



**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>

BOARD OF COUNTY COMMISSIONERS

**STAFF COMMENTS  
 20Z00032  
 WATERMARK INVESTORS, LLC**

**PUD substantial change for third access with two additional waivers to reduce the active open space acreage requirement and partial waiver of the subdivision code’s 15-foot perimeter landscape/buffer tract requirement with the previously approved waivers to lot width and lot area**

Tax Account Number: 2317197; 2317198; 3017165  
 Parcel I.D.: West side of U.S. Hwy 1, approx. 0.22 mile south of Broadway Boulevard (District 1)  
 Acreage: 129 +/- acres  
 Planning and Zoning Board: 11/09/2020  
 Board of County Commissioners: 12/03/2020

**Consistency with Land Use Regulations**

- Current zoning can 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 would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	PUD	PUD
<b>Potential*</b>	417 SF lots	363 SF lots
<b>Can be Considered under the Future Land Use Map</b>	YES Residential 4, Neighborhood Commercial and Residential 8 Directive	YES Residential 4, Neighborhood Commercial and Residential 8 Directive

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

**Background and Purpose of Request**

The applicant is requesting a change to their Preliminary Development Plan (PDP). Their intent is to amend the current PUD (Planned Unit Development) to allow for a third access connection located at the southern end of Monroe Avenue (NW portion of the PUD) (as required by Section 62-2957) with continuation of the previously approved waivers for minimum lot width and minimum lot area. Lots are 40-foot wide lots and 4,800 square foot minimum lot area. These two previous waivers are being carried forward as informational purposes only. Section 62-1442 states, “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 of county commissioners in public hearing.” This request will not affect these two waivers. The applicant is also requesting additional

waivers to reduce the active open space requirement from 5.5 acres to 2.6 acres and a partial waiver of the subdivision code's 15-foot perimeter buffer tract requirement.

Changes to the Preliminary Development Plan (PDP) depicts a reduction in the number of single-family residential lots from 417 lots to 363 lots (overall reduction of 54 lots); the plan also proposes an increase in the amount of proposed total open space from 39.5 acres to 45.9 acres under a 4-phase development plan. However, the active open space component is reduced from the 5.5 acres to 2.6 acres. Pursuant to Section 62-1448, this change is considered to be a substantial change that warrants Board approval. The prior approved PUD zoning action stated that 8.8 acres of active open space was to be provided under zoning action # **18PZ00014** adopted on May 24, 2018. Pursuant to Section 62-1446, open space is calculated at 10% of the project area. Active recreation is calculated at 1.5 per 100 dwelling units. 12.9 acres of open space and 5.5 acres of active recreation is required per code.

Active open space is that portion of usable common open space as defined in Section 62-1102 of Brevard County Code of Ordinances that includes outdoor space permanently set aside and designated on a site development plan as recreational or open space for use by the landowners or residents of a development. Such usable space may be in the form of playgrounds, tot lots, golf courses, community recreational facilities with such amenities as a swimming pool, tennis courts and shuffleboard courts. The usable common open space shall be improved to the extent necessary to complement the residential uses, meet the minimum needs of the residents, and contain compatible and complimentary structures for the benefit and enjoyment of the landowners or residents. Facilities shall not represent an inordinate, unjustifiable amount of superficial low-cost facilities such as picnic tables and nature trails which are placed indiscriminately and have little definable function within the context of the site's natural amenities or recreational and open space needs of the development's future residents.

In any residential project requiring common recreation and open space, active recreation shall be provided at a rate that varies with the density of the project and the remainder of the required total common usable recreation and open space requirement may be devoted to passive recreation.

