



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS 23PUD00005 Jen FLORIDA 48 LLC.

#### General Use (GU) to Planned Unit Development (PUD) with Removal of CUP for a Commercial Borrow Pit

Tax Account Number(s): 3000277, 3000368, 3000827, 3000829  
Parcel I.D.: 30-37-08-HF-500, 30-37-16-00-1, 30-37-09-00-500, 30-37-17-HF-1  
Location: West of Babcock St. and south of Willowbrook St. North and east of Deer Run  
Acreage: 1,109.57 acres  
Planning & Zoning Board: 8/12/2024  
Board of County Commissioners: 9/5/2024

#### Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal will not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
<b>Zoning</b>	GU, AU	PUD
<b>Potential*</b>	432 single-family	3,246 single-family, 0.33 FAR
<b>Can be Considered under the Future Land Use Map</b>	YES RES 1:2.5	YES** RES 4

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

\*\*Companion request 23LS00001 which proposes to amend the Future Land Use designation from Residential 1:2.5 (RES 1:2.5) to Residential 4 (RES 4) is pending approval.

#### Background and Purpose of Request

The applicant is requesting a change of zoning classification from General Use (GU) and Agricultural Residential to Planned Unit Development (PUD) on an undeveloped 1,109.57

acre parcel. The applicant has proposed a project consisting of 3,246 single family units with an overall gross density of 3 dwelling units per acre and 398,000 square feet of commercial development. The subject parcel is currently undeveloped and has access to Babcock St. and is approximately a quarter mile south of St. Johns Heritage Pkwy SE interchange. At this time, there are no active code enforcement cases associated with the subject parcel.

The PUD zoning classification permits flexibility in development standards given that the proposed development is in the best interest of the county, public health, safety and welfare. The applicant has indicated the proposed development meets the intent of this by providing for dedications related to land for a future fire station and land for the expansion of the Babcock Street corridor. The dedication of land for the expansion of Babcock will ultimately serve citizens of the County in the surrounding subdivisions. Continuity and consistency of the master plan community will also provide for a sustainable development that offers a range of housing options, which improves housing access for County citizens. The PUD also proposes approximately 26 acres of supporting commercial. Moreover, the project will preserve over 93 acres of wetlands, while also featuring over 250 more acres of open space and recreation.

Under action **Z-7896** approved a Conditional Use Permit for a Commercial Borrow Pit encompassing approximately 150 acres in the GU zoning classification with a binding site plan (BSP) on September 28, 1987. This is the only active CUP on the property. FLUM designation remained RES 1:2.5. Another portion containing 21.70 acres, under action **Z-9314**, approved a change of zoning classification from GU & AU (also having a Conditional Use Permit (CUP) for Solid Waste Disposal) to all AU and a CUP for a Security Trailer on June 27, 1994. Previous action included action **Z-9182** approved GU to AU with a CUP for Solid Waste Disposal Facility; approved for 5 years on 11.248 acres in July 1993. Under **Z-7464** was denied for CUP for a Commercial Borrow Pit in May 1986. FLUM designation remained RES 1:2.5.

A companion Future Land Use Map (FLUM) amendment application (**23LS00001**) was submitted accompanying this request to change the Future Land Use designation from Residential 1:2.5 (RES 1:2.5) to encompass 1,082.24 acres of Residential 4 (RES 4) and 27.33 acres of Community Commercial.

The subject parcel's GU and AU zoning classification (requires lot sizes of 5 and 2.5 acres respectively) is consistent with the RES 1:2.5 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The current density limits the development to 432 residential units.

The requested RES 4 FLU designation permits low density residential development with a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the FLU element. The RES 4 portion of the parcel would allow up to 4,328 residential units with the PUD zoning. As otherwise stated in RES 4 Criteria D of the future land use element with the PUD zoning up to a 25% density bonus to permit up to five (5) units per acre or 5,411 residential units may be considered where deemed compatible by

the County with adjacent development and provided the minimum infrastructure requirements set forth in Policy 1.2 are available. At this time, public facilities and services requirements are not available, therefore a density bonus should not be considered at this time.

A Floor Area Ratio (FAR) of up to 1.00 will be permitted for the Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75. The Preliminary Development Plan (PDP) indicates a FAR of 0.33 for the proposed commercial development.

After the initial approval of the PUD, should a request to make any substantial changes as defined as any change which increases the density or intensity of the project or decreases the amount of buffer areas from adjacent property or decreases the amount of common open space, the owner or applicant shall be requested to return to the board of county commissioners. The zoning official shall have the authority to approve minor changes not determined by the director to be substantial as defined in this subsection.

### **Surrounding Area Zoning classifications and Land Use designations**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant South of Willowbrook St. (owned by Willowbrook Farms)	GU, AU	RES 1:2.5
<b>South</b>	Single-family residential	AU	RES 1:2.5
<b>East</b>	Vacant State-owned Land, Borrow Pit	GU, RRMH-1, AU, BU-1	RES 1, NC, CC, PUB-CONS
<b>West</b>	Single-family subdivision	AU	RES 1:2.5

To the north of the subject property on the southside of Willowbrook St. is a two-mile long, linear strip of property owned by Willowbrook Farms. It varies in width from approximately 40 feet to 140 feet which prevents roadway access from the subject property to Willowbrook St. There is also a canal to the north of this strip. The FLUM designation of this strip is Residential 1:2.5 (RES 1:2.5) with AU and GU zoning.

Per **Resolution 2021-168**, the Rolling Meadows Ranch development was approved at 2 units per acre.

To the south and west is the Deer Run single-family subdivision is a large lot development with single-family, site-built homes with AU zoning and a RES 1:2.5 FLUM designation developed with 433 lots.

To the east across Babcock St., there is vacant State-owned property with a FLUM designation of PUB-CONS and GU zoning. There is also a privately-owned, borrow pit with FLUM designations of RES 1, NC and CC with RRMH-1, AU, and BU-1 zoning. Zoning **Resolution 3529**, approved BU-1 zoning. Zoning resolution **15PZ00016**

approved a small-scale Comprehensive Plan amendment and a conditional use permit for land alteration limiting use of the property to a borrow pit. There is a mixture of residential zoning classifications in the surrounding area and the following provides a brief description:

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

### **Planned Unit Development**

The Planned Unit Development (PUD), as provided in Sec. 62-1442, is a concept which encourages and permits variation in development by allowing deviation in development standards such as, but not limited to, lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one residential zoning classification under this article. The purpose of a planned unit development 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. It is recognized that only through ingenuity, imagination and flexibility can residential developments be produced which are in keeping with the intent of this subdivision while departing from the strict application of conventional use and dimension requirements of other zoning districts or other land development regulations in articles II, VI, VII, VIII, IX, or XIII of chapter 62 of the Brevard County Code.

