

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 12, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Director (Planning and Development); Alex Esseeesse, Deputy County Attorney; Billy Prasad, Deputy Director (Planning and Development); Edward Fontanin, Director (Utility Services); Jeffrey Ball, Planning and Zoning Manager; Trina Gilliam, Planner; Desiree Jackson, Planner; and Kristen Champion, Special Projects Coordinator.

Mark Wadsworth stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

### Excerpt of complete agenda.

**G.7.** An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled The 1988 Comprehensive Plan, setting forth the adoption of Large Scale Comprehensive Plan Amendment Cycle 2023-2; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions which require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date; a. Plan Amendment Cycle 2023-2, a proposal by JEN Florida 48, LLC., to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 1:2.5 (Residential 1 per 2.5 acres) to RES 4 (Residential 4) and CC (Community Commercial). The property is approx. 1,110 acres +/-, located in the Southern Brevard County area, on the west side of Babcock St., approx. 250 ft. south of Willowbrook St. **(23LS00001)** (No assigned address.) (Tax Account 3000277, 3000368, 3000827, 3000829) (District 5)

**G.8. JEN Florida 48, LLC (Kim Rezanka)** requests a change of zoning classification from GU (General Use) & AU (Agricultural Residential) to PUD (Planned Unit Development) with Removal of (CUP) Conditional Use Permit for Commercial Borrow Pit, on property described as Tax Parcel 500 and Tax Parcel 1, less and except canal and road rights-of-way. The property is approx. 1,110 acres +/-, located in the Southern Brevard County area, on the west side of Babcock St., approx. 250 ft. south of Willowbrook St. **(23PUD00005)** (No assigned address.) (Tax Account 3000277, 3000368, 3000827, 3000829) (District 5)

Trina Gilliam read the companion applications into the record.

Ms. Gilliam requested to read in the 14 conditions of approval and pointed out that the applicant's PowerPoint revises three, or requests to revise three, of those conditions and seeks clarification on one of them.

- 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 principal 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 Sain John River Water Management District (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.

Jeffrey Ball in his address to the Board added "those conditions were for your consideration to be consistent compatible with the surrounding area in addition. The applicant will provide a BPD containing the following waivers and conditions. When we read condition number 10, it references proportionate fair share agreement. Lastly, there are city comments from Palm Bay that were handed out to you before the meeting that's just as an FYI. Most of those comments will be addressed during the site plan subdivision review process. With the comprehensive plan Amendment being a large scale, there are comments received from the state agencies that are included in your packet. It was addendum number two. There are conditions from the Central Florida of Fish and Wildlife. I just want you to be aware those were the comments from the state agencies and has staff analysis to those."

Kim Rezenka, 1290 US1, Rockledge, Florida. Ms. Rezenka was there on behalf of Jen Florida 48 LLC, the owner of the property for Sun Terra Lakes. The Sun Terra Communities partners with Jen Florida 48 and here representing Sun Terra is Richard German and Dan Edwards. The engineer records, Poulos and Bennett, represented by Andrew Ivy to answer specific questions about the PUD and the engineering involved and planner, Jesse Anderson, formerly the assistant growth management director with Palm Bay. Planner with Poulos and Bennett was there also to answer any questions about compatibility or any of these conditions that were not clear on when speaking. This is the second go at this. She went on to say "you had the transmittal hearing back I believe in April. It went to County Commission in May and was transmitted up. You all recommended two units to the acre. We have asked for four units to the acre, limited to three, which is now limited by the PUD as you'll see further on in this presentation. the County Commission recommended four units the acre limited to three. There was also a condition that if necessary, the owner would agree to donate two acres to a fire station. And we're still willing to help with the fire station issue but we're concerned this condition goes a little too far based upon all the other development that's coming in the area. So again, we are seeking a large-scale future Lane use Amendment on 1,957 acres to allow mixed use development. The PUD is on your agenda this evening. 1 182.57 acres is requested for RES-4 limited to three units per acre by the PUD and 27.33 acres of community commercial for 398,000sf of retail. The PUD zoning at 3 units per acre would allow 3,241 units and 398,000 Square ft of commercial. The location is near deer run south of Willowbrook street, west of Babcock Street also known as County Road 507. If you look to the where Badcock intersects with the bottom yellow line, you'll see deer Run Road. Starting at Deer Run Road going west all the way around the property is a canal structure. So, there's a good extra 100 foot of canal right away there that serves as a buffer between all of the properties to the north. Where it says Willowbrook Street there's a sliver of land there that is in the county which prohibits this land from entering into Palm Bay. There's no way to annex into Palm Bay and we are staying in the county. As you recall this is a challenging project. There is a bit of opposition from Deer Run. This is a transitional area as you'll see quite a bit of this property in this area is going higher dense than these 5 units to 20 units to the acre. There are some infrastructure challenges, but Florida Statutes and The Brevard County Comps Plan and ordinances address that. So, as we go forward with any proportionate fair share that's necessary, we have to be granted the conditions. Though we believe are a bit overreaching, that's why we've asked for some suggestions to changes as you'll see. There are seven large developments in this area that are coming on the

