighborhood.

I hope you understand. Thank you!

1047246183

Mozilla/5.0 (Linux; Android 12; LE2127) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - We do not want Walmart
Date:	Thursday, December 15, 2022 3:46:07 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 15, 2022 3:46 PM

Name: Menora Panthi

Address: 142 Mangrove Manor Drive
Apollo Beach, FL 33572

Phone Number: (614) 776-5707

Email Address: menorapanthi@gmail.com

Subject: We do not want Walmart

Message: Hi,

We don’t want a Walmart in our neighborhood. They are planning on building one right across the street.

We don't want Walmart in our neighborhood.

I hope you understand. Thank you!

1047246183

Mozilla/5.0 (Linux; Android 12; LE2127) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big box store in Apollo Beach
Date:	Monday, January 2, 2023 8:12:01 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:11 AM

Name: Patricia Patt

Address: 6005 Adagio Lane
Apollo Beach , FL 33573

Phone Number: (586) 615-0360

Email Address: 2434duke@gmail.com

Subject: Big box store in Apollo Beach

Message: Please stop building in Apollo Beach. We moved here because it was a nice quiet community with small businesses. If we wanted larger stores we would have moved to other locations. We like to drive to other locations with larger stores if necessary. Very concerned about Walmart as it brings crime and heavy traffic. Please listen to the people.

1052710429

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Big box store in Apollo Beach
Date:	Monday, January 2, 2023 8:12:01 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:11 AM

Name: Patricia Patt

Address: 6005 Adagio Lane
Apollo Beach , FL 33573

Phone Number: (586) 615-0360

Email Address: 2434duke@gmail.com

Subject: Big box store in Apollo Beach

Message: Please stop building in Apollo Beach. We moved here because it was a nice quiet community with small businesses. If we wanted larger stores we would have moved to other locations. We like to drive to other locations with larger stores if necessary. Very concerned about Walmart as it brings crime and heavy traffic. Please listen to the people.

1052710429

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - New Wal-Mart in Apollo Beach
Date:	Wednesday, December 14, 2022 4:55:52 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 4:55 AM

Name: Richard Paulus

Address: 2435 Pier Dr
Ruskin, FL 33570

Phone Number: (813) 786-0792

Email Address: richp57@msn.com

Subject: New Wal-Mart in Apollo Beach

Message: Sir/Madame,

I am writing this to submit my objections and reason why we DO NOT NEED ANOTHER WAL-MART in the area. I live in Ruskin, in a 55 + community. I moved here for the quieter life style, reduced traffic and slower pace. I use to live in Gibsonton, right next to the Wal-Mart there. So I have experienced the bad side of living near one. Wal-Marts may improve the tax rolls in the community, but what it does bring is increased traffic, pollution, crime and many undesirable types of people coming to use and prey on the people who come there. Crime increases, regardless of what is said, property values reduce because of it. Traffic increases because of it, but the developers and the county never seem to appreciate this, believing that it will be taken care of in the future. Traffic has already increased on Route 41, due to the new developments placed around Apollo Beach, traffic has increased greatly on I-75, where we have nightly traffic jams, weekends we have them to, all due to the rush to bring new people in the area, allowing developments to be built and no one looks at what the roads will support in traffic.
Yes, they are working on 41 and Big Bend Road intersections, to little to late, all it has done is confused the traffic situation more and doesn't look like it will help in the long

run. There are at least 4 new subdivisions being built along the Moccasin Wallow Road, that will cause further increase in traffic, bring an increase in crime and insurances are going to increase along with it. All this to increase tax revenue for what purpose I don't understand.
We, who are retired or retiring soon want a slower life style, less traffic and less crime. You are failing us in the rush to bring more people and money here. Don't ruin it for us, don't ruin it for the future residents, don't ruin Florida for it. STOP WAL-MART from being allowed to build.

1046429787

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - New Wal-Mart in Apollo Beach
Date:	Wednesday, December 14, 2022 4:55:47 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 4:55 AM

Name: Richard Paulus

Address: 2435 Pier Dr
Ruskin, FL 33570

Phone Number: (813) 786-0792

Email Address: richp57@msn.com

Subject: New Wal-Mart in Apollo Beach

Message: Sir/Madame,

I am writing this to submit my objections and reason why we DO NOT NEED ANOTHER WAL-MART in the area. I live in Ruskin, in a 55 + community. I moved here for the quieter life style, reduced traffic and slower pace. I use to live in Gibsonton, right next to the Wal-Mart there. So I have experienced the bad side of living near one. Wal-Marts may improve the tax rolls in the community, but what it does bring is increased traffic, pollution, crime and many undesirable types of people coming to use and prey on the people who come there. Crime increases, regardless of what is said, property values reduce because of it. Traffic increases because of it, but the developers and the county never seem to appreciate this, believing that it will be taken care of in the future. Traffic has already increased on Route 41, due to the new developments placed around Apollo Beach, traffic has increased greatly on I-75, where we have nightly traffic jams, weekends we have them to, all due to the rush to bring new people in the area, allowing developments to be built and no one looks at what the roads will support in traffic.
Yes, they are working on 41 and Big Bend Road intersections, to little to late, all it has done is confused the traffic situation more and doesn't look like it will help in the long

run. There are at least 4 new subdivisions being built along the Moccasin Wallow Road, that will cause further increase in traffic, bring an increase in crime and insurances are going to increase along with it. All this to increase tax revenue for what purpose I don't understand.
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1046429787

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach proposed Walmart
Date:	Friday, December 16, 2022 9:23:08 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 16, 2022 9:23 AM

Name: Jill Pedro

Address: 320 lookout drive
Apollo Beach, FL 33572

Phone Number: (813) 323-2030

Email Address: jillpedro@yahoo.com

Subject: Apollo Beach proposed Walmart

Message: Please do all you can to not allow this walmart store be built in Apollo Beach. It certainly does not fit the small beach town feeling of this area. Already the over building has created serious traffic, logistics and crime issues.

1047547004

Mozilla/5.0 (Linux; Android 12; SM-A426U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	Almand, Sherrie
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Rezoning in Apollo Beach
Date:	Wednesday, January 11, 2023 4:35:20 PM
Attachments:	image001.png

Hi –
Please add this email to the official record of MM22-1228.

Thank you!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Wednesday, January 11, 2023 4:22 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Rezoning in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 4:22 PM

Name: Kristine Peebles

Address: 6524 king palm way
Apollo Beach , FL

Phone Number: (770) 364-0538

Email Address: mcpkas@aol.com

Subject: Rezoning in Apollo Beach

Message: Dear Commissioners, regarding the upcoming vote on rezoning the area, hwy 41 and Leisley Rd in Apollo Beach,
Our family purchased our home in Apollo Beach less than 8yrs ago. One of the most alluring factors to this area/community for us was the small quaint feeling of security and uniqueness of locally owned businesses, restaurants, parks and an overall safe feeling of 'community.'
Additionally, the area was NOT inundated by an overabundance of multi-family housing, large residential communities, fast food restaurants, 'chain companies,' and commercialized businesses.
As the area has grown in recent years, we have seen that infrastructure has NOT been able to keep up with the area's growth 'explosion' involving increased traffic, needed road improvements, schools, utilities, technology, emergency service support, and increased crime, etc.
WE, in Apollo Beach, OPPOSE any rezoning that would allow ANY big box superstores. WE WANT TO KEEP OUR SMALL-TOWN CLOSE KNIT COMMUNITY without being invaded and inundated by an over abundance of fast food restaurants, big box stores, discount chain and franchised businesses.
If ever I feel the need to make certain purchases at a discount store, big box store, mall, or outlet store, most are just a very short and convenient trip just a 10,15, or 30min drive or easily accessed online.
Reason being for OPPOSITION and FACTS opposing the rezoning:
The Apollo Beach is an upscale community/area that encompasses a majority of residences of average, above average or high income families and NOT an area in need of big box discount stores, fast food restaurants, and discount chain stores.
Based in research, when discount chain stores/franchises are introduced to an area, community quality is often diminished to include decreased property values and physical appearance, increased crime, and an overall deterioration of aesthetics and negative environmental impacts.
We are not opposed or against progress and advancement of our community but rather focusing changes that accent, promote, and prosper the area rather than depreciating our beloved area of Apollo Beach.
Change should positively promote and reflect the people of its community!
Our only hopes, prayers and wishes are that YOUR ideas and aspirations for OUR community coincide with the hopes, desires and aspirations of the people of the Apollo Beach community.
Thank you in advanced for listening and most importantly taking consideration and resonating on the wishes and desires of the residents of Apollo Beach to advance our community in a positive, prosperous, and innovative way yet preserving our quaint, personal, secure and uniqueness of our area.
Mark and Kristine Peebles, Apollo Beach.

1056287008

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Rezoning in Apollo Beach
Date:	Wednesday, January 11, 2023 4:22:14 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 4:22 PM

Name: Kristine Peebles

Address: 6524 king palm way
Apollo Beach , FL

Phone Number: (770) 364-0538

Email Address: mcpkas@aol.com

Subject: Rezoning in Apollo Beach

Message: Dear Commissioners, regarding the upcoming vote on rezoning the area, hwy 41 and Leisley Rd in Apollo Beach,
Our family purchased our home in Apollo Beach less than 8yrs ago. One of the most alluring factors to this area/community for us was the small quaint feeling of security and uniqueness of locally owned businesses, restaurants, parks and an overall safe feeling of 'community.'
Additionally, the area was NOT inundated by an overabundance of multi-family housing, large residential communities, fast food restaurants, 'chain companies,' and commercialized businesses.
As the area has grown in recent years, we have seen that infrastructure has NOT been able to keep up with the area's growth 'explosion' involving increased traffic, needed road improvements, schools, utilities, technology, emergency service support, and increased crime, etc.
WE, in Apollo Beach, OPPOSE any rezoning that would allow ANY big box superstores. WE WANT TO KEEP OUR SMALL-TOWN CLOSE KNIT COMMUNITY without being invaded and inundated by an over abundance of fast food restaurants, big box stores, discount chain and franchised businesses.
If ever I feel the need to make certain purchases at a discount store, big box store,

mall, or outlet store, most are just a very short and convenient trip just a 10,15, or 30min drive or easily accessed online.
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Based in research, when discount chain stores/franchises are introduced to an area, community quality is often diminished to include decreased property values and physical appearance, increased crime, and an overall deterioration of aesthetics and negative environmental impacts.
We are not opposed or against progress and advancement of our community but rather focusing changes that accent, promote, and prosper the area rather than depreciating our beloved area of Apollo Beach.
Change should positively promote and reflect the people of its community!
Our only hopes, prayers and wishes are that YOUR ideas and aspirations for OUR community coincide with the hopes, desires and aspirations of the people of the Apollo Beach community.
Thank you in advanced for listening and most importantly taking consideration and resonating on the wishes and desires of the residents of Apollo Beach to advance our community in a positive, prosperous, and innovative way yet preserving our quaint, personal, secure and uniqueness of our area.
Mark and Kristine Peebles, Apollo Beach.

1056287008

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6 Safari/605.1.15

From:	Timoteo, Rosalina
To:	Ball, Fred (Sam)
Cc:	ksperez@bellsouth.net
Subject:	FW: Application MM-22-1288 Opposition
Date:	Monday, December 12, 2022 11:33:07 AM
Attachments:	image001.png image002.png

Hi Sam,

This opposition has the incorrect application number. Is it 22-1228 that has to do with a Walmart?

Thanks, Rosa

Rosa Timoteo
Senior Planning & Zoning Technician
Development Services Dept.

C: (813) 244-3956
P: (813) 307-1752
E: timoteor@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 10:31 AM
To: Timoteo, Rosalina <TimoteoR@HillsboroughCounty.ORG>
Cc: Rome, Ashley <RomeA@hillsboroughcounty.org>
Subject: FW: Application MM-22-1288 Opposition

Opposition letter

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

From: ksperez@bellsouth.net
To: Timoteo, Rosalina
Subject: RE: Application MM-22-1288 Opposition
Date: Monday, December 12, 2022 4:42:52 PM
Attachments: image001.png

External email: Use caution when clicking on links, opening attachments or replying to this email.

MM 22-1228 is the correct application.

From: Timoteo, Rosalina <TimoteoR@HillsboroughCounty.ORG>
Sent: Monday, December 12, 2022 4:33 PM
To: ksperez@bellsouth.net
Subject: RE: Application MM-22-1288 Opposition

Please confirm the correct application.

Rosa Timoteo
Senior Planning & Zoning Technician
Development Services Dept.

C: (813) 244-3956
P: (813) 307-1752
E: timoteor@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: ksperez@bellsouth.net <ksperez@bellsouth.net>
Sent: Monday, December 12, 2022 4:31 PM
To: Timoteo, Rosalina <TimoteoR@HillsboroughCounty.ORG>
Subject: RE: Application MM-22-1288 Opposition

External email: Use caution when clicking on links, opening attachments or replying to this email.

Hi Rosa,

If this is the Walmart application. It certainly could have been a typo.

Thank you for your fast response!