In order to accomplish the objectives of this section, the applicant of a PUD may propose, and the county may consider, alternative development standards to any land development regulation in articles VI or VII of chapter 62 of the Brevard County Code.

The applicant shall justify the proposed alternative development standard(s) by describing how it promotes a development form facilitating the goals and objectives of article VI of this chapter and does not violate the purpose of this chapter for the protection of the public health, safety and welfare in the subdivision of land.

### **Applicant's response:**

#### **Alternative development standards have been requested.**

The PDP is a mechanism to request such waivers. The applicant shall specifically include the alternative development standard(s) in the preliminary development plan, and shall present its justification to the planning and zoning board and board of county commissioners in public hearing.

Substantial (major) changes to the PDP require Board approval. As provided in sec. 62-1448(c): If, after the initial approval of the PUD preliminary development plan, should the owner or applicant or his successors desire to make any changes to the preliminary development plan, such changes shall first be submitted to the county. If the zoning official deems there is a substantial change or deviation from that which is shown on the preliminary development plan, the owner or applicant shall be requested to return to the Board of County Commissioners where it is determined that the public interest warrants such procedure. For purposes of this subsection, a substantial change shall be defined as any change which increases the density or intensity of the project or decreases the amount of buffer areas from adjacent property or decreases the amount of common open space. The zoning official shall have the authority to approve minor changes not determined by the director to be substantial as defined in this subsection.

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.

The Preliminary Development Plan (PDP) is a mechanism to request such waivers. The 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.

The proposed waivers and justification for each waiver is described in the following applicant response and on Sheet C3.00 of the Preliminary Development Plan.

#### **Requested waivers.**

**The preliminary development plan proposes # (6) waivers:**

**1. A waiver from LDR Section 62-1446. (d). (1) to permit lots smaller than 5,000 square feet and less than 50 feet in width.**

#### **Applicant response:**

The Preliminary Development Plan depicts 40' wide lots, with a minimum lot area of 4,400 sq. ft. The Preliminary Development Plan exceeds the required common recreation and open space. While a buffer is not required along the northern, western, and southern

property lines, the Preliminary Development Plan provides an average 15' perimeter lot buffer around the residential area, with the exception of areas where residential lots abut the western and southern PUD perimeter, where a 50' lot buffer will be provided. The smaller lot sizes allow the Preliminary Development Plan to exceed the common recreation and open space and buffer standards. In addition, the minimum floor area required in the PUD zoning is 900 sq. ft. for single-family detached units. The Preliminary Development Plan provides a minimum floor area of 1,100 sq. ft. for single-family detached units.

**Staff response:**

*The minimum lot size requirement may be waived by the Board of County Commissioners if the proposed lot or lots all have substantial relationship to the common open space.*

*Waiver shall be limited to those lots which have substantial relationship to the common open space reflected in the final development plan. Response to staff comments indicate the 40' wide lots will be placed in a centralized location within the property in close proximity of the active recreation lake, recreational amenities, amenity centers, and walking trails. Furthermore, the smaller lot size allow for the preservation of wetlands and increased provisioning of common open space.*

**2. A waiver to be exempt from LDR Section 62-1446. (g), requiring the designation of an outdoor parking area for campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles.**

**Applicant response:**

The Preliminary Development Plan is exceeding the requirements for common recreation and open space standards. Allocating space for the parking of campers, travel trailers, recreation vehicles, boats and boat trailers will decrease the provided amount of open space and recreation. In addition, outdoor parking of such vehicles and trailers is aesthetically unappealing.

**Staff response:**

*The PDP is exceeding the requirements for common recreation and open space and therefore would have the ability to allocate space for the parking of campers, travel trailers, recreation vehicles, boats and boat trailers with minimal impact. An opaque fence would be required which may aid in obscuring the outdoor storage area. The public rights-of-ways cannot be used for boat, rv, etc. storage. Parking recreational vehicles, boats, etc. in the rights-of-way also poses an issue with emergency access.*

*The designation of an outdoor parking area dependent on all lots having a 20-foot-long parking space providing for vehicles in the driveway that is completely outside of the right-of-way.*

**3. A waiver is requested from LDR Section 62-1446 (d) (3) (b) to allow residential structures, two stories or less, a minimum building separation of 10', rather than**

**15', provided that proposed structures do not abut utility easements or otherwise affect the ability to provide and maintain utility service to each lot.**

**Applicant response:**

LDR Section 62-1446 (d) (3) (a) requires single-family lots, with less than 75' lot widths, to have a minimum 5' side setback. Where two lots, without side street setbacks, abut each other, the minimum required distance between the two lots will be 10'. In addition, the required minimum building separation of 10' for structures two stories or less is consistent with the RPUD Zoning District.

**Staff response:**

*Aspects of this PUD zoning request is consistent with RPUD zoning classification, specifically the clustering of significant areas of usable open spaces for recreation and preservation of natural amenities such as the protect of wetland habitats. As well as creation of housing types that gives the home buyer or residents greater choice in selecting types living units. And the integration of continuous and physically linked sidewalks to provide safe alternative modes of transportation internal to the site.*

**4. A waiver from LDR Section 62-2957 (c) (1) to permit 7 entrances rather than 14. Divided roadways provide and qualify as 2 entrances.**

**Applicant response:**

The north-adjacent parcels, between the subject property and Willowbrook Street, are under separate ownership. The west and south-adjacent land use is, predominately, a canal. The internal subdivision streets provide interconnectivity between phases.

**Staff response:**

*For 350 dwelling units and up, two entrances plus one per 200 additional dwelling units are required. The applicant indicates two spine roads that will stem throughout the central portion of the property from Babcock westward provide for local road access for future subdivisions of this property. The PUD itself is not a subdivision. Each subdivision within this development will either have direct access to one of these two spine roads (which will be Public ROWs) or to Babcock Street. There are 17 full ingresses/egresses to the spine roads from the different phases of the development, providing connectivity throughout the project. Additionally, there are two four-lane segments connecting to Babcock with full access, and another two right-in, right-outs onto Babcock Street.*

**5. A waiver from LDR Section 62-1102, Open Space, usable common (5) to include the lake acreage, Tract L-1, as active recreation.**

**Applicant response:**

The PDP indicates a dock be provided on the southern boundary of Tract Lake L-1, which is accessible via active recreation tract AR-3. The lake will also be accessible to residents to use non-motorized watercraft, providing various opportunities for active recreation.

**Staff response:**

*Adequate* measures shall be provided which guarantee in perpetuity a level of water quality acceptable for recreational purposes.

**6. A waiver from LDR Section 62-1446 (d) (3) (a) to reduce the minimum required rear yard setback from 20' to 15'.**

**Applicant response:**

The minimum floor area, per unit, for this PUD is 1,100 sq. ft., exceeding the code requirement of 900 sq. ft. Reduced setbacks permit larger housing products.

