



# Brevard County Board of County Commissioners

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Legislation Text

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File #: 5399, Version: 1

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### Subject:

NDA Merritt Project Zenith, LLC; and SES Merritt Project Zenith, LLC (Ross Abramson / Kim Rezanka) request a change of zoning classification from BU-1 and BU-2 with two existing BDP's, to PUD and removal of two existing BDP's. (22Z00062) (Tax Accounts 2428002, 2428157, 2428161, & 2428163) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with two existing BDP's (Binding Development Plan), to PUD (Planned Unit Development) and removal of two existing BDP's.

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 and BU-2 to PUD on 15.11 acres to build a luxury rental apartment community consisting of 370 multi-family units with associated club house, amenities, and parking. The PUD zoning classification is to encourage the development of planned residential neighborhoods and communities that provide a full range of residence types, as well as industrial, commercial and institutional land uses.

The Preliminary Development Plan (PDP) is part of the zoning application for a PUD, which depicts the use and intensity of the project. It is not intended to be specific with respect to engineering details that are normally reviewed at the Final Development Plan (site plan) stage of review. Design elements shown as on the Preliminary Development Plan are required to meet code, unless a waiver has been granted by the Board. Substantial changes would require Board approval.

Specific waivers to land development regulations must be stated on the preliminary development plan and must be verbally requested by the applicant at the public hearing. Unless a waiver is specifically requested by the applicant and specifically approved by the Board, it will not be assumed to have been approved.

In this case, the applicant has requested two waivers for additional building setbacks, generally described below, which based upon the **revised PDP are not needed** to facilitate the proposed uses. These waivers will be included in the Board's approval unless declined by the Board.

The applicant has requested the following waivers to Chapter 62, Article VI (Zoning Regulations) for the PUD:

- 1) Sec. 62-2101.5 (a) (2); Additional Building Height Setback; A waiver for a 25 ft. reduction in the 2:1 setback requirement to RU-2-30 residential zoning boundary along the south interior property line: Required: 57 ft. / Proposed: 95 ft.
  
- 2) Sec. 62-2101.5 (a) (2); Additional Building Height Setback for Building #4 A waiver reduction in the 2:1 setback requirement to RU-2-30 residential zoning boundary along the south interior property line: Required: 57 ft. / Proposed:  $\geq$  217 ft.

The applicant has not requested the following waiver to Chapter 62, Article VI (Zoning Regulations), regarding open space/recreation for the PUD, but it should be included in the request as follows:

- 3) Sec. 62-1446(c); Minimum common recreation and open space. A portion of the gross site acreage shall be delineated as tracts for common recreation and open space to be weighted based upon the mixture of residential uses in the PUD according to the following schedule: Multi-family at 25% and Regardless of the above, common recreation open space shall be provided at a minimum rate of 1.5 acres per 100 residential units, regardless of type. Required open space may be satisfied by either active recreation or passive recreation open space, as defined in Sec. 62-1102.

The developed character of the surrounding area is commercial, multi-family residential and single-family residential. The closest multi-family residential development is a condominium complex located immediately south of the subject property which retains RU-2-30 (20) zoning that limits density to 20 units per acre. Except for the GU-zoned lot to the south, the multi-family use proposed in the PUD appears to buffer the adjacent commercial from the multi-family use to the south.

The Board may wish to consider if the request is consistent and compatible with the surrounding area and whether the waiver requests are appropriate.

The Board may wish to consider the following conditions to mitigate potential impacts of the development:

1. Prior to site plan approval, the applicant shall demonstrate the site has the ability to use the alum pond/regional stormwater system. Should the site not be able to use said pond, site shall be redesigned to accommodate on-site retention, as required by Code of Ordinances of Brevard County, Section 62-3751, Exhibit A - Stormwater Management Criteria as well as the St. Johns River Water Management District;
2. Prior to site plan approval, the applicant shall depict three entrances connected to the county roadway system on the PDP, as required per Sec. 62-2957(c)(1);
3. If the waiver is not approved, the applicant shall depict a minimum of 5.55 acres of Common Recreation Open Space on the approved site plan, as required per Sec. 62-1446(c) and meeting the definitions in Sec. 62-1102.
4. Prior to site plan approval, applicant to provide a traffic study demonstrating any necessary roadway improvements based on anticipated traffic volumes;
5. All design elements shown on the PDP require conformance with Brevard County code and requires permits;

6. Provide an updated PDP depicting the correct waivers granted; and
7. Should any of the aforementioned redesign be deemed a substantial change by the zoning official, a PDP Amendment would require Board Approval.

**Clerk to the Board Instructions:**

None