Kim

From: Timoteo, Rosalina <TimoteoR@HillsboroughCounty.ORG>
Sent: Monday, December 12, 2022 3:50 PM
To: ksperez@bellsouth.net
Cc: Rome, Ashley <RomeA@hillsboroughcounty.org>
Subject: RE: Application MM-22-1288 Opposition

Good afternoon,

We do not have an application 22-1288. Is it 22-1228?

Rosa Timoteo
Senior Planning & Zoning Technician
Development Services Dept.

C: (813) 244-3956
P: (813) 307-1752
E: timoteor@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: ksperez@bellsouth.net <ksperez@bellsouth.net>
Sent: Monday, December 12, 2022 10:18 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: Application MM-22-1288 Opposition

Dear Zoning Committee,

In regards to the application for a new Walmart in Apollo Beach, I am in total opposition. The addition of a Mega Superstore is not in keeping with the community. The fact you allowed a Mega distribution Center for Home Depot is a crying shame. No one wants the community to become the next Brandon. Please deny the application from Wal Mart.

Kimberley Perez-Realtor
678-687-5242

Berkshire Hathaway HomeServices FL Realty
kimperez@bhhsfloridarealty.net
Licensed Florida Broker Associate, GRI

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2021 BHHS Honor Society
www.sellinghomeswithstyle.com
Kim.Perez@bhhsgeorgia.com
Licensed Georgia Associate Broker, GRI

https://bhhsga.findbuyers.com/kimperez

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning Request MM22-1228
Date:	Saturday, December 17, 2022 12:18:00 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 17, 2022 12:17 PM

Name: Dennis Perilli

Address: 5627 Sunset Falls Dr.
APOLLO BEACH, FL 33572

Phone Number: (541) 215-4173

Email Address: djperilli@gmail.com

Subject: Zoning Request MM22-1228

Message: My wife and I are opposed to construction of Walmart in Apollo Beach. Traffic congestion in the area has gotten worse and worse, yet new construction permits keep getting approved. There are 2 Walmart locations within a 20 minute drive of Apollo Beach, which is sufficient. We find the amount of new construction in the south county to be out of control.

1047985318

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, January 10, 2023 3:25 PM
To: Rome, Ashley
Subject: FW: MM22-1228 in the subject line

Please see the email below

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Cliff J <cliffpeshek@gmail.com>
Sent: Tuesday, January 10, 2023 2:29 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228 in the subject line

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens, I am writing to ask you to **consider the wishes of Apollo Beach residents** and oppose the rezoning application MM 22-1228. We as homeowners purchased homes to live in an area that had a certain character and infrastructure. Rapid and significantly large unplanned development that has not been well planned has created massive deficiencies in the area's infrastructure and general character. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area. **Nearly all residents of Apollo Beach are completely opposed to the land use plan** for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. It appears to me that **the proposed development is another example of blatant disregard for the Apollo Beach Comprehensive Plan** and the wishes of Apollo Beach residents. Furthermore, it will potentially lower the property values of the existing communities.

Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. **I urge you to represent the wishes of the residents of Apollo Beach and disapprove the proposed rezoning** and development.

Cliff Peshek
825 Birdie Way
Apollo Beach, FL 33572
813-944-9367

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: MM22-1228 in the subject line
Date:	Friday, January 13, 2023 1:39:21 PM

Get Outlook for iOS

From: Cliff J <cliffpeshek@gmail.com>
Sent: Tuesday, January 10, 2023 2:29:26 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228 in the subject line

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens, I am writing to ask you to **consider the wishes of Apollo Beach residents** and oppose the rezoning application MM 22-1228. We as homeowners purchased homes to live in an area that had a certain character and infrastructure. Rapid and significantly large unplanned development that has not been well planned has created massive deficiencies in the area's infrastructure and general character. We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area. **Nearly all residents of Apollo Beach are completely opposed to the land use plan** for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. It appears to me that **the proposed development is another example of blatant disregard for the Apollo Beach Comprehensive Plan** and the wishes of Apollo Beach residents.
Furthermore, it will potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed. Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. **I urge you to represent the wishes of the residents of Apollo Beach and disapprove the proposed rezoning** and development.

Cliff Peshek
825 Birdie Way
Apollo Beach, FL 33572
813-944-9367

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development of big box stores in Apollo Beach
Date:	Sunday, January 8, 2023 9:39:46 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 9:39 PM

Name: Ashley Petrisin

Address: 5135 Admiral pointe dr
Apollo beach , FL 33572

Phone Number: (317) 413-4640

Email Address: apetrisin11@yahoo.com

Subject: Development of big box stores in Apollo Beach

Message: Do not allow zoning changes to allow big box stores in Apollo Beach. The local economy would suffer and the already congested 41 cannot handle the traffic and you'll be inviting crime into our area. Do you want the first criminal incident that ends up on the news to be on your hands? Don't let your greed force others to suffer or feel unsafe in our nice community.

1055027264

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development of big box stores in Apollo Beach
Date:	Sunday, January 8, 2023 9:39:40 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 9:39 PM

Name: Ashley Petrisin

Address: 5135 Admiral pointe dr
Apollo beach , FL 33572

Phone Number: (317) 413-4640

Email Address: apetrisin11@yahoo.com

Subject: Development of big box stores in Apollo Beach

Message: Do not allow zoning changes to allow big box stores in Apollo Beach. The local economy would suffer and the already congested 41 cannot handle the traffic and you'll be inviting crime into our area. Do you want the first criminal incident that ends up on the news to be on your hands? Don't let your greed force others to suffer or feel unsafe in our nice community.

1055027264

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Development of Walmart in Apollo Beach
Date:	Sunday, January 8, 2023 9:29:09 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 9:29 PM

Name: Elaine Petrisin

Address: 5135 Admiral Pointe Dr
Apollo Beach, FL 33572

Phone Number: (317) 414-0830

Email Address: epetrisin@gmail.com

Subject: Development of Walmart in Apollo Beach

Message: Do NOT allow zoning changes to allow ANY BIG BOX STORES in Apollo Beach!!! The local economy will suffer, the already congested highway 41 cannot handle additional traffic, and you'll be inviting CRIME to our area. There is plenty of evidence to support the danger a Walmart or any big box store brings to a community. In two years, the remaining residents that stay will be saying …. Remember when? We'll be just another crime statistic Tampa is known for. If this goes through, I'll be selling and relocating before the value of my home is depleted.

1055024902

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Development of Walmart in Apollo Beach
Date:	Sunday, January 8, 2023 9:29:07 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 9:29 PM

Name: Elaine Petrisin

Address: 5135 Admiral Pointe Dr
Apollo Beach, FL 33572

Phone Number: (317) 414-0830

Email Address: epetrisin@gmail.com

Subject: Development of Walmart in Apollo Beach

Message: Do NOT allow zoning changes to allow ANY BIG BOX STORES in Apollo Beach!!! The local economy will suffer, the already congested highway 41 cannot handle additional traffic, and you'll be inviting CRIME to our area. There is plenty of evidence to support the danger a Walmart or any big box store brings to a community. In two years, the remaining residents that stay will be saying …. Remember when? We'll be just another crime statistic Tampa is known for. If this goes through, I'll be selling and relocating before the value of my home is depleted.

1055024902

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Ruskin/Apollo Beach
Date:	Tuesday, January 3, 2023 9:37:17 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 3, 2023 9:37 AM

Name: Roger Pettee

Address: 627 Mirabay Blvd
Apollo Beach , FL 33572

Phone Number:

Email Address:

Subject: Walmart in Ruskin/Apollo Beach

Message: Please do not approve the planned Walmart for our area.

1053033250

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	Garcia, David
To:	wpog4@aol.com
Cc:	Almand, Sherrie
Subject:	RE: (WEB mail) - Please vote NO to a new Apollo Beach Walmart
Date:	Tuesday, December 13, 2022 3:49:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

---

Mr. Pogash,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 3:45 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Please vote NO to a new Apollo Beach Walmart

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 3:44 PM

Name: William Pogash

Address: 706 Winterside Dr
Apollo Beach, FL 33572

Phone Number: (717) 514-0091

Email Address: wpog4@aol.com

Subject: Please vote NO to a new Apollo Beach Walmart

Message: Sir,

I am writing in strong opposition to the proposed new Walmart in Apollo Beach. As you may know, we already have two Walmart stores within 20 miles of Apollo Beach, one in Wimauma and the other in Riverview. A new Walmart will cause increased demands on our already overtaxed infrastructure (roads are in desperate need of repair, our water systems are at a breaking point with no relief for several years down the road, traffic has increased dramatically and reckless driving is at an all time high and crime is on the increase in our area). Walmart stores do provide more jobs but

the negative impacts far out weigh the positives. This community is in need of restaurants and not a giant store that will cause smaller local shops to close due to unfair competition.

I hope that you will be the voice of reason in this debate and conclude that a new Walmart in Apollo Beach would be a complete failure for your constituent base. I urge you to oppose any new construction for this proposed Walmart.

Thank you in advance for your consideration of my request.

1046194897

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart in Apollo Beach
Date:	Monday, December 12, 2022 1:29:07 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 1:29 PM

Name: Joseph Pottle

Address: 5013 clover mist drive
Apollo Beach , FL 33572

Phone Number: (503) 702-3263

Email Address: joseph.pottle@yahoo.com

Subject: No Walmart in Apollo Beach

Message: Hello,

Respectfully I'm emailing you to let you know putting a Walmart in Apollo Beach would be devastating to our community. We are urging you to decide / vote against a Walmart in Apollo Beach. We already have 2 just a short distance away.

1045484250

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning change MM 22-1228
Date:	Thursday, January 12, 2023 11:54:46 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 12, 2023 11:54 AM

Name: Daniel & Theresa Powell

Address: 215 Silver Falls Dr
Apollo Beach, FL 33572

Phone Number: (813) 918-4060

Email Address: tcp0314@yahoo.com

Subject: Zoning change MM 22-1228

Message: As a native Floridian and long time resident of Hillsborough County (49 yrs) & Apollo Beach (23 yrs) we have seen the growth explosion over the years. Apollo Beach area especially has seen massive changes in the last 10 years. Our roads are overcrowded now - what used to be a 5 minute drive now takes 3-5 times that. There are numerous subdivision & apartments now under construction that will put even more cars on the roads. The addition of a big-box store - whether it be Walmart or another - on this parcel of land on Hwy 41 would create such monumental traffic issue that we strongly urge the BOCC to deny the proposed zoning change.

1056595352

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning change MM 22-1228
Date:	Thursday, January 12, 2023 11:54:42 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 12, 2023 11:54 AM

Name: Daniel & Theresa Powell

Address: 215 Silver Falls Dr
Apollo Beach, FL 33572

Phone Number: (813) 918-4060

Email Address: tcp0314@yahoo.com

Subject: Zoning change MM 22-1228

Message: As a native Floridian and long time resident of Hillsborough County (49 yrs) & Apollo Beach (23 yrs) we have seen the growth explosion over the years. Apollo Beach area especially has seen massive changes in the last 10 years. Our roads are overcrowded now - what used to be a 5 minute drive now takes 3-5 times that. There are numerous subdivision & apartments now under construction that will put even more cars on the roads. The addition of a big-box store - whether it be Walmart or another - on this parcel of land on Hwy 41 would create such monumental traffic issue that we strongly urge the BOCC to deny the proposed zoning change.

1056595352

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO Walmart For Apollo Beach
Date:	Wednesday, December 14, 2022 7:27:40 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 14, 2022 7:27 AM

Name: Kathi Pratt

Address: 2512 Cumberland Cliff Dr.
Ruskin, FL 33570

Phone Number: (615) 519-4454

Email Address: kathijo62@hotmail.com

Subject: NO Walmart For Apollo Beach

Message: Please stop the plans for a Walmart to be built in Apollo Beach. We have two (2) now within 6 miles. We love our small business and lifestyle and do not need a corporate presence here.

Also, the traffic is already too much.

Please protect our community and businesses.

1046474489

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B110 [FBAN/FBIOS;FBDV/iPhone14,3;FBMD/iPhone;FBSN/iOS;FBSV/16.1.2;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO on ANY big box zoning changes
Date:	Sunday, January 8, 2023 11:48:38 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 11:48 AM

Name: Robert Preston

Address: 6415 Lake Sunrise Dr
Apollo Beach , FL 33572

Phone Number: (813) 419-3456

Email Address: luckyrob@gmail.com

Subject: NO on ANY big box zoning changes

Message: Since this is about money, you will vote YES despite residents massive objections to ruining our neighborhoods and no traffic planning in place. Please then allow southshore to secede from Hillsborough county and we can create our own county.

1054886579

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO on ANY big box zoning changes
Date:	Sunday, January 8, 2023 11:48:32 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 11:48 AM

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Address: 6415 Lake Sunrise Dr
Apollo Beach , FL 33572

Phone Number: (813) 419-3456

Email Address: luckyrob@gmail.com

Subject: NO on ANY big box zoning changes

Message: Since this is about money, you will vote YES despite residents massive objections to ruining our neighborhoods and no traffic planning in place. Please then allow southshore to secede from Hillsborough county and we can create our own county.