**Staff response:**

The PDP indicates a buildable area of 2,250 square feet. The applicant has not indicated which lot sizes the reduced rear yard setback will be applicable to.

*The* Waiver shall be limited to those lots which have substantial relationship to the common open space reflected in the final development plan.

**Land Use**

The proposed PUD zoning classification can be considered consistent with the existing Residential 1:2.5 (RES 1:2.5) FLU designations, as well as the proposed Residential 4 (RES 4) FLU designations.

**Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Future Land Use Element.

**Policy 1.2**

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

**Criteria:**

- A. Adequate roadways, solid waste disposal, drainage and recreation facilities to serve the needs of associated development shall be available concurrent with development in all residential land use designations.



The adopted Level of Service (LOS) volume threshold on Babcock Street along the site's frontage is 14,200 vpd (vehicles per day). The existing 2024 Annual Average Daily Traffic (AADT) is 5,494 vpd. The project proposes to add a maximum volume of 18,490 vpd to this roadway segment. This will result in a volume-to-capacity (v/c) ratio of 1.30. The existing v/c ratio is 0.39. Sec. 62- 602 (e) outlines remedies for a deficiency caused by a development permit proposal.

Additionally, in the case of a concurrency evaluation finding of non-deficiency, per Sec. 62-602(f)(6)(b), "...a site plan or subdivision shall be allotted no more than 25 percent of the remaining capacity of a facility."

The maximum capacity allotment along this segment is 2,177 vpd, and this project proposes adding 16,313 vpd over the allotment. Options for a project or phase requiring services or facility capacity in excess of the maximum capacity allotment are outlined in Sec. 62-602(f)(6)(c).

The applicant provided a revised TIA methodology on August 2, 2024. Staff is in the process of reviewing and additional staff comments may be forthcoming. As of this date, the TIA methodology has not been approved by County staff.

The applicant has acknowledged offsite improvements will be required. The nature of the offsite improvements will be addressed through a forthcoming agreement. The specific improvements are not depicted on this Preliminary Development Plan (PDP). The applicant also notes per the City of Palm Bay, the four-laning of Babcock Street anticipates a 180' right-of-way. Therefore, a right-of-way dedication that is a 90-foot offset from the centerline of Babcock Street is provided. The width of the Babcock Street right-of-way varies; therefore, the width of the dedication varies from 40-feet at the southern end of the property and tapers to a width of 0-feet as it approached the northern end of the property.

The PDP depicts two spine roads that stem throughout the central portion of the property from Babcock westward provide for local road access for future subdivisions of this property. The PUD itself is not a subdivision. Each subdivision within this development will either have direct access to one of these two spine roads (which will be Public ROWs) or to Babcock Street. There are 17 full ingresses/egresses to the spine roads from the different phases of the development, providing connectivity throughout the project. Additionally, there are two four-lane segments connecting to Babcock with full access, and another two right-in, right-outs onto Babcock Street.

The St. Johns Heritage Parkway Intersection and Babcock Street Interlocal Agreement between the County and the City of Palm Bay agrees that the County will set aside fifty percent (50%) of the transportation impact fees received for any new development in the south Mainland Benefit District located south of Grant Road and west of the Florida East Coast Railway to be utilized for the Babcock Street future 4-lane widening project.

**The City and the County also agreed that coordination regarding future development, as further described in the Interlocal Agreement (ILA) recorded in OR Book 8730, Page 998. It also provides a mechanism for the City to take ownership of Babcock St.**

**The applicant has submitted a letter from the City of Palm Bay stating it is the intent of the City to serve the subject property in the future provided necessary wastewater facility improvement, potable water extension and ground storage tanks are completed. At this time, there is not sufficient capacity through City of Palm Bay to serve the subject property.**

**Grading and drainage improvements will be designed and depicted on the final construction plans and shall demonstrate that the proposed development will not negatively affect adjacent properties. PDP depicts a stormwater outfalls to the Babcock Street roadside swale.**

**Adequate recreation facilities are proposed to serve the needs of the associated development. Development is proposed to be complete in 11 phases.**

- B. Fire and police protection and emergency medical services to serve the needs of associated development shall be available concurrent with development in all residential land use designations in accordance with policies set forth in the 'Service Delivery, Concurrency and Growth' section of this Future Land Use Element.**

**A fire department level of service analysis has been conducted. The response times, distances, and water for firefighting do not meet the standards set out in CIE Policy 1.3. Brevard County Fire Rescue (BCFR) has not budgeted for a new fire station, or the fire apparatus needed to support the increased demand for service expected of the proposed development.**

**The PDP depicts a 2-acre parcel, located in Phase 1, is proposed to be dedicated to Brevard County. Continued discussions regarding the development's timeline in relation to BCFR's requirements are necessary to ensure timely project completion and its opening at the desired time.**

**Two approved access points shall be provided for each cluster of 350 dwelling units, single family lots shall not have individual direct access to a spine read, and the projects internal roadway network shall satisfy Florida Fire Prevention Code including but not limited to 1:18.2, 1:18.45 and 1:18.5.**

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.**

**Centralized potable water and sanitary sewer are not currently available to the subject property. The applicant has represented that the City of Palm Bay will**

**provide these services in the future provided necessary wastewater facility improvement, potable water extension and ground storage tanks are completed. At this time, there is not sufficient capacity.**

**Sanitary Sewer Element Policy 3.17, Criteria 4B states, “Under no circumstances shall the development of a private treatment plant be used to increase the density of an area beyond the density permitted by the Future Land Use element or any other portion of the Comprehensive Plan”.**

- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

**Public water service is not currently available, and the applicant is requesting a density 3 units per acre. The applicant has represented that the City of Palm Bay will provide these services in the future provided necessary wastewater facility improvement, potable water extension and ground storage tanks are completed.**

- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.