Passive recreation is defined in Section 62-1102 of Brevard County Code of Ordinances as follows: Passive uses are considered passive where very minimum alteration of vegetation, topography or other native features is necessary, and the actual use and enjoyment of the site amenities requires only a small amount of physical effort by an individual. Activities which are considered passive include but are not limited to hiking, nature observation, primitive camping, nonmotorized boating, shelling, swimming, picnicking, archeological or historic preservation, and hunting or fishing as provided for by the state fish and game laws. Site alterations which are considered acceptable for passive activities are exemplified by boardwalks, picnic areas, wildlife feeding areas, outdoor educational displays, observation stations, archaeological or historic markers, and paths and trails for walking or hiking. Areas which may be considered for passive recreation areas include wetlands and associated uplands, wildlife habitats, floodplains, vegetative communities including native vegetation to meet landscaping requirements, water bodies and aquifer recharge areas.

Pursuant to 62-2957, developments with 350+ dwelling units are required to have two access points, plus 1 for each 200 dwelling units. Since the proposed third access point provides access into an existing residential area, the Board may consider limiting this access to "emergency access only".

## **Land Use**

The subject parcel retains the Residential 4 (Res 4), Neighborhood Commercial (NC) and Residential 8 (RES 8) Directive Future Land Use (FLU) designations. The current PUD's PDP and the proposed PDP are both consistent with the identified FLUM designations.

## **Environmental Constraints**

The 129.68-acre PUD project impacts all mapped natural resources listed above. The project is currently in the site plan review process, and natural resource land use issues are being assessed and addressed. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between Camp Road to Broadway Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 72.49% of capacity daily. The maximum development potential from the proposed rezoning reduces the percentage of MAV utilization by 1.23%. The corridor is anticipated to continue to operate at 71.37% of capacity daily. The proposal is not anticipated to create a deficiency in LOS C.

At this time, the school concurrency service area for the elementary and high school levels are projected to have insufficient capacity to accommodate the maximum potential residential development resulting from the proposed Watermark PUD's rezoning.

Considering the total adjacent elementary and high school service areas, including those of Fairglen Elementary School, Saturn Elementary School, Cambridge Elementary School, Enterprise Elementary School, Challenger 7 Elementary School and Atlantis Elementary School and adjacent Cocoa Jr./Sr. High School, Rockledge High School and Space Coast Jr./Sr. High School there is sufficient capacity for the total projected student memberships to accommodate the Watermark PUD's rezoning. This accommodation for predicting development and potential redistricting of students is done in coordination between Brevard County Government and Brevard County Schools, through intergovernmental coordination. A copy of the Brevard Public Schools concurrency analysis is included in the package for Board consideration.

The City of Cocoa has potable water and sewer lines in the area. Sewer access can be from Camp Road and potable water access along US Highway 1. In compliance with Indian River Lagoon initiatives, the applicant has previously stated that the project will connect to sewer as well as having public water connections.

## **Special Considerations for PUD Zoning**

This change maintains the same development pattern as the prior zoning request for PUD, single-family residential lots. The density of revised development plan is reduced by 54 lots, making the impacts to traffic and schools less.

Compatibility was previously decided by the adoption of the prior PUD zoning application **18PZ00014**, effective May 24, 2018.

The Board should consider that approval of a PUD zoning request not only entails review of the Zoning request itself, but also of the PDP that accompanies the request. The PDP has been included within the package, which has been reviewed for sufficiency by staff. Code provisions for this review and approval as well as staff comments regarding the PDP submission are included below for reference.

**Section 62-1448 (b) (4)** of Brevard County Code defines the review procedure for approval of the Preliminary Development Plan and tentative zoning, and that the Planning and Zoning Board shall recommend one of the following to the Board of County Commissioners:

1. approval,
2. approval subject to conditions, or
3. disapproval

In making its recommendation, **Section 62-1448 (b) (5)** of Brevard County Code clarifies that 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.
- b. Compatibility within the planned unit development and relationship with surrounding neighborhoods.
- c. Prevention of erosion and degrading of surrounding area.
- 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.
- e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.
- f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.
- g. The availability and adequacy of water and sewer service to support the proposed planned unit development.
- h. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.
- 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.
- j. The conformity and compatibility of the planned unit development with any adopted development plan of the county.