1054886579

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/15E148

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No to big box store
Date:	Sunday, January 8, 2023 1:16:01 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 1:15 PM

Name: Mallory Quinette

Address: 6510 Senegal palm way
Apollo Beach, FL 33572

Phone Number: (678) 525-2410

Email Address: mpierce1252@gmail.com

Subject: No to big box store

Message: Please vote no against the rezoning change to allow construction of a single tenant big box, superstore, and Apollo Beach. This would not benefit the Apollo Beach community as there are multiple other opportunities, such as contemporary mixed use development that meet the needs of the community and housing. We do not want any big box stores here. We have enough traffic as it is.

1054906226

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No to big box store
Date:	Sunday, January 8, 2023 1:16:01 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 1:15 PM

Name: Mallory Quinette

Address: 6510 Senegal palm way
Apollo Beach, FL 33572

Phone Number: (678) 525-2410

Email Address: mpierce1252@gmail.com

Subject: No to big box store

Message: Please vote no against the rezoning change to allow construction of a single tenant big box, superstore, and Apollo Beach. This would not benefit the Apollo Beach community as there are multiple other opportunities, such as contemporary mixed use development that meet the needs of the community and housing. We do not want any big box stores here. We have enough traffic as it is.

1054906226

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart Expansion in Apollo Beach
Date:	Monday, December 12, 2022 7:29:56 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 7:29 PM

Name: Joseph Reichle

Address: 6747 Monarch Park Dr
Apollo Beach, FL 33572

Phone Number: (813) 285-0707

Email Address: jreichle59@gmail.com

Subject: Walmart Expansion in Apollo Beach

Message: I would like to send you my opinion on the Walmart expansion into Apollo Beach. I do not agree with this construction project. I believe that it will have a negative impact to our community. I am not against some expansion just I would rather see a more upscale shop. I do believe that our growth has out paced the infrastructure which no one seems to care about. Currently out water pressure is low most of the time. I am sure you will go what's best for you.
Thanks

1045680365

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - 22-1228 proposal for rezoning
Date:	Tuesday, January 10, 2023 10:20:05 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:19 PM

Name: Victoria Reithoffer

Address: 6324 Flamingo Drive
Apollo Beach, FL 33572

Phone Number: (813) 267-4060

Email Address: vfclime@gmail.com

Subject: 22-1228 proposal for rezoning

Message: Hi, my name is Victoria, I am a resident and homeowner of Apollo Beach. I am also a Florida native, born in Tampa and raised in Riverview. I am writing to let you know that I vehemently oppose the plan to rezone 71 acres of farmland at US Hwy 41 and Leisey rd. The proposed construction is NOT what I want to see built in my community and would not add value to my life or property value. Specifically, I do not want a discount superstore, fast food or chain restaurants or anymore multifamily housing in my community! I feel very strongly that this proposed construction would be terrible for the community and that if there mist be development, there are alternative options for development which could actually add value to the community and its residents, which do not include any superstore, chain/fastfood, or rental type housing. I hope you will take the opinions of the residents of our community into serious consideration when voting. Please try to put yourself in our shoes.
Thank you for taking the time to read this.
Sincerely, Victoria Reithoffer

Mozilla/5.0 (Linux; Android 12; SM-G986U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - 22-1228 proposal for rezoning
Date:	Tuesday, January 10, 2023 10:20:07 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:19 PM

Name: Victoria Reithoffer

Address: 6324 Flamingo Drive
Apollo Beach, FL 33572

Phone Number: (813) 267-4060

Email Address: vfclime@gmail.com

Subject: 22-1228 proposal for rezoning

Message: Hi, my name is Victoria, I am a resident and homeowner of Apollo Beach. I am also a Florida native, born in Tampa and raised in Riverview. I am writing to let you know that I vehemently oppose the plan to rezone 71 acres of farmland at US Hwy 41 and Leisey rd. The proposed construction is NOT what I want to see built in my community and would not add value to my life or property value. Specifically, I do not want a discount superstore, fast food or chain restaurants or anymore multifamily housing in my community! I feel very strongly that this proposed construction would be terrible for the community and that if there mist be development, there are alternative options for development which could actually add value to the community and its residents, which do not include any superstore, chain/fastfood, or rental type housing. I hope you will take the opinions of the residents of our community into serious consideration when voting. Please try to put yourself in our shoes.
Thank you for taking the time to read this.
Sincerely, Victoria Reithoffer

Mozilla/5.0 (Linux; Android 12; SM-G986U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - 1.17.23 agenda US 41 Apollo Beach big box store
Date:	Saturday, January 7, 2023 3:28:14 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 7, 2023 3:28 PM

Name: Pamela Reno

Address: Apollo Beach, FL 33572

Phone Number: (813) 317-1959

Email Address: pam.reno1@gmail.com

Subject: 1.17.23 agenda US 41 Apollo Beach big box store

Message: Greetings, I am DEEPLY apposed to rezoning for a big box store on US 41 at Lisey Rd. There is too much traffic on that road now. We do not need another supermarket across from Winn Dixie and in between TWO Publix. 1.17.23 agenda

1054718583

Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:108.0) Gecko/20100101 Firefox/108.0

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning changes
Date:	Saturday, January 7, 2023 11:33:53 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 11:33 AM

Name: Teresia Rice

Address: 6321 Balboa Lane
Apollo Beach , FL 33572

Phone Number: (813) 757-5546

Email Address: teresiar@msn.com

Subject: Zoning changes

Message: Please DO NOT vote FOR zoning changes to the Apollo Beach, Ruskin area along US 41. We are already overloaded with new homes that add to the on-going traffic problems. My husband and I moved to Apollo Beach in 2001. When we moved here, Apollo Beach was a wonderful place to live. I cannot say that any longer. Evidence that there are too many people is the number of grocery stores...there are four of them between Apollo Beach and Ruskin. We do not need big box stores...if people want to live in close proximity to such, they should move.

1054668858

Mozilla/5.0 (Linux; Android 13; SM-G990U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning changes
Date:	Saturday, January 7, 2023 11:33:50 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 7, 2023 11:33 AM

Name: Teresia Rice

Address: 6321 Balboa Lane
Apollo Beach , FL 33572

Phone Number: (813) 757-5546

Email Address: teresiar@msn.com

Subject: Zoning changes

Message: Please DO NOT vote FOR zoning changes to the Apollo Beach, Ruskin area along US 41. We are already overloaded with new homes that add to the on-going traffic problems. My husband and I moved to Apollo Beach in 2001. When we moved here, Apollo Beach was a wonderful place to live. I cannot say that any longer. Evidence that there are too many people is the number of grocery stores...there are four of them between Apollo Beach and Ruskin. We do not need big box stores...if people want to live in close proximity to such, they should move.

1054668858

Mozilla/5.0 (Linux; Android 13; SM-G990U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart
Date:	Tuesday, December 13, 2022 8:39:42 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 8:39 AM

Name: Tabitha Roach

Address: 5315 Wishing Arch Dr
Apollo Beach, FL 33572

Phone Number: (630) 742-2566

Email Address: tabitharroach@gmail.com

Subject: No Walmart

Message: I am emailing to share my opinion on a Walmart in Apollo Beach. I vote NO.
There is one in Gibsonton and Sun City, how many more could we need within a 20 mile radius. I believe Apollo Beach is still a quaint community that would be negatively impacted by adding such a large commercial chain.

1045920260

Mozilla/5.0 (X11; CrOS x86_64 14092.77.0) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/93.0.4577.107 Safari/537.36

Rome, Ashley

From: Zoning Intake-DSD
Sent: Wednesday, January 11, 2023 1:39 PM
To: Rome, Ashley
Subject: FW: MM22-1228

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: johnrobbins68@gmail.com <johnrobbins68@gmail.com>
Sent: Wednesday, January 11, 2023 1:30 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,
We have been residents of Apollo Beach since 2009. I am writing to express my strong opposition to the rezoning application MM 22-1228.
We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking, and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population.
We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods. The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan. Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on

US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed.
Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods. I urge you to disapprove the proposed rezoning and development.
Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

John Robbins
927 Chipaway Dr.
Apollo Baech, FL 33572-2708
813-928-4746

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: MM22-1228
Date:	Friday, January 13, 2023 1:38:28 PM

Get Outlook for iOS

From: johnrobbins68@gmail.com <johnrobbins68@gmail.com>
Sent: Wednesday, January 11, 2023 1:29:42 PM
To: Owen, Michael <OwenM@hillsboroughcounty.org>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,
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John Robbins
927 Chipaway Dr.
Apollo Baech, FL 33572-2708
813-928-4746

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Re-zone in Apollo Beach
Date:	Monday, January 9, 2023 12:24:49 PM
Attachments:	image001.png

Hello ma'am, here is another Walmart email for the record.

Thank you again!

Isabella Pike
Legislative Aide
Hillsborough County Commissioner Donna Cameron Cepeda – District 5, Countywide

P: (813) 272-5725
F: (813) 272-7052
E: PikeI@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 12:20 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Re-zone in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 12:19 PM

Name: Craig Robison

Address: 6506 Bimini Court
Apollo Beach, FL 33572

Phone Number: (208) 392-2498

Email Address: Ccr582@yahoo.com

Subject: Re-zone in Apollo Beach

Message: I am writing in regards to the proposed zoning changes for the lot of 71 acres located at SR41 and Leisey Road. I strongly urge all members of the council to vote against this re zone. Our community does not need more unchecked building and definitely doesn't need another big box store. There are already two within very short distance and building another one will not only damage property values but will also bring a substantial increase in traffic and demand on our already overtaxed public utilities.

Please vote no on this proposed change. This proposal will do nothing to help the people of the south shore area and will only hurt us all.

1055231981

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Re-zone in Apollo Beach
Date:	Monday, January 9, 2023 12:19:42 PM

The following Commissioner(s) received a direct copy of this email:

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2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
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Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) CriOS/108.0.5359.112 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Apollo Beach zoning change
Date:	Tuesday, January 10, 2023 7:38:00 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 7:37 PM

Name: Michelle Robison

Address: 6506 Bimini Ct
Apollo Beach, FL 33562

Phone Number: (208) 392-7086

Email Address: mrr1083@gmail.com

Subject: Apollo Beach zoning change

Message: I urge you all to please vote no on this zoning change. The south shore area has been growing out of control for the last several years. We need to slow down the development and try and retain some green space for the future. The addition of another big box store in the area is completely unnecessary and unwanted by the people of south Hillsborough county. Please vote no on this zoning change.

1055913800

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach zoning change
Date:	Tuesday, January 10, 2023 7:38:01 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Phone Number: (208) 392-7086

Email Address: mrr1083@gmail.com

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Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: ksperez@bellsouth.net <ksperez@bellsouth.net>
Sent: Monday, December 12, 2022 10:18 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: Application MM-22-1288 Opposition

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee,

In regards to the application for a new Walmart in Apollo Beach, I am in total opposition. The addition of a Mega Superstore is not in keeping with the community. The fact you allowed a Mega distribution Center for Home Depot is a crying shame. No one wants the community to become the next Brandon. Please deny the application from Wal Mart.

Kimberley Perez-Realtor
678-687-5242

Berkshire Hathaway HomeServices FL Realty
kimperez@bhhsfloridarealty.net
Licensed Florida Broker Associate, GRI

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www.sellinghomeswithstyle.com
Kim.Perez@bhhsgeorgia.com
Licensed Georgia Associate Broker, GRI

https://bhhsga.findbuyers.com/kimperez

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Stores in Apollo Beach/South Shore
Date:	Tuesday, January 10, 2023 2:00:09 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 1:59 PM

Name: Nicole Rosenberger

Address: 912 Sago Palm Way
Apollo Beach , FL 33572

Phone Number: (813) 523-0828

Email Address: nikkiro1@berizon.net

Subject: Big Box Stores in Apollo Beach/South Shore

Message: We as a community do not want big box stores or more residential in Apollo Beach. There isn't any room for it and we're overflowing already. Thankyou.

1055752539

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Stores in Apollo Beach/South Shore
Date:	Tuesday, January 10, 2023 2:00:09 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 1:59 PM

Name: Nicole Rosenberger

Address: 912 Sago Palm Way
Apollo Beach , FL 33572

Phone Number: (813) 523-0828

Email Address: nikkiro1@berizon.net

Subject: Big Box Stores in Apollo Beach/South Shore

Message: We as a community do not want big box stores or more residential in Apollo Beach. There isn't any room for it and we're overflowing already. Thankyou.

1055752539

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, January 10, 2023 3:35 PM
To: Rome, Ashley
Subject: FW: Rezoning application 22-1228 Public Comment Signup Form

Importance: High

Please see the email below

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

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Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Katie Russo <krusso@glausierknight.com>
Sent: Tuesday, January 10, 2023 3:27 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Cc: Richard Biber <richardbiber@live.com>; mattiesj73@gmail.com; ba63c4bdb+matter1056530496@maildrop.clio.com
Subject: Rezoning application 22-1228 Public Comment Signup Form
Importance: High

External email: Use caution when clicking on links, opening attachments or replying to this email.

Hello,

My office represents Harbour Isles Homeowner's Association, and we are attempting sign up to speak at the public Zoning Master Hearing for the above referenced application on January 17th, 2022.