**Centralized potable water and sanitary sewer are not currently available to the subject property. If public water service is not available in the future, then Pursuit to Florida Statute 373.469(3)(d) would be applicable.**

**Florida Statute 373.469(3)(d). Beginning on January 1, 2024, unless previously permitted, the installation of new onsite sewage treatment and disposal systems is prohibited within the Banana River Lagoon Basin Management Action Plan, Central Indian River Lagoon Basin Management Action Plan, North Indian River Lagoon Basin Management Action Plan, and Mosquito Lagoon Reasonable Assurance Plan areas where a publicly owned or investor-owned sewerage system is available as defined in F.S. 381.0065(2)(a). Where central sewerage is not available, only enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction are authorized. The subject property is located within the Central Indian River Lagoon Basin Management Action Plan.**

- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

**Not applicable. Brevard Counties utilities and services are not available in this area.**

### **Analysis of Administrative Policy #3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

**Traffic from the proposed development will have significant impacts on the surrounding area. Capacity of Babcock St. will be exceeded and no planned capacity expansion is anticipated. Based on the existing roadway capacities and vehicle trips that the proposed land use and intensities will generate, the level of service (LOS) will be compromised and anticipated to fall below the Acceptable LOS Standards defined in the Capital Improvement Element Policy 1.1.**

**The adopted LOS volume threshold on Babcock Street along the site's frontage is 14,200 vpd (vehicles per day). The existing 2024 Annual Average Daily Traffic (AADT) is 5,494 vpd. The project proposes to add a maximum volume of 18,490 vpd to this roadway segment. This will result in a volume-to-capacity (v/c) ratio of 1.30. The existing v/c ratio is 0.39. Additionally, in the case of a concurrency evaluation finding of non-deficiency, per Sec. 62-602(f)(6)(b), "...a site plan or subdivision shall be allotted no more than 25 percent of the remaining capacity of a facility." The maximum capacity allotment along this segment is 2,177 vpd, and this project proposes adding 16,313 vpd over the allotment.**

**The applicant provided a revised TIA methodology on August 2, 2024. Staff is in the process of reviewing and additional staff comments may be forthcoming. As of this date, the TIA methodology has not been approved by County staff.**

**The applicant has acknowledged offsite improvements will be required. The nature of the offsite improvements will be addressed through a forthcoming agreement. Specific turn lanes are not depicted on this Preliminary Development Plan (PDP). The applicant also notes per the City of Palm Bay, the four-laning of Babcock Street anticipates a 180' right-of-way. Therefore, a right-of-way dedication that is a 90-foot offset from the centerline of Babcock Street is provided. The width of the Babcock Street right-of-way varies; therefore, the width of the dedication varies from 40-feet at the southern end of the property and tapers to a width of 0-feet as it approached the northern end of the property.**

The PDP depicts two spine roads that stem throughout the central portion of the property from Babcock westward provide for local road access for future subdivisions of this property. The PUD itself is not a subdivision. Each subdivision within this development will either have direct access to one of these two spine roads (which will be Public ROWs) or to Babcock Street. There are 17 full ingresses/egresses to the spine roads from the different phases of the development, providing connectivity throughout the project. Additionally, there are two four-lane segments connecting to Babcock with full access, and another two right-in, right-outs onto Babcock Street.

Specific concurrency issues will be addressed during a coordinated review with the City of Palm Bay.

Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.**

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

There are seven (7) FLU designations within 500 feet of the subject site: RES 1, RES 2, RES 1:2.5, AGRIC, NC, CC, and PUB-CONS. Please note, this analysis only includes unincorporated areas of Brevard County. The character of this area is mostly undeveloped with some residential development on large lots 2.5 acres or greater.

North of Willowbrook St. are smaller vacant lots platted in 1967 as Plot Plans of Sunshine Grove in Plat Book 21 and Page 78 and Plot Plans of Cape Kennedy Groves in Plat Book 21 and Page 77, agricultural plats restricted to agricultural use only, noting all lots depicted are sub-standard for residential purposes. Developed residential lots range from 2.67 acres to 41.39 acres (7 homesteads). Active agricultural pursuits in this area includes a plant nursery (5.59 acres), honeybee farm (23.81 acres) and a horse ranch (7.61 acres). The applicant has also proposed RES 4 and PUD zoning on 41.39 acres of vacant land to develop 124 single-family units on a minimum of 4,400 square feet lots.

To the northeast is undeveloped Rolling Meadows Lakes, 1,376.23 acres, with a FLUM designation of RES 2 and PUD zoning with entitlements for the development of 1,815 single family lots and 248 townhomes (proposed

density of 1.5 units per acre), and a total of 50.7 acres of commercial/institutional development under PUD Case 16-2014 (City of Palm Bay). Willowbrook Farms, 1,402.99 acres, has a FLUM designation of RES 2 with entitlement to develop 2,805 single family residential units approved under CP-1-2005 (City of Palm Bay) and GU zoning. Both de-annexed from the City of Palm Bay on May 10, 2019.

To the west and south is Deer Run Subdivision, encompassing 1,602 acres, is the only established residential development in the vicinity of the subject property. The subdivision has a FLUM designation of RES 1:2.5 and AU zoning approval for 433 single family residential units. The average lot size is 2.9 acres.

2. actual development over the immediately preceding three years; and

**Within Brevard County jurisdiction to the south of the subject property, there has been 12 single-family homes constructed in the Deer Run subdivision within the preceding three (3) years.**

**There has been no approved zoning action within 0.5 miles of the subject property within the preceding three years.**

3. development approved within the past three years but not yet constructed.

**There has been any development approved but not yet constructed or land use amendments adjacent to the site in the preceding three (3) years.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**FLUE Administrative Policy #3 Compatibility with existing or proposed land uses; The Board shall make this determination.**

**FLUE Administrative Policy #4 regarding the character of the area; The Board shall make this determination.**

**FLUE Administrative Policy #5 regarding roadway infrastructure; The Board shall make this determination.**

**FLUE Administrative Policy #6 regarding the future land use elements of the comprehensive plan; The Board shall make this determination.**

**FLUE Policy 1.1, Criteria C regarding roadway, potable water, sanitary sewer, public school facilities and fire protection and emergency medical services infrastructure deficiencies; Shall be provided concurrent with development.**

**FLUE Policy 1.2 regarding public facilities and services requirements; Shall be provided concurrent with development.**

**FLUE Policy 1.7 regarding the RES 4 FLUM designation; The Board shall make this determination.**

**FLUE Policy 2.1, Criteria E, regarding availability of required infrastructure for commercial development; Shall be provided concurrent with development.**

**FLUE Policy 2.8, Criteria A, regarding locational criteria for CC land uses greater than 10 acres in size; The Board shall make this determination.**

**CIE Policy 1.3 Criteria D, regarding advisory level of service for fire/protection; Shall be provided concurrent with development.**

#### **FLUE Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**A potential residential density of four (4) units per acre and community commercial FAR of 1.75 will introduce traffic volumes that exceed the capacity of Babcock St. The concurrency management segment for the subject property is Babcock Street from the Grant Road to Micco Road, which has a Maximum Acceptable Volume (MAV) of 14,200 average daily trips, an Acceptable Level of Service (ALOS) of D, and currently operates at approximately 40% of daily capacity. At the currently adopted FLUM designation of RES 1:2.5, 3,978 average daily trips would be generated which would require approximately 45% of the remaining daily capacity of Babcock St.**

**Preliminary concurrency analysis indicates at the requested residential density of RES 4 on 1,082.24 acres and CC on 27.33 acres, 44,247 annual average daily trips would be generated which would significantly exceed available capacity on Babcock St.**

The applicant has acknowledged offsite improvements will be required. The nature of the offsite improvements will be addressed through a forthcoming agreement. The applicant also notes per the City of Palm Bay, the four-laneing of Babcock Street anticipates a 180' right-of-way. Therefore, a right-of-way dedication that is a 90-foot offset from the centerline of Babcock Street is provided. The width of the Babcock Street right-of-way varies; therefore, the width of the dedication varies from 40-feet at the southern end of the property and tapers to a width of 0-feet as it approached the northern end of the property.