Board, and this is all of the development that is coming forward. Rolling Meadows in Willowbrook are actually in Brevard County. They went into Palm Bay and then came back out of Palm Bay in 2014. They are vested here at Brevard County at two units to the acre. You have Water stone and Cypress Bay that are anywhere from 5 to 20 units to the acre. Emerald Lakes East is 3.5 units to the acre. Calumet Farms is 2.5 units to the acre. Peat Holding is 10 units to the acre. Ashton Park is 5.5 units the acre.

This is a 2-mile radius this is showing how the area is transitioning into a more dense and how this property indeed does serve as a transition between Deer Run to all these other developments in the area. That is where we believe the compatibility is shown, because of the expanding nature of this area. With that we want to talk about Transportation. As we know that has been a big issue that Babcock Street does not have capacity. James Taylor with Kimley-Horn is going to discuss that."

James Taylor, 200 South Orange Avenue, Orlando Florida. Mr. Taylor explained "I am the traffic engineer for the project, and we have done quite a bit of traffic analysis on this. We still have some to go. The first thing that we looked at is the evaluation of what the future land use would have as a maximum impact. If that does go through, we did identify both short-term and long-term deficiencies in the area as required by the state. To do that visioning exercise we did u conclude that Babcock Street will need to be widened to four lanes at some point in the future in 2035 and in 2045. The study that we're embarking on now is the traffic impact study dialing in specific intersections and driveways in some more detail on the roadway capacity and specific to the site plan that's being proposed. Before we put pen to paper on that exercise, we get with staff early and we talk about the methodology of the assumptions that are going to go into that study, what sort of background traffic is going to be on the road, and where the trips from the project are going to go. That process has concluded, and we got approval today with conditions that if we're accepting up of the traffic impact study (TIA) will start. We are going to be identifying in that study intersection driveway operational performances and we're also going to be looking at future transportation deficiencies. These deficiency impacts need to be mitigated for the future growth.

This is an exhibit from the TIA methodology and what we're going to move forward with when we study these impacts. This percentage that you see on the screen are the percent of trips that are going to impact each roadway segment in this five-mile plus study area radius. What we're going to conclude in this study is where the deficiencies are and what portion of those deficiencies are attributed to this project. The improvements that we may identify are going to include things for site access such as turn Lanes of driveways or traffic control devices such as traffic signals. We're also going to identify where there are needs for off-site capacity for roadways such as Babcock Street. Eventually that's going to lead into what the mitigation agreement looks like. So, you heard staff reading to the record about 15 conditions in the staff report and we have some modifications that we would like to put on the record tonight for at least four of those. For the traffic one, 10(a) that was read in record, I'm just going to go over it and then speak through the strikeouts and additions that's being requested by the applicant team, "prior to County approval of a construction plan, preliminary plat, and/or site plan, the developer shall....and there's two more conditions to this but for (a).... execute an agreement including..." we'd like to strike that out and say, "may include but not limited to a proportionate share agreement with the county and appropriate municipalities addressing and/or mitigating any infrastructure deficiencies related to off-site Transportation impacts as identified in the traffic study". "The agreement" not "shall" but "may" is what we're requesting "... include provisions requiring the developer to design, permit, and construct the identified improvements.". Before I go on I'd like to talk about why these things are being requested. This is to provide flexibility. The developer may come to an agreement with City and County that widens a portion of the road in that case there