The following link (https://www.hillsboroughcounty.org/en/government/meeting-information/speak-at-a-virtual-meeting/speak-at-a-virtual-zhm-public-hearing) has not been allowing me to click the Public Comment Signup Form. This page also informs us that the ZHM will call on speakers in the order in which we have submitted our online Public Comment Signup Form. There are many letters of opposition for this rezoning hearing, and I want to be sure that we have the ability to sign up as early as possible to ensure we get time during the 15 minutes to have a spokesperson speak on our client's behalf.

I have called and left a message at the number provided on this page as well (813-307-4739).

Please advise as soon as possible on how we can get our Association's name on the list for speakers at the 1/17 rezoning hearing. Thank you!

Katie R. Russo, Esquire
krusso@glausierknight.com
GLAUSIER KNIGHT JONES, PLLC
400 North Ashley Drive, Suite 2020
Tampa, FL 33602
(813) 440-4600

Rome, Ashley

From: Zoning Intake-DSD
Sent: Thursday, January 12, 2023 3:53 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: Rezoning Application 22-1228 Written Submission

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Katie Russo <krusso@glausierknight.com>
Sent: Thursday, January 12, 2023 3:44 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Cc: ba63c4bdb+matter1056530496@maildrop.clio.com
Subject: Rezoning Application 22-1228 Written Submission

External email: Use caution when clicking on links, opening attachments or replying to this email.

Please submit the following for the January 17th Zoning Master Hearing:

"Dear Zoning Hearing Master:

I am writing on behalf of Harbour Isles Homeowner's Association (the "Association") to express our opposition to the proposed rezoning application (22-1228) at 5591 North US Highway 41, Apollo Beach. Please note that the Association is located directly adjacent to the land at issue and has about 500 homes located within the community. While we understand that the commercial retail portion of the parcel of land is not up for debate at this upcoming hearing, we look at this rezoning issue in conjunction with the anticipated discount supercenter that is reportedly going to be built in addition to the 303 multifamily homes that are proposed in this rezoning application.

Rezoning pocket B to allow for residential uses poses many negative affects to our community. The addition of 303 multifamily housing units will cause heavy traffic and safety concerns, increase noise, overcrowd our public school system, decrease the neighborhood's aesthetic, and potentially lower the property values of the homes in our existing community.

Other construction developments in the immediate area are already anticipated to overwhelm the community's roadways. Furthermore, rezoning pocket B does not take into consideration the Comprehensive Plan for Apollo Beach. Specifically, one of the main goals of Apollo Beach's Comprehensive Plan is to "recognize the inevitability of future growth in the area and have reconciled growth within the scope of *maintaining the feel, charm and convenience of waterfront-oriented* ***small-town*** *living*." We do not believe that the combination of residential and commercial uses in this area are consistent with this goal.

To allow for the rezoning of pocket B, on top of the commercial uses that are inevitable on pocket A, would create an unnecessarily large nuisance for our homeowners. If the rezoning gets approved, the Association expects to see full cooperation and support from the owners in order to mitigate these effects. If not, we will be prepared to challenge the planning proposals once submitted. Please take these serious concerns into consideration when making your final decision on the rezoning of pocket B under application 22-1228. Thank you."

GLAUSIER KNIGHT JONES
ATTORNEYS AT LAW

Katie R. Russo, Esquire
krusso@glausierknight.com
GLAUSIER KNIGHT JONES, PLLC
400 North Ashley Drive, Suite 2020
Tampa, FL 33602
(813) 440-4600

Rome, Ashley

From: Hearings
Sent: Thursday, January 12, 2023 5:11 PM
To: Rome, Ashley; Timoteo, Rosalina
Cc: Ball, Fred (Sam)
Subject: FW: Rezoning Application 22-1228 Written Submission

----- Original Email -----

From: Katie Russo <krusso@glausierknight.com>
Sent: Thursday, January 12, 2023 3:44 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>; Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Cc: ba63c4bdb+matter1056530496@maildrop.clio.com
Subject: Rezoning Application 22-1228 Written Submission

External email: Use caution when clicking on links, opening attachments or replying to this email.

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krusso@glausierknight.com

GLAUSIER KNIGHT JONES, PLLC
400 North Ashley Drive, Suite 2020
Tampa, FL 33602
(813) 440-4600

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO to Walmart on US41 in Apollo Beach
Date:	Sunday, January 8, 2023 11:50:19 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 11:50 AM

Name: Jim Sass

Address: 6523 Senegal Palm Way
Apollo Beach, FL 33572

Phone Number: (586) 977-9771

Email Address: macnq@att.net

Subject: NO to Walmart on US41 in Apollo Beach

Message: Apollo Beach does not have the infrastructure or resources to support our already growing area and a big box store would only fan the flames of sprawl. Big bucks in our small community will bring crime, Encourage local businesses for lower wages and low employee wages in order to compete which would then negatively impact our community we need to attract business is at one Hansen showcase our community and I for competitive we just to keep our local economy strong. Resource depletion, negatively and packed our environment this big box will take away almost 3000 acres of farmland wetlands and other green spaces. Increased sprawl, increased traffic! We must fix our roads before approving more development! Infrastructure first, then development! Lots of local businesses studies have shown that big box is a killer of local mom and pop businesses we must protect our neighbors businesses!. Not to mention there are two Walmarts within a 20 minute drive. We say no to Walmart! We say no to big box stores!

1054886951

Mozilla/5.0 (iPhone; CPU iPhone OS 15_7 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6,2 Mobile/15E148 Safari/604.1

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6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Name: Jim Sass

Address: 6523 Senegal Palm Way
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Phone Number: (586) 977-9771

Email Address: macnq@att.net

Subject: NO to Walmart on US41 in Apollo Beach

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From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO to Walmart / Big Box Stores on US 41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:03:44 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:03 PM

Name: Susan Sass

Address: 6523 Senegal Palm Way
Apollo Beach, FL 33572

Phone Number: (586) 556-4977

Email Address: susan_sass@att.net

Subject: NO to Walmart / Big Box Stores on US 41 in Apollo Beach

Message: Apollo Beach does not have the infrastructure or resources to support our already growing area and a big box store would only fan the flames of s and sprawl. Big boxes in our small community will bring crime, pay lower wages to employees and encourage local businesses to pay lower wages in order to compete which would then negatively impact our community. We need to attract businesses that enhance and showcase our community to keep it competitive and strong. Big Box stores will deplete our resources, negatively impacting our community by taking away nearly 3,000 acres of farmland, wetlands and other green spaces. Increased sprawl, increased traffic! We must fix our roads before approving more development! Infrastructure first, then development! Lots of local business studies have shown that big box stores are a killer of mom and pop businesses. We must protect our neighborhood businesses! Not to mention, there are already 2 Walmarts within a 20 minute drive. We say NO to WALMART and NO to BIG BOX stores!

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO to Walmart / Big Box Stores on US 41 in Apollo Beach
Date:	Sunday, January 8, 2023 12:03:47 PM

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1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 12:03 PM

Name: Susan Sass

Address: 6523 Senegal Palm Way
Apollo Beach, FL 33572

Phone Number: (586) 556-4977

Email Address: susan_sass@att.net

Subject: NO to Walmart / Big Box Stores on US 41 in Apollo Beach

Message: Apollo Beach does not have the infrastructure or resources to support our already growing area and a big box store would only fan the flames of s and sprawl. Big boxes in our small community will bring crime, pay lower wages to employees and encourage local businesses to pay lower wages in order to compete which would then negatively impact our community. We need to attract businesses that enhance and showcase our community to keep it competitive and strong. Big Box stores will deplete our resources, negatively impacting our community by taking away nearly 3,000 acres of farmland, wetlands and other green spaces. Increased sprawl, increased traffic! We must fix our roads before approving more development! Infrastructure first, then development! Lots of local business studies have shown that big box stores are a killer of mom and pop businesses. We must protect our neighborhood businesses! Not to mention, there are already 2 Walmarts within a 20 minute drive. We say NO to WALMART and NO to BIG BOX stores!

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.76

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Rezoning Apollo beach
Date:	Sunday, January 8, 2023 5:12:25 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 8, 2023 5:12 PM

Name: Greg Seibert

Address: 5725 sea turtle place
Apollo beach , FL 33572

Phone Number: (941) 773-0199

Email Address: greg.seibert@karlstorz.com

Subject: Rezoning Apollo beach

Message: I would like to have the opportunity to discuss the upcoming rezoning in Apollo Beach. Myself and many others are deeply concerned with the possibility.

Please let me know how we can arrange a few minutes.

Thank you,

Greg Seibert

1054960535

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - NO WALMART
Date:	Tuesday, December 13, 2022 5:19:44 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:19 PM

Name: Lisa Seldat

Address: 7523 Regents Garden Way
Apollo Beach, FL 33572

Phone Number: (813) 407-2426

Email Address: lisaseldat@yahoo.com

Subject: NO WALMART

Message: Please do NOT allow a Walmart in out little quaint town. It's an eye sore and to much crime is associated with a Walmart! Please VOTE NO

1046241621

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - NO WALMART
Date:	Tuesday, December 13, 2022 5:19:46 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:19 PM

Name: Lisa Seldat

Address: 7523 Regents Garden Way
Apollo Beach, FL 33572

Phone Number: (813) 407-2426

Email Address: lisaseldat@yahoo.com

Subject: NO WALMART

Message: Please do NOT allow a Walmart in out little quaint town. It's an eye sore and to much crime is associated with a Walmart! Please VOTE NO

1046241621

Mozilla/5.0 (iPhone; CPU iPhone OS 16_0 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.0 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Apollo Beach
Date:	Wednesday, December 14, 2022 9:54:07 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 14, 2022 9:53 AM

Name: Ahsanul Sheikh

Address: 5425 Merritt Island Dr
Apollo Beach, FL 33572

Phone Number: (703) 930-8505

Email Address: asheikh74@hotmail.com

Subject: Walmart in Apollo Beach

Message: Hello. I'm sure you're getting many of these emails so I'll keep this one short. Just emailing to let you know we're against the Walmart being proposed for Apollo Beach. This town struggles enough as it is and adding a Walmart to the mix won't help. There are plenty of locations further south where this Walmart would be better off and where the residents will shop there. Most of the homes in this area are well over $1M and the residents are not Walmart shoppers so this store will attract thousands and thousands of people from other areas, clogging up our simply 2 lane road on 41. Please deny this Walmart and help us retain what we have left of our great coastal town. Thanks.

1046536642

Mozilla/5.0 (Windows NT 10.0; WOW64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/107.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Walmart
Date:	Monday, December 12, 2022 9:08:50 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 9:08 PM

Name: Alex Shereood

Address: 708 Pinckney drive
Apollo beach, FL 33572

Phone Number: (574) 360-0098

Email Address: alexis1073@aol.com

Subject: No Walmart

Message: We do not have the infrastructure for a mega superstore at this location. Move it further south or north on 41.

1045712957

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone12,8;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/2;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - No Walmart
Date:	Tuesday, December 13, 2022 8:10:38 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 9:09 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - No Walmart

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Apollo beach, FL 33572

Phone Number: (574) 360-0098

Email Address: alexis1073@aol.com

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1045712957

Mozilla/5.0 (iPhone; CPU iPhone OS 15_6_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/19G82 [FBAN/FBIOS;FBDV/iPhone12,8;FBMD/iPhone;FBSN/iOS;FBSV/15.6.1;FBSS/2;FBID/phone;FBLC/

en_US;FBOP/5]

From:	Garcia, David
To:	dr.jameswsims@gmail.com
Subject:	RE: (WEB mail) - WALMART in Apollo Beach
Date:	Tuesday, December 13, 2022 3:44:00 PM
Attachments:	Participation in the BOCC Land Use Meeting.pdf PGM Store Tutorial.pdf image001.png

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Mr. Sims,

Thank you for contacting Commissioner Owen's office. Please note that application MM-22-1228 will be heard at the 1/17/2023 Zoning Hearing Master (ZHM) hearing. This application will close at the conclusion of the ZHM hearing for additional comments or material. Your email will be added to the official party of record of this rezoning application. Commissioner Owen will be able to review all the records concerning this application at the close of the ZHM hearing and will take your email into consideration when this rezoning comes before the Board of County Commissioners.

This application is scheduled for the 3/7/2023 **Board of County Commissioners Land Use Meeting** starting at 9:00am. The entire Board will vote to approve, deny, or continue this application to a future date at this meeting.

If you wish to attend the hearing either in person or by virtual participation, please register at the following link **http://hcflgov.net/SpeakUp**. You can register up to 30 minutes prior to the start of the hearing.

PGM Store Instructions:
For your convenience, please be aware that the staff reports and all application records may be viewed on our website. I have attached the instructions to access the PGM Store. To review all application records on our website please turn off your Pop-Up Blocker before you log in. Click on the next link **https://www.hillsboroughcounty.org/pgm** to enter the PGM Store. Click on **ENTER PGM STORE**. The username and password are **public**. Double click on **Document Repository**. To access the information, please enter the tracking number in the box that reads **APP/Permit/Tracking #, or by address or folio #,** then click Query. A blue bar will pop up with the Application number, Folio ID, Permit type & Current Status. Double click on the bar to access the documents. Scroll down the page and you will find all the documents you are looking for. **The Tracking, in this case, would be 22-1228.**

If you have any questions or need further information regarding this application, please contact Maricela Medrano at MedranoM@HCFLGov.net, who is the planner for this application. If you have any questions regarding process participation, please let me know. We appreciate your communication.