The PDP depicts two spine roads that stem throughout the central portion of the property from Babcock westward provide for local road access for future subdivisions of this property. The PUD itself is not a subdivision. Each subdivision within this development will either have direct access to one of these two spine roads (which will be Public ROWs) or to Babcock Street. There are 17 full ingresses/egresses to the spine roads from the different phases of the development, providing connectivity throughout the project. Additionally, there are two four-lane segments connecting to Babcock with full access, and another two right-in, right-outs onto Babcock Street.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

**The Deer Run subdivision is the only established residential neighborhood to the south. Platted in 1980, with a FLUM of RES 1:2.5 and AU zoning. This subdivision was approved for 433 single-family lots on 1,602 acres.**

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

**There is an existing borrow pit at the northeast corner of Babcock St. and Micco Rd. The applicant is requesting removal of the CUP for a commercial borrow pit with this action. The property encompasses 74.86 acres and has RES 1, NC and CC FLUM designations and RRMH-1, AU and BU-1 zoning. A small-scale Comprehensive Plan amendment and conditional use permit limiting the use to a borrow pit were approved by Zoning Resolution 15PZ00016.**

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.



There has not been commercial, industrial, or other non-residential uses approved in this area during the previous five (5) years within the County's jurisdiction. Development activity has occurred within the City of Palm Bay approximately half-mile away to the north.

### **Analysis of Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any (a) substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

- **The submitted preliminary development plan indicates preservation of 95.34 acres of wetlands and 19.2 acres of wetland will be impacted for infrastructure and residential lots.**
- **Although the site is not mapped within a FEMA special flood hazard area, staff is aware of flooding in this region.**
- **Portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. However, the PDP provided by the applicant indicates that sanitary sewer service will be provided by Palm Bay Utilities.**

### **Preliminary Development Plan**

The Preliminary Development Plan should be evaluated in the context of **Section 62-1448 (b) (5)** of the Zoning code:

*Review criteria.* The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:

- a. Degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.

### **Applicant response:**

**The proposed planned unit development provides 3,241 single-family detached units at a density of 3.00 dwelling units per acre. This is compatible with the proposed Future Land Use designation, Residential 4 (maximum of 4 dwelling units per acre) The surrounding areas area is experiencing rapid growth, including the Waterstone and Cypress Bay developments to the north, in the City of Palm Bay. These Palm Bay developments contain the City Future Land Use Designation Low Density Residential (Maximum 5 dwelling units per acre) and High Density Residential (Maximum 20 dwelling units per acre). In addition, the City of Palm**

Bay's Commercial Future Land Use is within the vicinity. The proposed Preliminary Development Plan, containing 3.00 dwelling units per acre, serves as a rational transition from the higher densities to the north.

**Staff response:**

*The developed character of the surrounding area is single-family residential, agricultural lands (active and vacant), horse ranch and one (1) partially developed single-family residential subdivision with PUD zoning. Built-out densities of adjoining residential developments range from approximately 0.02 units per acre to 0.09 units per acre.*

**Surrounding Area Existing and Approved Development**

<b>Development</b>	<b>Acreage</b>	<b>Density (units built)</b>	<b>Lot sizes</b>
0.5 miles West	147	9 units – 0.06 units/ac	30.21 to 2.67 ac
0.5 miles East	123	3 units – 0.02 units/ac	7.61 to 6.52 ac
Adjacent North	41.39	1 unit – 0.02 units/ac	41.39 ac
0.25 miles South	76.1	2 units – 0.02 units/ac	14.86 to 3.61 ac
Deer Run Subdivision South 430 SFR approved	1,602	149 units – 0.09 units/ac	5 +/- to 2.5 ac
***Rolling Meadows Ranch 1815 SFR, 248 TH, commercial vested	1,376.23	2 units/ac	
<b>**Grand Total</b>	<b>3,365.72</b>	<b>*164 – 0.05 units/ac</b>	

**\*164 units build out of 2,508 units approved**

**\*\* Full build out density is 0.76 units per acre**

**\*\*\* Development is vested for 2 units per acre**

- b. Compatibility within the planned unit development and relationship with surrounding neighborhoods.

**Applicant response:**

The proposed planned unit development, containing detached single-family units and supporting commercial is compatible with the proposed Future Land Use designations, Residential 4 and Community Commercial, and with the surrounding area. The general surrounding area is composed of significantly varying densities and intensities, with those in the County substantially less dense and intense than those in the city. For instance, the south-adjacent subdivision, Deer Run (County), contains the Res 1:2.5 future land use designation. To the north, in the City of Palm Bay, is the Waterstone and Cypress Bay developments. These developments contain the City Future Land Use Designations Low Density Residential (Maximum 4 dwelling units per acre) and High Density Residential (Maximum 20 dwelling units per acre). As such, this property serves as the transition between the incorporated portions of the City to the north and to the south, which is in direct alignment with the proposed Residential 4 Future Land Use designation, as it serves as a rational transition from the higher densities to the north and the lower densities to the

south. Therefore, the proposed development is an ideal location to utilize Residential 4 to logically transition and buffer in between more densely developed and incorporated developments.

Moreover, density is to be capped at 3 dwelling units per acre to more appropriately provide a transitional development in an area where city jurisdictions are present to the north and south, while lower density county land is to the east, necessitating such transition in the area. In addition to the compatibility of the Residential 4 Future Land Use, the Community Commercial Future Land Use request is also consistent and compatible with the general area, as commercial Future Land Use designations and land uses, within both the City of Palm Bay and Brevard County, are found within the surrounding area, as depicted on the approximately 2-mile buffer map provided below. Moreover, the arterial classification of Babcock Street, along with the future developments of the St. Johns Heritage Parkway, and the new interchange off of I-95 (St. Johns Heritage Parkway) has transformed the transportation network and connectivity of the region, which may stimulate economic development in the area. The proposed Community Commercial Future Land Use designation is compatible with the surrounding area and is intended to support existing and proposed developments within the region. Furthermore, while transportation infrastructure is present and increasing in capacity for the area, the increasing density of the region, as shown in the 2-mile buffer map, will require accessibility to goods and services. Therefore, the Community Commercial Future Land Use designation will provide direct commercial access for surrounding residential developments, while minimizing potential trip duration.