wouldn't be a proportionate share agreement, or they may only enter into a proportionate share agreement and not necessarily widen the road. So, one of the two will happen, and then the next addition there is "...those improvements will happen at a cost to the developer proportionate to the project's impacts." We didn't think that it was clear in this statement it reads as if anything that is a deficiency will be identified for impact to fund and construct 100 percent. We wanted to clarify that. And with that I will turn it over to back to Ms. Rezanka."

Henry Minneboo asked Ms. Rezanka "Kim can I ask you a question after Mr. Taylor's statement. The spite strip is that what you and I will both call that to the north legally and technically, have we pursued at all to try to get access on that. I mean is that just exercise and futility."

Ms. Rezanka responded "there's another developer that's looking at that, but I don't know where the county is going with that. I don't know that this development would have access to that, and it appears that the St John Heritage Parkway may prevent Willowbrook from being expanded for use for large development."

Mr. Minneboo in turn said "Mr. Taylor would you even... I mean here you got a tremendous road right next to the...."

Ms. Rezanka responded "the problem with Willowbrook is the right of way are owned by private people even though the county has maintained 22 ft of it. It's not sufficient for a four-lane road that the county has maintained. I'm sure you're aware of how that all works. I've been looking at that road for several months. Mr. Minneboo understood the technical issues. Ms. Rezanka continued on to describe the characters of the project. She stated "what you see here is the proposed development program, proposed maximum dwellings, and proposed maximum commercial. The open space has actually increased since we've been here last time due to redesigns and the open space still might go even further than that. This was just to show you again the cross-section showing the buffers from Deer Run and others to the north because there is a 100t canal, the proposed buffer track is 50 ft, and so that really leaves you a minimum 150 ft property to property line before you even have setbacks for both. This was to show that there's going to be a larger buffer than you would normally expect because of that natural buffer canal. This is the phasing plan. This is C3 in the seven-page PUD and this shows how the phasing is going to go. There is a legend that's on the page in the PUD. What is important about this is that red line that surrounds the exterior lots, that is the line outside of which you will only have 60 ft by 110 ft lots. The larger lots have been moved out to the perimeter and there's a variety of natural buffer such as the Lakes and the Wetlands. The passive recreation is in the lighter green, active Recreation is in the middle green, and then the Wetland is in the dark green. The wetlands to the most extent are going to be preserved for this property. There are some impacted wetlands but quite a bit are being saved.

These are the waivers that have been requested. I believe Miss Gilliam has read them into the record and these are the waivers that will allow this project to be developed. There were several conditions added to these waivers that we are asking to be changed mostly because they're unclear. I don't know what "substantial relationship" means and we don't have these lots identified. We just got this back last Thursday when we got the staff report. We would ask that these be stricken on three and seven. The number 10(a), that Mr. Taylor explained, is to allow flexibility to make sure that this development only pays for its fair share and doesn't design a road structure for 22,000 homes. (b) is similar and we are working with Palm Bay Fire Rescue, who has as its number one priority to put a fire station at Sunrise Elementary.

We're working with them to have a meeting set to contribute to Palm Bay's fire station. They have a higher rate of impact fee of \$700 a unit versus our \$50 a unit here in Brevard County. Also, their station will serve 10,000 homes. If Brevard County requires us to put in one station it would only serve 3,000 homes. We're working with Brevard County. We've met with Brevard County. We're meeting with Palm Bay. There is an interlocal agreement and a joint planning agreement that would allow this to happen. That's part of what we anticipate with a binding development agreement and a proportionate fair share. We're just not there yet and the way (b) is written is that they will provide everything for a fire station when it may not be necessary when there's a new fire station going in two miles up the road. That's why we've asked for that change. With (14) we just are not understanding what (off street parking) is. I guess we'll find out more between now and County Commission if this is approved here.