Sincerely,

David R. Garcia
Legislative Aide

Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: GarciaD@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Tuesday, December 13, 2022 2:54 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - WALMART in Apollo Beach

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 2:54 PM

Name: James Sims

Address: 5434 Sunset Falls
Apollo Beach , FL 33572

Phone Number: (813) 729-2345

Email Address: dr.jameswsims@gmail.com

Subject: WALMART in Apollo Beach

Message: Dear Commissioner Owen:
It has come to my attention that a new Walmart is being planned for Apollo Beach. This community is slowly but surely being ruined with new buildings of all kinds. With two Walmarts within 15-20 minute's drive from here, we certainly do not need or want an additional one!! The traffic situation in this region is already catastrophic, due to all the building(not only of homes), which is going on. The majority of citizens of Apollo Beach will not be well-served by the addition of such a monstrous thing! The entire natural atmosphere around us here has suffered greatly, and may soon disappear, if the county continues with this form of "expansion"!

Sincerely
Dr.James W. Sims

1046139445

Mozilla/5.0 (Linux; Android 12; SM-A526U1) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed WalMart
Date:	Thursday, January 5, 2023 9:06:54 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 5, 2023 9:06 AM

Name: David Smith

Address: 356 COCKLE SHELL LOOP
Apollo Beach, FL 33572

Phone Number: (813) 812-6913

Email Address: cj99dls@hotmail.com

Subject: Proposed WalMart

Message: I ask that you oppose WalMart's application to build a supercenter adjacent to Harbour Isles on U.S. 41 in Apollo Beach. A big box store does not conform to the goal of a small town feeling. It will adversely impact home prices in the immediate vicinity, increase traffic on an already heavily used US 41, create safety issues within Harbour Isles due to cut-thru traffic, and will no doubt significantly increase crime in Harbour Isles and surrounding communities (which already appears to be on the rise in the local area). As an alternative to building the retail outlet next to Harbour Isles, suggest you encourage WalMart to locate either across from McDonald's in Ruskin (which appears to have previously had a large store several years ago), or locate on Big Bend road, which is more of an industrial/commercial area.
Thank you,
David Smith

1053864590

Mozilla/5.0 (Windows NT 6.3; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko)

Chrome/108.0.0.0 Safari/537.36

Rome, Ashley

From: Hearings
Sent: Wednesday, January 11, 2023 8:34 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Rezoning of 5591 North US Hwy 41, Apollo Beach

From: David Smith <cj99dls@hotmail.com>
Sent: Friday, January 6, 2023 4:05 PM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Rezoning of 5591 North US Hwy 41, Apollo Beach

External email: Use caution when clicking on links, opening attachments or replying to this email.

I OPPOSE the pending application for re-zoning for the parcel of land located at 5591 North US Highway 41, Apollo Beach (Pocket B) which is currently zoned for professional office/business space only. The owners are requesting to re-zone this property to residential use for the purpose of building 303 multifamily units. The addition of more housing units in what is already a heavily congested area will increase traffic on U.S. 41, creating increased safety problems. Further, adding multifamily units next to a single-family residential community (Harbour Isles) will adversely impact property values, and will likely result in increased noise, crime, and light pollution, thereby reducing the quality of life of Harbour Isles residents.

Sincerely,
David Smith
356 Cockle Shell Loop
Apollo Beach, FL 33572

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Store Hwy 41 Apollo Beach
Date:	Tuesday, January 3, 2023 12:32:28 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 3, 2023 12:32 PM

Name: Dennis E Soch

Address: 1763 Bonita Bluff Court
Ruskin, FL 33570

Phone Number: (813) 938-5081

Email Address: dsoch2@tampabay.rr.com

Subject: Big Box Store Hwy 41 Apollo Beach

Message: Soon, you will conduct a meeting regarding the proposed Wal Mart on Hwy 41 in Apollo Beach. There is much negative information on the effect of Big Box stores so I will limit my comments.
I am totally opposed to approving the Wal Mart facility as the traffic it will bring will be terrible. Today, traffic on 41 in Apollo Beach and Ruskin runs slow and the increase in traffic will increase the gridlock.
With 300 apartments to be built, the additional traffic will only worsen the gridlock.
BOCC has the reputation on not looking ahead, the impact of growth resulting in higher volume of traffic, Take a look at 19th st, east of 41, Gridlock at 41 and Apollo Beach Blvd, and generally all of 41 from a mile north of Apollo Beach Blvd. south to College.
Our new Fire station looks impressive hopefully, our firemen won't receive an emergency call and try to get through the "parking lot" on 41. Any delay to giving medical assistance could be deadly.

Thanks for your service and Best wishes for a Happy New Year

1053111400

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.54

From:	Karla Llanos
To:	Citizens SouthShore
Cc:	Ball, Fred (Sam)
Subject:	RE: MM 22-1228 REZONING APPLICATION
Date:	Wednesday, January 4, 2023 2:37:47 PM
Attachments:	image001.png image002.png image003.png image004.png image005.png

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External email: Use caution when clicking on links, opening attachments or replying to this email.

Good afternoon,

Appreciate your comments, as of now, I am still conducting review on the project and drafting the staff report. Planning Commission's staff report will be available on Optix Thursday evening 1/5/2023. In the meantime, if you would like to oppose the project by filing a Letter of Opposition, please reach out to Fred "Sam" Ball who is the case planner, and he can instruct you how to file it. If you would like your opinions part of the hearing record I encourage you to speak at the public hearing on January 17, 2023. If you have any further questions please reach out to the case planner Sam Ball.

Karla Llanos | MPA
Principal Planner | CPPR Division
Plan Amendment Coordinator
813.272.5940 (Main)
813.212.0650 (Direct)
planhillsborough.org
Plan Hillsborough

All incoming and outgoing messages are subject to public records inspection.

From: Citizens SouthShore <savesouthshore@gmail.com>
Sent: Wednesday, January 4, 2023 12:53 PM
To: Karla Llanos <llanosk@plancom.org>

Subject: Re: MM 22-1228 REZONING APPLICATION

Hello, Thank you for your response. Based on the nine goals/strategies set forth in the South Shore Community Plan, a big box store with more apartments appears to be incompatible. Can you explain to me how big box supports the community vision as laid out in the plan? There are four areas of focus noted, transportation, environment, cultural/historical, and economic development. We do not have a balanced transportation system as our roads are in disrepair and they cannot adequately handle the increased traffic big box would bring, big box has been shown to be detrimental to the surrounding environment, we do not have the infrastructure needed to support current development much less a big box store with added housing, big box does nothing to promote local culture/history, and these enormous stores are paying a negligible amount in taxes. They contribute hardly anything while demanding new electric lines, frontage roads, and signalized intersections (among other things). In most cases, their taxes are not nearly enough to pay for the maintenance of these basic services, let alone the many other functions of our local government that we expect taxes to pay for, like schools, police, and fire protection (which is already down by about 30 stations county-wide) putting further strain on already overburdened resources leaving the residents to fill the financial gap created by these sprawling big box stores. I look forward to your response. Thank you

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - MM 22-1228 WALMART ZONING APPROVAL
Date:	Thursday, January 12, 2023 12:32:53 PM
Attachments:	51883785_big-box-in-apollo-beach-south-shore-results.pdf

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The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 12, 2023 12:32 PM

Name: SHERRI SOUTHWELL

Address: 552 FRANDOR PL
APOLLO BEACH, FL 33572

Phone Number: (813) 410-7027

Email Address: SAVESOUTHSHORE@gmail.com

Subject: MM 22-1228 WALMART ZONING APPROVAL

Message: Sadly, my initial opposition to the proposed Walmart appears to have been too late as I recently found out that the Walmart portion of this zoning had been approved in VERY BAD FAITH by the BOCC back in June. Because the county is only required to place a small sign in front of the property in question, I'm sure no one driving by at 55+mph on a busy highway stopped or even noticed it. Well played. So now that this big box and all that comes with it is about to be crammed down the throats of Apollo Beach residents and wreak havoc on our roadways and resources, we hear that there is a request to change the office zoning to multi family further adding the chaos. I am asking that you deny the request and keep the office space zoning in hopes of mitigating even a small fraction of the traffic issues about to ensue.

Although Walmart appears to be a done deal, the attached random survey demonstrates how residents feel about it and how we feel about growth in our community.

1056613593

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/109.0.0.0 Safari/537.36

Received January 12, 2023
Development Services

BIG BOX IN APOLLO BEACH/SOUTH SHORE?

Growth has made its way to our little community. The question is, do WE want to control our growth or let growth control US?

196 answers

WE SHOULD CONTROL OUR GROWTH	190 votes	96.9%
WE SHOULD LET GROWTH CONTROL US	6 votes	3.1%

Do you support Big Box in Apollo Beach/South Shore with the knowledge that these stores bring Crime, Increased Traffic, Low Wages, Negative Environmental Impact, Increased Development, and Loss of Local Businesses?

217 answers

NO	188 votes	86.6%
YES	21 votes	9.7%
UNSURE	8 votes	3.7%

Would you support retail space that includes community spaces that enhance and showcase our community while bringing in tax and tourism revenue?

216 answers

NO	37 votes	17.1%
YES	150 votes	69.4%
UNSURE	29 votes	13.4%

22-1228

Received January 12, 2023
Development Services

Do you agree that BEFORE any new retail/residential development is approved in the Apollo Beach/South Shore area, the county MUST fix our roads and install the appropriate infrastructure (road widening, police, fire, schools) to handle the influx of new residents and increased traffic?

217 answers

NO	10 votes	4.6%
YES	203 votes	93.5%
UNSURE	4 votes	1.8%

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - MM 22-1228 WALMART ZONING APPROVAL
Date:	Thursday, January 12, 2023 12:32:55 PM
Attachments:	51883785_big-box-in-apollo-beach-south-shore-results.pdf

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The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 12, 2023 12:32 PM

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Address: 552 FRANDOR PL
APOLLO BEACH, FL 33572

Phone Number: (813) 410-7027

Email Address: SAVESOUTHSHORE@gmail.com

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Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/109.0.0.0 Safari/537.36

Received January 12, 2023
Development Services

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UNSURE	29 votes	13.4%

22-1228

Received January 12, 2023
Development Services

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217 answers

NO	10 votes	4.6%
YES	203 votes	93.5%
UNSURE	4 votes	1.8%

Rome, Ashley

From: Hearings
Sent: Friday, December 16, 2022 2:12 PM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: Application MM 22-1228 - 5411 Conch Shell Place Apollo Beach 33572

From: Steadman, Donna <dsteadman@mcgriff.com>
Sent: Friday, December 16, 2022 12:32 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Hearings <Hearings@HillsboroughCounty.ORG>
Subject: Application MM 22-1228 - 5411 Conch Shell Place Apollo Beach 33572

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Department,
I am a resident of Harbour Isles in Apollo Beach and vehemently oppose the rezoning referenced in application MM22-1228. The proposed Walmart on this parcel would place a large box store in my back yard. The concerns I have include:

- An increase in traffic on already congested road
- Light & noise pollution from the store, parking lot and adjacent structures.
- Safety of residents that surround a large box store
- Destruction of local wildlife habitats
- Reduction in property values for existing communities

I urge you to disapprove the proposed rezoning and preserve the quality of life for the residents of Apollo Beach. Our community is blessed with the natural resources of the bay and the wildlife that surrounds it. Environment impacts and the impact to residents quality of life must be considered and weighted as heavily as corporate influence and rebating. We can no longer ignore the results of over development and the resulting overpopulation. I urge you to seriously consider the negative impacts and vote against this rezoning effort.

Thank you for your continued service and support of our communities.

Frank & Donna Steadman
5411 Conch Shell Place
Apollo Beach, FL 33572
336-736-2018

Please be advised insurance coverage cannot be altered, bound or cancelled by voicemail, email, fax, or online via our website and insurance coverage is not effective until confirmed in writing by a licensed agent. The information in this transmission may contain proprietary and non-public information of McGriff Insurance Services, Truist, or their affiliates and may be subject to protection under the law. The message is intended for the sole use of the individual or entity to which it is addressed. If you are not the intended recipient, you are notified that any use, distribution or copying of the message is strictly prohibited. If you received this message in error, please delete the material from your system without reading the content and notify the sender immediately of the inadvertent transmission.

Any information, analyses, opinions and/or recommendations contained herein relating to the impact or the potential impact of coronavirus/COVID-19 on insurance coverage or any insurance policy is not a legal opinion, warranty or

guarantee, and should not be relied upon as such. As insurance agents, we do not have the authority to render legal advice or to make coverage decisions, and you should submit all claims to your insurance carrier for evaluation as they will make the final determination. Given the on-going and constantly changing situation with respect to the coronavirus/COVID-19 pandemic, this communication does not necessarily reflect the latest information regarding recently-enacted, pending or proposed legislation or guidance that could override, alter or otherwise affect existing insurance coverage. At your discretion, please consult with an attorney at your own expense for specific advice in this regard.