**Staff response:**

<b><i>TYPE</i></b>	<b><i>EXISTING Lots</i></b>	<b><i>PROPOSED Lots</i></b>
<i>Single-family</i>	<i>2.5 – 41.39 ac</i>	<i>0.12 ac</i>

***The proposed single-family lot sizes are significantly smaller than the existing lot sizes in the surrounding area under Brevard County jurisdiction within one half mile of the subject property. However, the applicant has indicated no 40' wide lots no 40' wide lot will be placed along the perimeter of the property.***

c. Prevention of erosion and degrading of surrounding area.

**Applicant response:**

The proposed development will prevent further erosion and degrading of surrounding area by: controlling stormwater runoff; incorporating the strategic planning of open space and buffers to allow wetland preservation; and by adhering to the Subdivision Regulations and other applicable sections of the Land Development Codes. The final development plan will provide details for grading and drainage and any required permits for grading and clearing will be obtained from the County.

**Staff response:**

*The PDP indicates the surface water management system for the project will consist of 18 wet detention ponds totaling 120.5 acres. PDP depicts a stormwater outfalls to the Babcock Street roadside swale. Indicated wetland preservation is 95.34 acres and impacting 19.2 acres of wetlands. The primary drainage canal for the proposed subdivision, the Sottile canal on the north, may not have sufficient capacity to allow increased flow rates and volumes of discharge without adverse impacts. When the designs for the stormwater treatment system and grading are submitted, they will be reviewed to confirm no adverse impacts from the effects of grading and discharges on neighboring properties as well as upstream and downstream properties.*

- d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

**Applicant response:**

**Approximately 140.08 acres are dedicated for active recreation, exceeding the 48.69-acre requirement. The proposed development has a series of interconnected parks, open space and recreational facilities, a lake, multi-use trails, and sidewalks. Stormwater management facilities are consistent with Brevard County Stormwater Ordinance and SJRWMD requirements. Impact fees are collected before a certificate of occupancy is issued which support the costs of transportation, education, correctional facilities, water, sewer, library, EMS and Fire Rescue**

**Staff response:**

*A non-binding, school capacity determination letter, dated March 25, 2024, was prepared by the School Board staff indicating that with 3,246 residential dwelling units, the project would generate 779 elementary school students, 227 middle school students and 390 high school students. The analysis also found the Sunrise Elementary, Southwest Middle School and Bayside Senior High School would not have enough capacity for projected and potential students. The school capacity determination letter notes that there is sufficient capacity for middle and high school students in the adjacent school concurrency area, but that there is an anticipated shortage of capacity for elementary school students.*

*The applicant has not indicated provisions for future public education and recreation facilities within the development, however, impact fees for a single-family detached dwelling unit is \$5,096.50. Based on 3,246 with an average of 2.33 persons per unit, 22.69 acres of public recreational facilities will be needed to support this development.*

*The County may seek provisions for expansion to Babcock through a proportionate share agreement with the developer. Transportation impact fees contributes \$4,353.00 per single-family detached dwelling unit.*

*Water supply and sewage disposal: The applicant has submitted a letter from the City of Palm Bay stating it is the intent of the City to serve the subject property in the future provided necessary wastewater facility improvement, potable water extension are completed. At this time, there is not sufficient capacity through City of Palm Bay to serve the subject property.*

Minimal surface drainage, flood control and soil conservation design are shown on the PDP. The PDP depicts a stormwater outfalls to the Babcock Street roadside swale. The Sottile canal on the north, may not have sufficient capacity to allow increased flow rates and volumes of discharge without adverse impacts. When the designs for the stormwater treatment system and grading are submitted, they will be reviewed to confirm no adverse impacts from the effects of grading and discharges on neighboring properties as well as upstream and downstream properties.

- e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.

**Applicant response:**

**The Preliminary Development Plan provides approximately 344.07 acres of Common Recreation and Open Space, exceeding the 108.22 acre requirement. As described previously, approximately 140.07 acres are dedicated for active recreation, exceeding the 48.69 acre requirement. The Recreational facilities will be private, for the use of community residents, and owned and maintained by a Homeowners' Association.**

**Staff response:**

*Staff analysis indicates the proposed common open space could be considered compatible. The proposed method for the maintenance and conservation of the common open space is indicated as Homeowners Association (H.O.A.).*

- f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

**Applicant response:**

**Each phase of the PUD will stand on its own and be consistent with open space and other subdivision regulations per LDR section 62-1446 (b) (2).**

**Staff response:**

*The applicant has indicated phasing of the project on the PDP, however, the applicant has expressed the phasing will be driven by market conditions. Sec. 62-1449(b)(2) requires the final development plan shall contain the proposed development schedule for construction as defined in Sec. 62-1441. The development schedule also assure the*

required open space is developed at a rate commensurate with the residential uses it supports, and that non-residential uses, where intended to serve residential uses within the project, are developed at a rate no faster than supporting residential uses. *Phasing can be amended if the phases are recorded separately, however, this will require an engineering review and minor amendment to the PDP.*

- g. The availability and adequacy of water and sewer service to support the proposed planned unit development.

**Applicant response:**

**We have received service availability letters from the City of Palm Bay. Water and sewer utilities are proposed to be extended southward, along Babcock Street to the subject property. Utility details will be provided on the Final Development Plan**

**Staff response:**

*City of Palm Bay Will Serve letter states "The City of Palm Bay utilities can provide adequate wastewater capacity and potable water capacity and fire flows for the subject site provided the following improvements are completed, whether by the developer, palm Bay Utilities, or other parties". The improvements include WWTF improvements (currently under construction and anticipated to be completed mid-2025 by Palm Bay Utilities), forcemain extensions, potable water extension and appropriately size ground storage tank.*

*Pursuant to Policy 1.2 of Future Land Use Element states Public Facilities and Services shall be available concurrent with development in all residential land use designations*

- h. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

**Applicant response:**

**A Traffic Impact Study has been submitted along with this application and demonstrates that there is adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development**

*Staff response:*

*The PDP proposes a loop-oriented street throughout the subdivision to support the traffic generated by the development. The PDP depicts two spine roads that stem throughout the central portion of the property from Babcock westward provide for local road access for future subdivisions of this property. The internal spine network must ensure the individual subdivision meet access management and fire code access. The PUD itself is not a subdivision. Each subdivision within this development will either have direct access to one of these two spine roads (which will be Public ROWs) or to Babcock Street. There are 17 full ingresses/egresses to the spine roads from the*

different phases of the development, providing connectivity throughout the project. Additionally, there are two four-lane segments connecting to Babcock with full access, and another two right-in, right-outs onto Babcock Street.

- i. The benefits within the proposed development and to the general public to justify the requested departure from the standard land use requirements inherent in a planned unit development classification.