Regarding school impacts, there's been a concurrency review. High schools are fine, middle schools are fine, the elementary school is a problem. I know Mr. Hopengarten talked about that when we were here last time. We are working with Karen Black. All the developers in the area are meeting to try to find a solution and to do whatever proportionate fair share that is required by Florida Statute and the developer will commit to that as well. As for the utilities, there's a will serve letter that was in your packet and with that we would request approval of the comprehensive plan Amendment, request approval of the PUD with the waivers request as modified on the screen in front of you. We're here to answer any questions you have."

#### **Public Comment:**

Joanne Young, 8423 Elk Ave., Palm Bay, 32909. Mrs. Young noted "I am a bordering resident of Deer Run. My husband and I own five acres that border this property. Two and a half acres and two and a half acres. I own 8413 also. I have followed this case all the way from the community meeting. To the first Planning and Zoning meeting and then the county. I have bugged your staff for many months asking a lot of questions. I've consulted with environmentalists, and I've talked to other developers as well. My trade is I'm a real estate broker. I welcome development. I sell real estate in Palm Bay and Brevard County. My husband and I moved from the Lake Washington area of Melbourne to southern Brevard five years ago for a quieter lifestyle. More room to garden and have our little chickens. I said we own five contiguous Acres that border this development. That's 400 feet of land that runs along a canal. Some of the canals in Deer Run are not 100 feet. Some of these neighbors will only have a 50-foot border. I have a few comments, probably more questions than comments. One of my questions was the developer already told us that they had not yet done their environmental study. So that was one of my questions because that is a requirement for anyone who wants to build on vacant land in Deer Run. Will they be held to the same standard for wetlands as Deer Run buyers are? Another concern is the size of the Lots on the border. When we went to the community meeting, they said that the border lots would be larger than what they're proposing today. 60 by 120 is not even a quarter acre. And the Deer Run lots are average two and a half acres and some neighbors have eight acres that border this. We do have concerns about the size of the lots. My husband and I do and other neighbors that we've talked to as well. The County Commissioners overrode your votes a few months ago because you voted for RES-2 and you got outvoted on that by the county. Our other concern is the flooding because we already have a problem in Deer Run with that. There's already an auxiliary pump in the back that's being reconditioned right now. We need to know if this development is going to be sharing the same canals as Deer Run. The developer stated that impact fees from this development would help build the roads and widen Babcock Street. We had a concern about a traffic light at Micco Road and Deer Run Road. When

does this take place in the plan. We were very grateful for a fire station, and we would be relieved of the burden of high-cost insurance if it could be built in the very early stages of development. We also wanted to know what was going to happen with the recreational Lake. Please define."

Billy William, 5 Buck Court, Palm Bay, 32909. Mr. William started by saying "you previously recommended two residents per acre. Don't know what has changed or if you're going to keep up with what you all agreed on before. What happens if Palm Bay doesn't build the fire station? I believe during the County Commission meeting that the two acres was agreed upon by the developer. Now it sounds like they're trying to back out or get something for it. So, my thought of if they're trying to back out of it, the approval should be backed out by the by the County. A study shouldn't be happening right now because Micco Road is closed, and the Heritage Parkway is all messed up. Nobody's coming that way. If they did a study now it wouldn't be correct. Thank you."

### **End of Public Comment.**

Kim Rezenka approached in response to the public comment. She noted the Environmental Studies will be conducted. They're required before any further. The engineering is not done yet, so the environmental study will have to be done before all that can be completed. The applicant will be required to abide by the wetland's requirements of the county 1.8 percent, and it's intended to do that. She believed they are actually impacting less than that as shown currently. The recreation will be private. Ms. Rezenka said "I know there was some discussion that we might try to open it up to the public, but it was going to be private. There were some concerns about the way the roads were and the size of the roads. At this point it is going to be private recreational. Regarding the two-acre fire station, we're happy to donate that land but the county has come back and said okay you donate the land you and build it.... you equip it and you basically pay for everything. That exceeds what the agreement was. The agreement was kind of.... it wasn't tied to the transmittal of the future land use...it would have to be tied to the PUD. We are happy to pay the fair share. We're happy to donate the land if that's all it would take. That's probably close to \$1 million. Palm Bay's fire station is going to cost \$27 million. We, the developer, can't agree to pay \$27 million in exchange for a \$1-2 million piece of property. That's why those issues have come about. With that we would ask for approval with the modified or removed conditions."