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Application MM 22-1228 - Walmart
Date:	Friday, December 16, 2022 12:31:24 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 16, 2022 12:31 PM

Name: Donna Steadman

Address: 5411 Conch Shell Place
Apollo Beach, FL

Phone Number: (941) 748-2014

Email Address: dsteadman@mcgriff.com

Subject: Application MM 22-1228 - Walmart

Message: Dear Commissioner Owens,
I am a resident of Harbour Isles in Apollo Beach and vehemently oppose the rezoning referenced in application MM22-1228. The proposed Walmart on this parcel would place a large box store in my back yard. The concerns I have include:
• An increase in traffic on already congested road
• Light & noise pollution from the store, parking lot and adjacent structures.
• Safety of residents that surround a large box store
• Destruction of local wildlife habitats
• Reduction in property values for existing communities
I urge you to lobby against the proposed rezoning and preserve the quality of life for the residents of Apollo Beach. Our community is blessed with the natural resources of the bay and the wildlife that surrounds it. Environment impacts and the impact to residents' quality of life must be considered and weighted as heavily as corporate influence and rebating. We can no longer ignore the results of over development and the resulting overpopulation. I urge you to seriously consider the negative impacts and support our efforts as a community to reject this proposal.

Thank you for your continued service and support.

Respectfully,

Frank & Donna Steadman
5411 Conch Shell Place
Apollo Beach, FL 33572

336-736-2018

1047642001

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36 Edg/108.0.1462.46

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Apollo Beach Walmart
Date:	Tuesday, December 13, 2022 8:32:29 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 8:32 AM

Name: David Stephenson

Address: 7033 Old Benton Drive
Apollo Beach, FL 33572

Phone Number: (727) 366-8091

Email Address: oriolefan48@gmail.com

Subject: Apollo Beach Walmart

Message: I would like to recommend AGAINST the proposed Walmart in Apollo Beach. The area does not have proper roadways for the community traffic we have, and a Walmart will not help with the congestion. The traffic must be corrected and controlled before adding additional problems to what we already have.

1045917300

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Poposal for zoning change in Apollo Beach
Date:	Monday, January 9, 2023 4:06:19 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 9, 2023 4:06 PM

Name: Tamara Stewart

Address: 6529 Bimini Ct
Apollo Beach, FL 33572

Phone Number: (254) 833-4077

Email Address: rmewife21@gmail.com

Subject: Poposal for zoning change in Apollo Beach

Message: It is my understanding that you are looking to rezone 71 acres in Apollo Beach to allow a Big Box store and apartment complex and I am strongly opposed to this being voted through. Studies have shown that this will contribute to higher crime rates, more traffic and infrastructure issues, killing local mom and pop stores which will affect employment and have a negative environmental impact. I hope that as an elected official you will listen to your constituents when casting your vote. If you do not, I am certain our votes will reflect our displeasure. As a resident of this community I have a voice and expect it to be taken into consideration. Not all revenue is worth the cost. Please consider the risks!!!!

Thank you,

Tamara Stewart

1055353768

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Poposal for zoning change in Apollo Beach
Date:	Monday, January 9, 2023 4:06:19 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Email Address: rmewife21@gmail.com

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1055353768

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Poposal for zoning change in Apollo Beach
Date:	Monday, January 9, 2023 4:06:19 PM

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1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

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Apollo Beach, FL 33572

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1055353768

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.5 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Single Tennant Big Box Superstore in Apollo Beach
Date:	Tuesday, January 10, 2023 10:28:05 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 10, 2023 10:27 AM

Name: Elena Stumpe

Address: 721 FLAMINGO DR
APOLLO BEACH, FL 33572-2448

Phone Number: (813) 716-3523

Email Address: elstumpe@gmail.com

Subject: Single Tennant Big Box Superstore in Apollo Beach

Message: We, the residents of Apollo Beach, DO NOT want any type of Big Box store built in our community. I am categorically opposed to this proposal to build a big box store on US 41 and Leisey Rd.

This type of structure, business is 100% not in keeping with the type of community that Apollo Beach is. As well, US 41in Apollo Beach and Ruskin are already very congested and in disrepair. A quote large housing development has just been built across from the site fro this proposed Big Box store - increasing traffic and congestion.
As well, there take is no need for such a business here in Apollo Beach. There are a number of Big Box stores nearby in Sun City, and Brandon. We the people of Apollo Beach do not want or need all that comes with this type of business - a negative impact on local small businesses, higher crime rates that are associated with these stores.
We strongly believe there are a number of better uses for open land in Apollo Beach, such as mixed use development where local businesses can thrive, that strengthen our sense of community rather than erode it, places that would become a destination for visitors and places where revenue generated here would STAY here! Please vote

NO to the proposed zoning change that favors a Big Box store development in Apollo Beach. Thank you, Elena Stumpe

1055635049

Mozilla/5.0 (Linux; Android 12; Pixel 3a) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

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To:	Commissioner District 4
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Date:	Tuesday, January 10, 2023 10:28:05 AM

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7 | Commissioner Joshua Wostal (District 7)

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Address: 721 FLAMINGO DR
APOLLO BEACH, FL 33572-2448

Phone Number: (813) 716-3523

Email Address: elstumpe@gmail.com

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1055635049

Mozilla/5.0 (Linux; Android 12; Pixel 3a) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - New Walmart
Date:	Tuesday, December 13, 2022 8:34:15 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 8:34 PM

Name: Julie Sutherland

Address: 6342 Cocoa Ln
APOLLO BEACH, FL 33572-2728

Phone Number: (813) 495-5529

Email Address: sea.ya@verizon.net

Subject: New Walmart

Message: Hello! Please NO Walmart! We already have a traffic issue and two close enough to Apollo Beach!

1046308900

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No To Rezoning Farmland SR41 and Leisey Rd.
Date:	Saturday, January 7, 2023 1:26:34 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 7, 2023 1:26 PM

Name: Monte Taylor

Address: 6318 Cottonwood Ln
Apollo Beach, FL 33572

Phone Number: (813) 727-2481

Email Address: tismonte@gmail.com

Subject: No To Rezoning Farmland SR41 and Leisey Rd.

Message: Please, please do not rezone this land to big box commercial and residential property. This area is already building way to fast for the infrastructure to support it. Can we keep this area as conservation or a better use for our precious little land left?
Sincerely,
Monte Taylor

1054694976

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 DuckDuckGo/7 Safari/605.1.15

Rome, Ashley

From: Hearings
Sent: Wednesday, January 11, 2023 8:37 AM
To: Timoteo, Rosalina; Rome, Ashley; Ball, Fred (Sam)
Subject: FW: 5591 rezoning on Apollo Beach

From: Nelida Thomas <nellie@spectrababyusa.com>
Sent: Saturday, January 7, 2023 11:23 AM
To: Hearings <Hearings@HillsboroughCounty.ORG>
Subject: 5591 rezoning on Apollo Beach

External email: Use caution when clicking on links, opening attachments or replying to this email.

As a resident of Harbor Isles. I am opposed to the rezoning which will cause more traffic, deteriorating roads and over population in Apollo Beach

Nellie Thomas
163 Star Shell Drive
Apollo Beach. Fl 33572

"To have character is to be big enough to take life on"

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Store Apollo Beach
Date:	Tuesday, January 10, 2023 9:47:17 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 10, 2023 9:47 AM

Name: Wayne Topp

Address: 711 Flamingo Dr.
Apollo Beach, FL 33572

Phone Number: (813) 244-0417

Email Address: nanway@verizon.net

Subject: Big Box Store Apollo Beach

Message: My wife and I are residents of Apollo Beach and oppose the rezoning to allow a big box store to locate here. Two reasons: we already have sufficient stores in our area to serve our needs. Second--the addition of housing developments has saturated the intrastructure to support the added traffic. We simply can't handle more. PLEASE VOTE NO.

1055616372

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Big Box Store Apollo Beach
Date:	Tuesday, January 10, 2023 9:47:17 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 10, 2023 9:47 AM

Name: Wayne Topp

Address: 711 Flamingo Dr.
Apollo Beach, FL 33572

Phone Number: (813) 244-0417

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1055616372

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

Rome, Ashley

From: Almand, Sherrie
Sent: Monday, January 9, 2023 9:48 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: (WEB mail) - Rezoning of farmland for more commercial / homes

Hi ladies,
Please see the opposition email below regarding MM 22-1228. Please enter into the official record. 😊

Thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 9:43 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Rezoning of farmland for more commercial / homes

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 9, 2023 9:43 PM

Name: Raymond Trallo

Address: 501 Flamingo drive
Apollo Beach, FL 33572

Phone Number: (813) 649-1322

Email Address: ultrahdk2@gmail.com

Subject: Rezoning of farmland for more commercial / homes

Message: This is in regards to rezoning Tracking # 22-1228 71 acres at SR41 and Leisey Rd:
It is already so crowded here driving is becoming a nightmare. Trying to get to work many days my wife has to go south on 41 drive to Sun City and get on I75 because Big Bend is jammed. The infrastructure here is 20 year's behind already and the improvements they are currently working on will not alleviate the amount of growth. If we continue to sell all of the farm land who will be producing our food and other staples.

Statistically we have proven anytime you bring in a discount superstores that will bring more crime. Then add apartment buildings and so on. I have lived here for over twenty years and I have yet to see smart developing that includes roads that can handle the traffic.

1055479650

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	Almand, Sherrie
To:	Timoteo, Rosalina
Cc:	Rome, Ashley
Subject:	FW: (WEB mail) - Rezoning of farmland for more commercial / homes
Date:	Monday, January 9, 2023 9:47:00 PM
Attachments:	image001.png

Hi ladies,
Please see the opposition email below regarding MM 22-1228. Please enter into the official record.

Thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | HCFL Stay Safe

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, January 9, 2023 9:43 PM
To: Commissioner District 4 <ContactDistrict4@hillsboroughcounty.org>
Subject: (WEB mail) - Rezoning of farmland for more commercial / homes

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1055479650

Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - developement
Date:	Monday, January 2, 2023 8:36:29 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:36 PM

Name: bernard vandenberg

Address: 412 2nd st sw
ruskin, FL 33570

Phone Number: (813) 812-7292

Email Address: bsv0463@yahoo.com

Subject: developement

Message: do not want any further big box stores in this area. I vote no towards the rezoned areasreference MM 22-1228,.

1052897103

Mozilla/5.0 (Windows NT 6.1; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - developement
Date:	Monday, January 2, 2023 8:36:30 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 2, 2023 8:36 PM

Name: bernard vandenberg

Address: 412 2nd st sw
ruskin, FL 33570

Phone Number: (813) 812-7292

Email Address: bsv0463@yahoo.com

Subject: developement

Message: do not want any further big box stores in this area. I vote no towards the rezoned areasreference MM 22-1228,.

1052897103

Mozilla/5.0 (Windows NT 6.1; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart
Date:	Monday, December 12, 2022 9:31:49 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 12, 2022 9:31 PM

Name: Andy Vergales

Address: 6302 Shadowlake drive
Apollo Beach, FL 33572

Phone Number: (804) 512-7532

Email Address: virgil614@aol.com

Subject: Walmart

Message: Say NO TO WALMART IN APOLLO BEACH

1045720845

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B110 [FBAN/FBIOS;FBDV/iPhone13,2;FBMD/iPhone;FBSN/iOS;FBSV/16.1.2;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

From:	Pike, Isabella
To:	Gormly, Adam
Subject:	FW: (WEB mail) - Walmart
Date:	Tuesday, December 13, 2022 8:10:43 AM

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 12, 2022 9:32 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Walmart

The following Commissioner(s) received a direct copy of this email:

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3 | Commissioner Gwen Myers (District 3)
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Phone Number: (804) 512-7532

Email Address: virgil614@aol.com

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Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Mobile/20B110 [FBAN/FBIOS;FBDV/iPhone13,2;FBMD/iPhone;FBSN/iOS;FBSV/16.1.2;FBSS/3;FBID/phone;FBLC/en_US;FBOP/5]

Rome, Ashley

From: Zoning Intake-DSD
Sent: Thursday, December 15, 2022 8:21 AM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: More construction

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

-----Original Message-----
From: Brian Walters <bmjwalters@yahoo.com>
Sent: Wednesday, December 14, 2022 10:20 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: More construction

External email: Use caution when clicking on links, opening attachments or replying to this email.

I was told to use this as contact with zoning board. I live in Sun City Center and this area was designed for retirement individuals. It was that until area developers decided to make another fortune for themselves by building only houses in Wiamama. Now a new developer, to the area, Benderson has come to the area and he does shopping malls that type of construction. It's common knowledge the county commissioners take "donations" to their slush funds from area developers who want variances and exceptions to build what they want where they want. So this is probably a waste of my time contacting you. If you are interested do a little checking on how Benderson operates. He was run out of Ohio, kicked out of Buffalo New York and pulled a fast one on Sarasota, but they can afford it. The University Square Mall is Benderson as well as the strip mall down University. He, the son who is now in charge, did rowing in college that's why he purchased the land next to the Meadows and expanded the pond. Originally the two lane road through the Meadows was going to be widened but the people didn't want all the traffic so they made a deal with Benderson. Every event at the pond people from the Meadows direct traffic for parking for free, forever… I was at every meeting before construction started and one night the engineer in charge of the project stated, "the survey shows we have less than one inch to legally do this project ". I asked, "doesn't that tell you not to do it?" He was speechless and the project

started. Benderson put up one million dollars to start the project including the construction for the interstate. Benderson said he would pay for everything, no tax dollars would be spent. Why don't you check it out and see who made money on the project and who spent the money?