**Applicant response:**

**Waiver #5 requests to include the lake as part of the active recreation and would provide a unique recreational amenity for the community. In addition, the community will benefit by the preservation of nearly 100 acres of wetlands. The Preliminary Development plan requests 40' wide lots to provide a greater variety of single-family detached housing products. The smaller lot sizes assist the Preliminary Development Plan to exceed the recreation and open space requirements. Furthermore, the Preliminary Development Plan proposes to waive any potential requirement to provide an outdoor storage area for campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles, as described in LDR Section 62-1446 (g). With the intent of providing a scenic community, which exceeds the recreation and open space requirements, this waiver is requested to avoid placing an aesthetically unappealing outdoor storage area in the community.**

**Staff response:**

*Sec. 62-1446 (g) Parking requirements. Where the planned unit development consists of single-family detached dwellings on platted lots of less than 6,600 square feet, the developer may be required to provide an approved designated common area for the parking of campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles. The Board may consider the necessity for the development to provide space for the storage of recreational vehicles.*

The PDP is exceeding the requirements for common recreation and open space and therefore would have the ability to allocate space for the parking of campers, travel trailers, recreation vehicles, boats and boat trailers with minimal impact. An opaque fence would be required which may aid in obscuring the outdoor storage area. The public rights-of-ways cannot be used for boat, rv, etc. storage. Parking recreational vehicles, boats, etc. in the rights-of-way also poses an issue with emergency access.

The applicant has indicated each lot will have a 20' driveway capable of parking recreational vehicles. The Board may consider the following condition: approval to exempt from LDR Section 62-1446. (g), requiring the designation of an outdoor parking area.

The commercial component is a benefit within the proposed development and to the general public to considering justifying the requested departure from the standard land use requirements. The applicant indicated wider sidewalks on the main road to

accommodate golf carts with interconnectivity to the commercial site. Commercial uses may include self-storage mini-warehouses, bars/cocktail lounges, restaurants, snack bars, eating establishments and a trailer and truck rental facility.

*With the exception of the 40 feet width lots, the remainder of the proposed design would be allowed in a RU-1-7 standard zoning classification. Nothing shown on the proposed PDP shows innovation than what is typically seen in a standard residential development.*

*A two-acre parcel will be set aside for Brevard County Fire Services. This will benefit the residents of Sun Terra Lakes, Deer Run subdivision and the surrounding area.*

- j. The conformity and compatibility of the planned unit development with any adopted development plan of the county.

**Applicant response:**

**The proposed PUD is compatible with and conforms to the goals, objectives and policies of the Comprehensive Plan, Chapter 3 Objective 1: Provide a system of parks and open space to meet the recreational needs of the public. 10% of the gross residential area is required to be open space; over 4x of open space is provided. There is an abundance of passive and active recreation throughout the development. Chapter 9, Objective 4 encourages multi-model transportation alternatives; the development has a commercial portion that allows residents to walk and ride their bicycles as well as a plethora of open space. Sidewalks are shown on typical ROW sections.**

*Staff response:*

*The applicant is requesting RES 4 surrounded by RES 1:2.5 FLU designations to the north, south, east and west. See description of surrounding on page 2 of this report under **Surrounding Area Zoning classifications and Land Use designations** section. The proposed single-family residential use conforms with the surrounding area. However, the lot sizes are comparable smaller than the existing lot sizes in the surrounding area under Brevard County jurisdiction within one half mile of the subject property.*

- k. The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses with the proposed planned unit development.

**Applicant response:**

**The Preliminary Development Plan exceeds both Common Recreation and Open Space requirement and the Active Recreation requirement. Common open space is integrated throughout the Planned Development providing a linked recreational and open space system. Sidewalks are depicted on typical ROW sections throughout the development. The proposed uses include: single-family detached**



**dwelling units, group homes (level 1); accessory structures; recreational amenities and accessory structures; and home occupations are conducive for the proposed residential development and the surrounding area.**

***Staff response:***

*The PDP illustrates conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses.*

**Preliminary Concurrency**

The concurrency management segment for the subject property is Babcock Street from the Grant Road to Micco Road, which has a Maximum Acceptable Volume (MAV) of 14,200 average daily trips, an Acceptable Level of Service (ALOS) of D, and currently operates at approximately 40% of daily capacity. At the currently adopted FLUM designation of RES 1:2.5, 3,978 average daily trips would be generated which would require approximately 45% of the remaining daily capacity of Babcock St.

At the requested PUD zoning with a residential density of RES 4 on 1,082.24 acres and CC on 27.33 acres, 44,247 annual average daily trips would be generated which would significantly exceed available capacity on Babcock St. There are no publicly funded infrastructure improvements anticipated that could create the additional roadway capacity needed for the proposed development.

Centralized potable water service is not available to this property. The applicant has represented that the City of Palm Bay will provide this service but the City has not yet confirmed its intention to do so. The lack of centralized potable water service also has an impact on the provision of adequate flow rates for fire protection.

A fire department level of service analysis has been conducted. The response times, distances, and water for firefighting do not meet the standards set out in CIE Policy 1.3. Brevard County Fire Rescue (BCFR) has not budgeted for a new fire station, or the fire apparatus needed to support the increased demand for service expected of the proposed development. Early discussions regarding the development's timeline in relation to BCFR's requirements are necessary to ensure timely project completion and its opening at the desired time.

A non-binding, school capacity determination letter, dated March 25, 2024, was prepared by the School Board staff indicating that with 3,246 residential dwelling units, the project would generate 779 elementary school students, 227 middle school students and 390 high school students. The analysis also found the Sunrise Elementary, Southwest Middle School and Bayside Senior High School would not have enough capacity for projected and potential students.

The school capacity determination letter notes that there is sufficient capacity for middle and high school students in the adjacent school concurrency area, but that there is an anticipated shortage of capacity for elementary school students.

## Environmental Constraints

### Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Protected and Specimen Trees
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Flood Prone Area
- Protected Species

A majority of the subject parcel contains mapped wetlands and the entire site contains mapped hydric soils; indicators that wetlands are likely present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

The applicant is not currently proposing any wetland impacts for the commercial development. However, please be advised that any wetland impacts for the commercial component of the project must meet the criteria of Section 62-3694(c)(3)b which has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Only the southernmost 700 feet of the eastern property boundary is located on an MQR (Babcock Street). Brevard County Board of County Commissioners (Board) approval is required to expand the MQR along Babcock Street. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Board may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Alternatively, the commercial component of the project must meet the criteria of Section 62-3694(c)(5) which addresses mixed-use land development activities. The applicant is encouraged to review the cited ordinances and contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Although the site is not mapped within a FEMA special flood hazard area, staff is aware of flooding in this region. Applicant shall demonstrate no adverse impacts to neighboring properties using best available data per Exhibit A to Division VI Section 1.1.