Mark Wadsworth asked for clarification "let me get this right, that would be Palm Bay's fire station?"

Ms. Rezenka replied, "it is but there is an interlocal agreement and a joint planning agreement with Palm Bay for Fire and Emergency Services."

Mark Wadsworth noted it was nice of them to donate that land.

Ms. Rezenka added the donation would be towards their fire station at Sunrise Elementary most likely.

With that understanding Mr. Wadsworth went on to ask "now where is the Publix's coming in? Is that right there at Heritage and Badcock? Because that whole area there is..."

Ms. Rezenka pointed out "it's right there, kind of where the 26.0 is. It's right at St John Heritage Parkway on the east side of Babcock."

Robert Sullivan addressed a question to staff. "Has a preliminary concurrency study been performed?"

Jeffrey Ball answered "what we look at the trip generation rate for the amount of residents and the amount of commercial and what the design capacity of South Babcock is. In essence, yes."

Mr. Sullivan rephrased "okay but that was for roadway, solid waste, potable water, drainage, sanitary, and public schools?"

Mr. Ball noted yes.

Robert Sullivan asked lastly "so you've already done your county concurrency preliminary study and you've evaluated all of the negotiations that they've put up?"

Mr. Ball said "the negotiation is just preliminarily based on what we are reviewing today. Obviously if this gets approved there would be more finite discussions as far as the next step. If the board approved this plan as is, the next phase would be the subdivision plan review. In that we will do another current concurrency review and determine if there is enough capacity to support the uses requested.

Mr. Sullivan indicated "I'm looking at the April 1 letter from Palm Bay where they're saying the city does not currently have a capacity for commercial fire flow demands in this area nor any additional sewer capacity. Should we be moving forward with something? Unless you know we have a definite either agreement saying that they are going to bring that fire flow capacity and adequate sewer or that capacity has to be existing."

Mr. Ball suggested "what I can tell you is the staff report identifies some infrastructure deficiencies. In order to move forward to get construction plan approval the applicant will need to provide letters from any of the utility providers that will provide whether it's water and sewer or transportation or solid waste. They will need to provide the certificate capacity at the next stage."

Mr. Sullivan stated "so City of Palm Bay has basically said no we don't have that capacity. How are we moving forward with a zoning change if we don't meet the three units per acre? Apparently, it would work if it was at two units per acre and that's what I think we recommended at the last time."

Jeffrey confirmed that is correct.

Mr. Sullivan regarded to the fact of the matter that currently at three units per acre it doesn't meet concurrency.

Mr. Ball clarified "again there are concurrency deficiencies that'll have to be worked out during the next phase. As stated in our staff report there is a need for water and sewer."

Mark Wadsworth looked to the applicant and asked that the engineer approach. He added "just hearing what Robert is saying, is this going to be septic tank and drain field."

Speaker 1, Engineer of Record replied no.

Mr. Wadsworth clarified "so you're going to need utilities."



The Speaker 1, Engineer of Record responded "yes sir. We intend to extend lines down Babcock Road from Palm Bay and we have a Will Serve from the City of Palm Bay. We have been working with Palm Bay for about a year now. We have met with them probably four or five times. I understand that they have a new head there. We're trying to set up a call with them sometime in the next week or two. There will be upsizing of lines. We understand that there's some concern about capacity right now and meeting what the project ultimately will be. This project will be phased. There will be a phase one where we'll be using capacity that is available now or will come online soon. I understand that there are plant expansions and then those expansions will supply the ultimate supply that the project needs."

Mr. Sullivan questioned if they are anticipating that the spine utilities will come down Babcock Road?