It's been DEstructive enough with the overbuilding in Wiamama, houses only, PLEASE DON'T LET BENDERSON IN!

I'm sure you are aware of what Carlos Beruff/Medallion developer is doing at the Manatee/Hillsborough County line? He has purchased all the land from 41 to 301 and is going to "cluster build". He will have houses and businesses. His plan shows a new town at the 301 by the county jail/port area. Even has a bus station there.

I do hope this email reaches someone who cares about this area, what's left of it anyway and stops Benderson from turning us into another "University Parkway" like the area in Sarasota. But, unfortunately, we all know money talks and BS walks.

Merry Christmas,

Melodie Walters
Sun City Center resident
813-633-2947
bmjwalters@yahoo.com

Sent from my iPad

Rome, Ashley

From: Zoning Intake-DSD
Sent: Thursday, December 15, 2022 8:21 AM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: MM22-1228

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

-----Original Message-----
From: Brian Walters <bmjwalters@yahoo.com>
Sent: Wednesday, December 14, 2022 10:33 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Please use this contact number for my previous email regarding construction in the Apollo Beach/Sun City Center area.

Thank you, Merry Christmas,

Melodie Walters
2017 North Pebble Beach Blvd.
Sun City Center, Fl 33573
813-633-2947
bmjwalters@yahoo.com

Sent from my iPad

Rome, Ashley

From: Brian Walters <bmjwalters@yahoo.com>
Sent: Thursday, December 22, 2022 10:56 PM
To: Rome, Ashley
Cc: Timoteo, Rosalina
Subject: Re: More construction

External email: Use caution when clicking on links, opening attachments or replying to this email.

Here is the required number MM 22-1228. Thank you and Merry Christmas

Melodie Walters

On Monday, December 19, 2022, 01:08:16 PM EST, Rome, Ashley <romea@hillsboroughcounty.org> wrote:

Good afternoon Ms. Walters,

To index your submitted comment, please provide an application number; Hillsborough County maintains a map with all active zoning applications, link listed below.

https://hillsborough.maps.arcgis.com/apps/webappviewer/index.html?id=be7f0f9c93c0460984d1223f6b329fa8

Thank you,

Ashley Rome
Planning & Zoning Technician
Development Services Dept.

P: (813) 272-5595
E: romea@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

-----Original Message-----
From: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Sent: Thursday, December 15, 2022 8:21 AM
To: Timoteo, Rosalina <TimoteoR@HillsboroughCounty.ORG>
Cc: Rome, Ashley <RomeA@hillsboroughcounty.org>
Subject: FW: More construction

Clare Odell

Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

-----Original Message-----
From: Brian Walters <bmjwalters@yahoo.com>
Sent: Wednesday, December 14, 2022 10:20 PM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>
Subject: More construction

External email: Use caution when clicking on links, opening attachments or replying to this email.

I was told to use this as contact with zoning board. I live in Sun City Center and this area was designed for retirement individuals. It was that until area developers decided to make another fortune for themselves by building only houses in Wiamama. Now a new developer, to the area, Benderson has come to the area and he does shopping malls that type of construction. It's common knowledge the county commissioners take "donations" to their slush funds from area developers who want variances and exceptions to build what they want where they want. So this is probably a waste of my time contacting you. If you are interested do a little checking on how Benderson operates. He was run out of Ohio, kicked out of Buffalo New York and pulled a fast one on Sarasota, but they can afford it. The University Square Mall is Benderson as well as the strip mall down University. He, the son who is now in charge, did rowing in college that's why he purchased the land next to the Meadows and expanded the pond. Originally the two lane road through the Meadows was going to be widened but the people didn't want all the traffic so they made a deal with Benderson. Every event at the pond people from the Meadows direct traffic for parking for free, forever… I was at every meeting before construction started and one night the engineer in charge of the project stated, "the survey shows we have less than one inch to legally do this project ". I asked, "doesn't that tell you not to do it?" He was speechless and the project started. Benderson put up one million dollars to start the project including the construction for the interstate. Benderson said he would pay for everything, no tax dollars would be spent. Why don't you check it out and see who made money on the project and who spent the money?

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I do hope this email reaches someone who cares about this area, what's left of it anyway and stops Benderson from turning us into another "University Parkway" like the area in Sarasota. But, unfortunately, we all know money talks and BS walks.

Merry Christmas,

Melodie Walters
Sun City Center resident
813-633-2947
bmjwalters@yahoo.com

Sent from my iPad

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Zoning change to allow construction of a single tennant big box superstore
Date:	Sunday, January 8, 2023 8:12:28 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 8:12 AM

Name: Joseph Weaver

Address: 312 Royal Bonnet Dr
Apollo Beach, FL 33572

Phone Number: (813) 767-1294

Email Address: joe.weaver52@yahoo.com

Subject: Zoning change to allow construction of a single tennant big box superstore

Message: Ladies & Gentlemen
My wife and I have live in Harbour Isles for over 10 years and watched our quaint area grow. We live in a beautiful home and have enjoyed watching the abundant wildlife behind us on the conservation land behind our house. A couple of years ago we saw the property at Kims's Nursery, behind the nursery and across Hwy 41 get gobbled up by development. These properties changed the small town feel of our community and held abundant wildlife that was forced to either die off or move to the surrounding areas. Shortly after that construction started we personally saw and felt that transition. Some of that once abundant wildlife slowly disappeared. Some of it stayed and over ran our houses adjacent to that development. We now have our property being destroyed by the nuisance creatures such as armadillos tearing the place up. WE IMPLORE YOU TO STOP AS THIS PROPOSED CHANGE WILL ONLY MAKE THINGS WORSE. Secondarily the need for the proposed big box store is ridicules. We have 3 within 10 miles of the proposed new store. This will forever change the feel of our area. NO BIG BOX STORES !!!!!

1054848753

Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:108.0) Gecko/20100101 Firefox/108.0

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning change to allow construction of a single tennant big box superstore
Date:	Sunday, January 8, 2023 8:13:03 AM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 8:12 AM

Name: Joseph Weaver

Address: 312 Royal Bonnet Dr
Apollo Beach, FL 33572

Phone Number: (813) 767-1294

Email Address: joe.weaver52@yahoo.com

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1054848753

Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:108.0) Gecko/20100101 Firefox/108.0

Rome, Ashley

From: Zoning Intake-DSD
Sent: Tuesday, January 10, 2023 10:50 AM
To: Rome, Ashley
Subject: FW: MM22-1228

Please see the email below

Ana Lizardo
Planning & Zoning Tech
Development Services Department (DSD)

P: (813) 276-8403
M: (813) 272-5600
E: LizardoA@hillsboroughcounty.org
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: jean@internet-stuff.com <jean@internet-stuff.com>
Sent: Tuesday, January 10, 2023 9:49 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; owenm@hillsboroughcounty.o
Subject: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population.

We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan.

Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities. Developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed.

Recent developments approved by Hillsborough County have completely ignored the lack of infrastructure and are nothing more than carte blanche concessions to developers who too often ignore the preferences and character of current neighborhoods.

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and considers the current development already underway and the lack of good infrastructure.

Jean Weiland
5409 Sandy Shell Drive
Apollo Beach, FL 33572
913-396-3315

From:	Owen, Michael
To:	Almand, Sherrie
Subject:	Fwd: MM22-1228
Date:	Friday, January 13, 2023 1:39:55 PM

Get Outlook for iOS

From: jean@internet-stuff.com <jean@internet-stuff.com>
Sent: Tuesday, January 10, 2023 9:49:49 AM
To: Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: FW: MM22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

From: jean@internet-stuff.com <jean@internet-stuff.com>
Sent: Tuesday, January 10, 2023 9:49 AM
To: zoningintake-dsd@hillsboroughcounty.org; owenm@hillsboroughcounty.o
Subject: MM22-1228

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

We as homeowners purchased homes to live in an area that had tolerable space between properties, sufficient parking and an infrastructure that was designed to properly handle the needs — sewer, water, electricity, roads, etc.— of that population.

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Jean Weiland
5409 Sandy Shell Drive
Apollo Beach, FL 33572
913-396-3315

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Apollo Beach
Date:	Tuesday, December 13, 2022 9:46:02 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 9:45 AM

Name: Darren Weiler

Address: 208 Breakers Ln
Apollo Beach, FL 33572

Phone Number: (310) 415-0094

Email Address: darrenweiler66@gmail.com

Subject: Walmart in Apollo Beach

Message: Hello Sir,

I am writing to find out best way to stop the Walmart development in Apollo Beach. As a resident and advocate of small business I feel this will be bad for our comunity. There are 2 close by and we have 2 publix and 2 Winn Dixies within miles. This will cause vacant buildinding eventually. I could see a Target or some other complimenting business but Walmart is a bad idea. Any suggestions would be appreciated.
Thanks. Darren Weiler 310-415-0094 cell

1045952204

Mozilla/5.0 (Linux; Android 12; SM-G781V) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Zoning for Super Walmart in Apollo Beach
Date:	Tuesday, December 13, 2022 9:57:26 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 9:57 PM

Name: Rick White

Address: 5610 Skimmer Dr.
Apollo Beach, FL 33572

Phone Number: (813) 210-1370

Email Address: whiterb84@gmail.com

Subject: Zoning for Super Walmart in Apollo Beach

Message: Dear Commissioner Owen, I am opposed to the building of a WalMart on the East Side of US 41 near MIraBay. I am deeply concerned about the traffic and the lack of infrastructure to support this and the other commercial growth, I have been a resident of SouthShore since 2004. The unabated growth of this area without adequate infrastructure is troubling. Highway 41 needs to be expanded as do other roads in the area. Please consider our concerns as you and the other commissioners make a very important decision.

Thank you for your consideration. Regards, Rick White

1046334727

Mozilla/5.0 (iPad; CPU OS 15_7 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6,2 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart in Apollo beach
Date:	Monday, December 12, 2022 5:16:14 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 12, 2022 5:16 PM

Name: James Whitley

Address: 233 silver falls drive
Apollo beach , FL 33572

Phone Number: (863) 738-0484

Email Address: abnsgm@yahoo.com

Subject: Walmart in Apollo beach

Message: I moved to Apollo Beach to get away from the traffic and congestion. There are two Walmarts, each less than 5 miles away, plus a Sam's Club and neighborhood Walmart even closer. When I moved to Brandon in 1985 it was a nice area but was developed beyond recognition. In 2005 I moved to Apollo Beach to get away from it all, so I guess it is time to start looking again. I really like it here but growth is okayed before a good infrastructure plan is put in place and road improvement needs to keep up or get ahead of the power curve.

1045622139

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_7) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Proposed Walmart in Apollo Beach
Date:	Tuesday, December 13, 2022 5:42:47 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:42 PM

Name: Shamika Whitlock

Address: 738 Royal Enpress Dr
Ruskin , FL 33570

Phone Number: (407) 721-2069

Email Address: sw11dknights@gmail.com

Subject: Proposed Walmart in Apollo Beach

Message: Good afternoon,
I am taking the time to to reach out to express disapproval for the proposed WalMart in Apollo Beach. While some retail is necessary in the general area I? The proposed location will disrupt the traffic flow of US 41. Since this area grown in the past several months, it has made it increasingly difficult to drive through this small residential area. The infrastructure does not support the traffic that a Walmart brings. If the county feels inclined to vote yes for this a Walmart, it would great a different location is considered such as on College Ave near 75. This will promote job opportunities but it will not add to headache of getting out of the residential area. Hoping that you consider the factors listed in this email before voting on this proposal. Thanks for your consideration.

1046251201

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart in Apollo Beach
Date:	Tuesday, December 13, 2022 5:42:48 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:42 PM

Name: Shamika Whitlock

Address: 738 Royal Enpress Dr
Ruskin , FL 33570

Phone Number: (407) 721-2069

Email Address: sw11dknights@gmail.com

Subject: Proposed Walmart in Apollo Beach

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1046251201

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Vote No to rezoning Apollo Beach - SR41/Leisley Rd
Date:	Wednesday, January 11, 2023 1:25:27 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 1:25 PM

Name: Stacey Wick

Address: 5325 Loon Nest Court
Apollo Beach, FL 33572

Phone Number:

Email Address: scoleman2006@gmail.com

Subject: Vote No to rezoning Apollo Beach - SR41/Leisley Rd

Message: I live in Apollo Beach and am strongly against the commercial rezoning of the property near SR41/Leisley Rd for a superstore and additional housing. I feel our community infrastructure can not support the change and it will be detrimental to the area. I would prefer a contemporary mixed use development supporting local business. Please vote No to the current proposal for rezoning.