## For Board Consideration

The Board should consider if the request is consistent and compatible with the surrounding area. In addition, the applicant will provide a BDP containing the following waivers and conditions:

- 1) The proposed development shall be capped at 3 units per acre.
- 2) Approval of requested waiver from Sec. 62-1446(g). The storage of campers, travel trailers, recreational trailers and vehicles, boats and boat trailers, and other similar vehicles on the single-family lots as allowed by Brevard County code Sec. 62-2217 provided each lot will have a 20' driveway capable of parking recreational vehicles.
- 3) Approval of requested waiver from Sec. 62-1446(d)(1) to permit lots smaller than 5,000 square feet and less than 50 feet in width shall have a substantial relationship to a 15' common open space tract directly adjacent to the affected dwelling units.
- 4) Approval of requested waiver from Sec. 62-1446(d)(3)(b) to allow residential structures of two stories or less, and a minimum building separation of 10' (rather than 15') provided that proposed structures do not abut utility easements or otherwise affect the ability to provide and maintain utility service to each lot.
- 5) Approval of the commercial uses as allowed in the BU-1 zoning classification per 62-1482.
- 6) Approval of waiver to Sec. 62-2957(c) as it relates to the number of project ingress and egress to Babcock Street; the waiver is subject to the spine roadways: a) providing at a minimum of two (2) approved access points for each cluster of 350 dwelling units, and b) single family and/or multifamily lots shall not have individual direct access to a spine road, and c) the projects internal roadway network satisfying Florida Fire Prevention Code requirements including but not limited to 1:18.2, 1:18.4.5 and 1:18.5.
- 7) Approval of the requested waiver to Sec. 62-1446 to reduce the rear setback for residential principle structures from 20 feet to 15 feet shall have a substantial relationship to a 15' common open space tract directly adjacent to the affected dwelling units.
- 8) Closure of the borrow pit permit shall be in accordance with SJRWMD requirements.
- 9) Reclamation of the existing lake shall include littoral plantings along the pond slope in accordance with Florida Fish and Wildlife Conservation Commission (FWC) comments provided.
- 10) Prior to County approval of a construction plan and/or Preliminary Plat/and or Site Plan the Developer shall:
  - a. Execute an agreement including, but not limited to, a Proportionate Fair Share agreement, with the County and appropriate municipal entities

addressing and/or mitigating any infrastructure deficiencies relating to the offsite transportation impacts as identified in a traffic study. The agreement shall include provisions requiring the developer to design, permit, and construct the identified improvements. In addition, the agreement will identify timeframes for the necessary improvements, and monitoring and updating the traffic study as appropriate.

- b. Execute an agreement with the County addressing infrastructure deficiencies relating to Fire Rescue. Said agreement will account for the developer providing the land, site design, and permitting of the construction of a fire station, in addition to the necessary equipment for operation. Appropriate impact fees credits may be requested as applicable under Brevard County Code of Ordinances and Florida Statute.
- 11) Prior to County approval of a construction plan and/or Preliminary Plat/and or Site Plan, the Developer shall demonstrate that adequate water and sewer services will be available to the development and are available prior to issuance of Certificate of Occupancy.
  - 12) Address all staff comments regarding the PDP prior to, or concurrent with, site plan and subdivision submittals.
  - 13) In accordance with Sec. 62-1301, if it is the opinion of the zoning official that an amendment to the PDP warrants Board evaluation, such modifications shall be submitted for Board approval.
  - 14) If the development is to have on-street parking, the developer/owner shall establish a financial mechanism for maintenance of internal roadways prior to County approval of a construction plan and/or preliminary plat and/or site plan.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary**

**Item No. 23PUD00005**

**Applicant:** Jesse Anderson (Owner: Jen Florida 48 LLC)

**Zoning Request:** GU and AU to PUD zoning

**Note:** Proposing mixed-use development of SFRs (3,246 units on 1,082.24 ac) and Commercial (398,000 sf on 27.33 ac)

**Zoning Hearing:** TBD; **BCC Hearing:** TBD

**Tax ID No.(s):** 3000277, 3000827, 3000829, 3000368

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**
- The on-site borrow pit was originally permitted through SJRWMD in 1986 (permit # 4-009-0213) and was exempt from Brevard County NRM Land Alteration permitting because a CUP was obtained prior to the effective date of the Land Alteration Regulation Ordinance 90-07.

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Wetlands and Hydric Soils
- Protected and Specimen Trees
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Flood Prone Area
- Protected Species

A majority of the subject parcel contains mapped wetlands and the entire site contains mapped hydric soils; indicators that wetlands are likely present on the property. **A**

**wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

The applicant is not currently proposing any wetland impacts for the commercial development. However, please be advised that any wetland impacts for the commercial component of the project must meet the criteria of Section 62-3694(c)(3)b which has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Only the southernmost 700 feet of the eastern property boundary is located on an MQR (Babcock Street). Brevard County Board of County Commissioners (Board) approval is required to expand the MQR along Babcock Street. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Board may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Alternatively, the commercial component of the project must meet the criteria of Section 62-3694(c)(5) which addresses mixed-use land development activities. The applicant is encouraged to review the cited ordinances and contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Although the site is not mapped within a FEMA special flood hazard area, staff is aware of flooding in this region. Applicant shall demonstrate no adverse impacts to neighboring properties using best available data per Exhibit A to Division VI Section 1.1.

### **Land Use Comments:**

The existing borrow pit was permitted through St. Johns Water Management District.

### **Wetlands and Hydric Soils**

The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Pineda sand, 0 to 2 percent slopes; EauGallie sand; Riviera sand, 0 to 2 percent slopes; Floridana sand,

frequently ponded, 0 to 1 percent slopes; Malabar sand, 0 to 2 percent slopes; and EauGallie, Winder, and Riviera soils, depressional); indicators that wetlands are likely present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

The applicant is not currently proposing any wetland impacts for the commercial development. However, please be advised that any wetland impacts for the commercial component of the project must meet the criteria of Section 62-3694(c)(3)b which has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Only the southernmost 700 feet of the eastern property boundary is located on an MQR (Babcock Street). Brevard County Board of County Commissioners (Board) approval is required to expand the MQR along Babcock Street. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Board may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

Alternatively, the commercial component of the project must meet the criteria of Section 62-3694(c)(5) which addresses mixed-use land development activities. The applicant is encouraged to review the cited ordinances and contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements and buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

Portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. **However, the PDP provided by the applicant indicates that sanitary sewer service will be provided by Palm Bay Utilities.**

### **Flood Prone Areas**

Although the site is not mapped within a FEMA special flood hazard area, staff is aware of flooding in this region. Applicant shall demonstrate no adverse impacts to neighboring properties using best available data per Exhibit A to Division VI Section 1.1.

### **Protected Species**

Federally and/or state protected species may be present on the property, as indicated on the provided Environmental Assessment report dated 1/26/2023. Specifically, gopher tortoises have been observed on-site. The applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing, as applicable.