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

The applicant has provided all of the exhibits required by Section 62-1448 (b) (2) of Brevard County Code except for the name of the architect. The Preliminary Development Plan includes a total of 45.9 acres of common open space, of which 2.6 acres is designated as active recreation. The types of passive and active recreation uses proposed include a clubhouse and at least two of the following amenities: community pool, tot lot, tennis court, basketball court, shuffle board courts, dog park, a grass playing field, picnic benches, outdoor grill station, pavilion, mulch walking trail and a fishing pier. This project is proposed to be developed in four (4) phases. Open space will be administered by a master homeowner association to be established by the developer. The active recreation component appears to be provided in Phase #2 of the project. Based upon the phasing of 107 single-family residents in Phase #1, there should be 1.6 acres of active amenity developed within Phase #1 area. This delay of commensurate development may cause an issue if the project doesn't develop past the Phase #1 final plat.

### **Waivers Requested with Preliminary Development Plan**

Pursuant to 62-1442, states, "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 of county commissioners in public hearing."

This applicant is requesting to continue the two previously granted waivers for lot width and lot area. Requesting to utilize 40-foot width, rather than the standard 50-foot width required, and to lot area, requesting to utilize a 4,800 square foot lot size, rather than the minimum lot area of 5,000 square feet required for the PUD Zoning classification. The Board's action does not affect these two previously approved waivers and will be carried forward.

A waiver is to reduce the amount of active open space required to be developed based upon 363 lots in the proposed development. The applicant is adding additional passive open space to offset the reduction of active open space. Although active open space decreases from the required 5.5 acres to 2.6 acres, the passive component increases from 7.5 acres to 35.7 acres. Total proposed active/passive open space will account for 45.9 acres.

A waiver is to the 15-foot subdivision buffer tract requirement. Due to road pavement encroaching into the western portion of this site, the applicant is requesting a partial waiver of this requirement. The applicant is intending to provide a 6-foot tall wall/fence to buffer the residents from the traffic impacts utilizing the existing road surface.

### **For Board Consideration**

The Board may wish to consider whether this request for a third access connection and waivers to reduce the active open space requirement from 5.5 acres to 2.6 acres and a partial waiver of the subdivision code's 15-foot perimeter buffer tract requirement are consistent and compatible with the surrounding area. The Board should consider the special circumstances to mitigate off-site impacts.

1. Proposed - Waiver to reduce the active open space requirement from 5.5 acres to 2.6 acres.

2. Proposed - Waiver (partial waiver) of the subdivision code's 15-foot perimeter buffer tract requirement as depicted on the preliminary development plan
3. Proposed third access point to be "emergency use only"

The Board should be aware that approval of this request not only entails review of the Zoning request itself, but also of the PDP that accompanies the request. The PDP has been included within the package, which has been reviewed for sufficiency by staff.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review & Summary**  
**Item # 20Z00032**

**Applicant:** Moia for Watermark PUD

**Zoning Request:** PUD to PUD with third access, revise phases, reduction in active space by 2.845 acres.

**Note:** Applicant wants PUD to include third access at northwest portion of project and revise project phasing.

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**Tax ID Nos:** 2317197, 2317198 & 3017165

- 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.**

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

- National Wetlands Inventory (NWI) Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Protected and Specimen Trees
- Protected Species

The 129.68-acre PUD project impacts all mapped natural resources listed above. The project is currently in the site plan review process, and impacts to these resources have not been fully assessed or approved. The exhibit provided for this action is not an approvable plan. Staff is working with the applicant to resolve inconsistencies and non-compliance items related to wetlands (Chapter 62, Article X, Division 4, Wetland Protection) and tree canopy (Chapter 62, Article XIII, Division 2, Landscaping, Land Clearing and Tree Protection). NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.