1056196632

Mozilla/5.0 (Linux; Android 13; Pixel 7 Pro) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
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6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 11, 2023 1:25 PM

Name: Stacey Wick

Address: 5325 Loon Nest Court
Apollo Beach, FL 33572

Phone Number:

Email Address: scoleman2006@gmail.com

Subject: Vote No to rezoning Apollo Beach - SR41/Leisley Rd

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Mozilla/5.0 (Linux; Android 13; Pixel 7 Pro) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/108.0.0.0 Mobile Safari/537.36

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - No Big Box Stores in Apollo Beach Area
Date:	Sunday, January 8, 2023 5:12:32 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 5:12 PM

Name: Thomas Widacki

Address: 6323 Wisteria Lane
Apollo Beach , FL 33572

Phone Number: (813) 482-2580

Email Address: tomwidacki@msn.com

Subject: No Big Box Stores in Apollo Beach Area

Message: Commissioners,
I moved to Apollo Beach in 2001 because it was a small community. I moved from Brandon/Seffner area to escape the over building and over population our commissioners allowed back then. Now you are allowing excessive building in Apollo Beach without beefing up our roads, infrastructure, Fire and Police. Our current roads are crumbling and your going to bring more pollution and traffic to an area that cannot support the growth.
I do not support any big box retailers in our community. There’s already two WalMarts nearby in Gibsonton and Sun City/Wimauma.

1054960555

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - No Big Box Stores in Apollo Beach Area
Date:	Sunday, January 8, 2023 5:12:31 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Jan 8, 2023 5:12 PM

Name: Thomas Widacki

Address: 6323 Wisteria Lane
Apollo Beach , FL 33572

Phone Number: (813) 482-2580

Email Address: tomwidacki@msn.com

Subject: No Big Box Stores in Apollo Beach Area

Message: Commissioners,
I moved to Apollo Beach in 2001 because it was a small community. I moved from Brandon/Seffner area to escape the over building and over population our commissioners allowed back then. Now you are allowing excessive building in Apollo Beach without beefing up our roads, infrastructure, Fire and Police. Our current roads are crumbling and your going to bring more pollution and traffic to an area that cannot support the growth.
I do not support any big box retailers in our community. There’s already two WalMarts nearby in Gibsonton and Sun City/Wimauma.

1054960555

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Oppose big box stores in Ruskin/apollo beach
Date:	Tuesday, January 3, 2023 3:54:27 PM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Jan 3, 2023 3:54 PM

Name: Shirley Williams

Address: 807 Islebay drive
Apollo beach, FL 33572

Phone Number: (407) 227-9858

Email Address: williamssj2003@aol.com

Subject: Oppose big box stores in Ruskin/apollo beach

Message: Please be advised that I oppose the building of big box stores in Apollo Beach so close to residential neighborhoods. The infrastructure is not able to support the additional traffic and crime.

1053201205

Mozilla/5.0 (Macintosh; Intel Mac OS X 10_15_6) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/15.6.1 Safari/605.1.15

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Walmart - Apollo Beach
Date:	Tuesday, December 13, 2022 6:54:19 AM

The following Commissioner(s) received a direct copy of this email:

4 | Commissioner Michael Owen (District 4)

Date and Time Submitted: Dec 13, 2022 6:54 AM

Name: Paul Wolff

Address: 5716 Sea Trout Pl
Apollo Beach, FL 33572

Phone Number: (727) 492-6326

Email Address: wolffpd@live.com

Subject: Walmart - Apollo Beach

Message: Please vote NO to the Walmart proposal.
Thank you.

1045880047

Mozilla/5.0 (Linux; Android 13; SM-S908U) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/107.0.0.0 Mobile Safari/537.36

Rome, Ashley

From: Zoning Intake-DSD
Sent: Wednesday, January 4, 2023 1:18 PM
To: Timoteo, Rosalina
Cc: Rome, Ashley
Subject: FW: Zoning Application: MM 22-1228
Attachments: Zoning Opposition MM 22-1228 (1).docx

Clare Odell
Planning & Zoning Technician
Development Services Department (DSD)

P: (813) 276-8680 | VoIP: 39680
M: (813) 272-5600
E: odellcl@hillsboroughcounty.org
W: HillsboroughCounty.Org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Yolande Wolmarans <wolmaransy194@gmail.com>
Sent: Wednesday, January 4, 2023 11:56 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: Zoning Application: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Attached please find my opposition letter to zoning application - MM 22-1228.

Thank you
Yolande Wolmarans

Received January 4, 2023
Development Services

Dear Zoning Committee & Commissioner Owens,

I am writing to express my strong opposition to the rezoning application MM 22-1228.

We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

The proposed development will be detrimental to the area, nearly all residents of Apollo Beach are completely opposed to the land use plan for this site which is not consistent with the broader intent of the Apollo Beach Comprehensive Plan.

Furthermore, it will cause traffic issues within an area that is already congested due to unrestricted and poorly planned development, create further water pressure and safety problems, and potentially lower the property values of the existing communities.

In the Apollo Beach 2008 Community Comprehensive Master Plan, it states:

- 2025 Plan Vision:
  The citizens of Apollo Beach community recognize the inevitability of future growth in the area and have reconciled growth within the scope of maintaining <u>the feel, charm, and convenience of waterfront-oriented small-town living.</u>
- For the goals it also states:
  - Enhance Community Character
  - Ensure Quality Land Use and Design. Encourage mixed use town centers at Apollo Beach Blvd and US 41.
  - Discourage development of fifty feet in height in residentially zoned area.
  - Improve and employ traffic calming measures where necessary.

Quality Land Use and Enhanced Community Character:
We have two Walmarts and a Sam's Club within five miles of the proposed development.
We have no need for more grocery stores. We have two Publix stores within two miles and a Winn -Dixie store across the street from the proposed development site. How many grocery stores does a twenty-two square mile town really need?
The plan proposes two fast food restaurants and a high turnover restaurant. The plan also proposes yet another gas station and a car wash. I counted twenty gas stations within a 5-mile radius of the proposed development.
Apollo Beach residents do not want or need more grocery stores, fast food or high turnover restaurants or gas stations. I ask you, how do grocery stores, fast food restaurants and gas stations enhance community character? What Apollo beach residents want is family friendly recreation facilities and parks, family friendly sit-down restaurants and shops in support of the small-town spirit and aesthetic outlined in the comprehensive master plan.
Please ask yourselves, if the same were proposed to you, would you want the same done in your neighborhood? Would you support the building of a mega superstore open 24 hours a day so close to your home and in your own neighborhood?

Increased Traffic:
The proposed development poses a number of unacceptable traffic risks to the neighboring communities and the school nearby. As determined by FDOT the project would generate a substantial amount of additional traffic, including truck traffic. As bad as these numbers are, the developers are not taking into account the traffic congestion on US 41 and Big Bend Rd that has already been generated from piecemeal and poorly thought through development without due consideration for the necessary infrastructure needed.

Received January 4, 2023
Development Services

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and aligns with the Apollo Beach vision in the comprehensive master plan.

Yolande Wolmarans
207 Royal Bonnet Dr
Apollo Beach, FL
813-295-9084

Rome, Ashley

From: Medrano, Maricela
Sent: Thursday, January 5, 2023 12:40 PM
To: Timoteo, Rosalina; Rome, Ashley
Subject: FW: Zoning Application: MM 22-1228
Attachments: Zoning Opposition MM 22-1228 (1).docx

Here is another POR for 22-1228. Thank you,

Maricela Medrano de Luna, MPA, AICP
Executive Planner
Zoning Customer Engagement Team Leader
Development Services Department (DSD)

P: (813) 272-5852
C: (813) 446-6617
M: (813) 272-5600
E: medranom@HCFLGov.net
W: HCFLGov.net

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | Twitter | YouTube | LinkedIn | HCFL Stay Safe

Please note: All correspondence to or from this office is subject to Florida's Public Records law.

From: Almand, Sherrie <AlmandS@hillsboroughcounty.org>
Sent: Thursday, January 5, 2023 12:10 PM
To: Medrano, Maricela <MedranoM@HillsboroughCounty.ORG>
Subject: FW: Zoning Application: MM 22-1228

Hi!
This opposition was sent directly to the commissioner. If you could please add this to the official record for MM 22-1228, I would appreciate it. As always, thank you!!

Sherrie L. Almand
Legislative Aide
Hillsborough County Commissioner Michael Owen – District 4

P: (813) 272-5740
F: (813) 272-7049
E: AlmandS@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: Owen, Michael <OwenM@hillsboroughcounty.org>
Sent: Wednesday, January 4, 2023 1:24 PM
To: Almand, Sherrie <AlmandS@hillsboroughcounty.org>; Jewesak, Craig <JewesakC@hillsboroughcounty.org>
Subject: FW: Zoning Application: MM 22-1228

Michael Owen
Hillsborough County Commissioner – District 4

P: (813) 272-5740
F: (813) 272-7049
E: OwenM@HillsboroughCounty.org
W: HillsboroughCounty.org

Hillsborough County
601 E. Kennedy Blvd., Tampa, FL 33602

Facebook | **Twitter** | **HCFL Stay Safe**

From: Yolande Wolmarans <wolmaransy194@gmail.com>
Sent: Wednesday, January 4, 2023 11:56 AM
To: Zoning Intake-DSD <ZoningIntake-DSD@hillsboroughcounty.org>; Owen, Michael <OwenM@hillsboroughcounty.org>
Subject: Zoning Application: MM 22-1228

External email: Use caution when clicking on links, opening attachments or replying to this email.

Attached please find my opposition letter to zoning application - MM 22-1228.

Thank you
Yolande Wolmarans

Received January 6, 2023
Development Services

Dear Zoning Committee & Commissioner Owens,

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We are not opposed to development in Apollo Beach. However, what Apollo Beach needs is positive, responsible, planned development that preserves and supports its established neighborhoods.

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Received January 6, 2023
Development Services

I urge you to disapprove the proposed rezoning and development. Thank you for your thoughtful consideration to ensure proper land use is approved and aligns with the Apollo Beach vision in the comprehensive master plan.

Yolande Wolmarans
207 Royal Bonnet Dr
Apollo Beach, FL
813-295-9084

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 5
Subject:	(WEB mail) - Proposed Walmart Apollo Beach
Date:	Tuesday, December 13, 2022 5:11:51 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:11 PM

Name: Renee Wynn

Address: 7116 Cromwell Park Lane
Apollo Beach, FL 33572

Phone Number: (904) 327-2447

Email Address: rwynn1218@yahoo.com

Subject: Proposed Walmart Apollo Beach

Message: I am writing to ask that Walmart not be allowed to have a location in our small town. We have many small mom and pop businesses that are doing their level best to stay in business if Walmart is allowed to be located in Apollo Beach it will have a negative effect on small businesses and bring with it other social issues. We already have two Walmart locations with easy access from Apollo Beach. Enough is enough. Thank you in advance.

1046238169

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Proposed Walmart Apollo Beach
Date:	Tuesday, December 13, 2022 5:11:51 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 13, 2022 5:11 PM

Name: Renee Wynn

Address: 7116 Cromwell Park Lane
Apollo Beach, FL 33572

Phone Number: (904) 327-2447

Email Address: rwynn1218@yahoo.com

Subject: Proposed Walmart Apollo Beach

Message: I am writing to ask that Walmart not be allowed to have a location in our small town. We have many small mom and pop businesses that are doing their level best to stay in business if Walmart is allowed to be located in Apollo Beach it will have a negative effect on small businesses and bring with it other social issues. We already have two Walmart locations with easy access from Apollo Beach. Enough is enough. Thank you in advance.

1046238169

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_2 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	Pike, Isabella
To:	Medrano, Maricela
Subject:	FW: (WEB mail) - Rezonig Objection
Date:	Monday, December 19, 2022 12:16:31 PM

Hello again,

Here is a Walmart email.

-Isabella

From: formstack@hillsboroughcounty.org <formstack@hillsboroughcounty.org>
Sent: Monday, December 19, 2022 12:09 PM
To: Commissioner District 5 <ContactDistrict5@hillsboroughcounty.org>
Subject: (WEB mail) - Rezonig Objection

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 12:08 PM

Name: Amy Zavala

Address: 5409 Hammock View Lane
Apollo Beach , FL 33572

Phone Number: (908) 380-9641

Email Address: jezkid@yahoo.com

Subject: Rezonig Objection

Message: I have been I formed that a Wal Mart or similar store is being proposed in Apollo Beach. We have two Wal Mart stores within a 20 minute radius and do not need a huge store like that in our small community. Please do not do this. We have families and enjoy living in our small town. Traffic is already bad enough here. Please do not drive out hard working families due to this.

1048573940

Mozilla/5.0 (iPhone; CPU iPhone OS 16_1_1 like Mac OS X) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/16.1 Mobile/15E148 Safari/604.1

From:	formstack@hillsboroughcounty.org
To:	Commissioner District 4
Subject:	(WEB mail) - Rezonig Objection
Date:	Monday, December 19, 2022 12:08:43 PM

The following Commissioner(s) received a direct copy of this email:

1 | Commissioner Harry Cohen (District 1)
2 | Commissioner Ken Hagan (District 2)
3 | Commissioner Gwen Myers (District 3)
4 | Commissioner Michael Owen (District 4)
5 | Commissioner Donna Cameron Cepeda (District 5)
6 | Commissioner Pat Kemp (District 6)
7 | Commissioner Joshua Wostal (District 7)

Date and Time Submitted: Dec 19, 2022 12:08 PM

Name: Amy Zavala

Address: 5409 Hammock View Lane
Apollo Beach , FL 33572

Phone Number: (908) 380-9641

Email Address: jezkid@yahoo.com

Subject: Rezonig Objection

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1048573940

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