Speaker 1, Engineer of Record said yes.

Robert Sullivan asked "okay, so when does the city look at that infrastructure improvement?"

Speaker 1, Engineer of Record said "the extension will probably be done by us. With a utility upsize agreement in place. That would probably need to happen with phase one, which we hope would probably next year."

Robert Sullivan then added "also with the traffic you were talking about four lane Babcock? Because you know you want to put the utilities underground before you widen the road." James Taylor, the traffic engineer, carried on the response and confirmed all needs are to be coordinated. Mr. Sullivan then wished to know more about the timeline.

James Taylor said, "so I'm hearing next year for the utilities if all goes well with the city and the road improvements will have to accommodate those as well."

Mr. Sullivan in turn asked, "if we're looking at a year out, which I think is aggressive, can we come back when you have all of these negotiations finalized with staff well?"

Mr. Taylor believe it's going to be in staff's hands to go through the PB review and site plan review and access review and all those things well.

Mr. Sullivan carried on and stated, "I'm looking at particularly the RES-2 to RES- 4 or the RES-3, now that it's an agreement to RES-3, that there's some time for us to have something other than 20 minutes' worth of review."

Mr. Taylor did not think the request is to get this approved at the board in phases. He stated "I think the request is to approve the future land use all at once, the PUD, limit the density to three units to the acre and then move forward with site planning with staff. "

Mr. Sullivan conveyed "like our recommendation that last time was for two residents per acre. That's where we're coming."

Tad Calkins asked further clarify Mr. Sullivan's concern. He sated "staff's condition number 11 stipulates that they will demonstrate prior to subdivision plan approval that the city will provide water and that it has to be available prior to us issuing a CO. The other thing I would say is, I believe that you also questioned whether we were in agreement with the condition modifications that the applicant

has presented. I would say that we have provided our conditions that we perceive, and we'll be taking forward and the applicant is asking you to consider their changes here today."

Mr. Wadsworth redirected and said "so staff taking it back to you again. Item G7 large scale plan Amendment and G8 the zoning classification. All these other items as you were just clarifying are going to be handled prior to, correct?"

Mr. Calkins confirmed that was correct.

Mr. Wadsworth concluded "John was saying we be sure we've got the water, the sewer, roads, street signs, whatever the case may be. We need to I guess zero back end on the zoning part."

**Public Comment:**

Billy William approached and asked "If that comes two or three years down why are we going to rezone it when they can't do it until three or four years? Why don't they come back when they have Palm Bay give you a letter saying we'll be ready to go on this date? Nobody has that. Please don't change your mind from when you did last time."

**End of Public Comment:**

After some consideration Mr. Bartcher noted "it seems to me that this project is coming before us way before it should. You know there's the response times for firefighting do not meet our current standards, there's a shortage capacity for elementary school students, Babcock Road can't support the traffic that's being proposed, and Palm Bay doesn't and won't have the capability for a while. So, they could come back to us next year and all of these problems could be solved and we could say hey you're in great shape. It's also a case of we have to depend on if we can prove it now and then hope really that these other entities do what they're going to say what they say they might do. They have no commitments to do anything yet and the way government works sometimes it's a little slower than we kind of expect. I just think this is way too early to do this. Our primary job is to determine consistency and compatibility with the surrounding area and in consistency you know we've got a little chart that shows us what about consistency. Now we don't really have to worry about that, but compatibility is something else that we need to look at. They've gone to quite a distance to try find compatibility for their project. I say take a look at their immediate neighbor's traffic. The existing neighborhood has about 300 homes, the new one's going to have 3,000 homes. We're going to have ten times the amount of traffic coming from this division and what's already there, site design wise, the existing neighborhood developments have lot sizes of over 100,000 square feet. These they're 7500 square feet, 14 times smaller. There's no compatibility there. Those are just things that would be considered in the normal assessment of compatibility and yet they're basically being ignored. Those are my concerns. One it's way too soon and the other is this development is not compatible with the existing neighborhood. If you want to go out and find neighborhoods farther away. I mean I know that can be done. Then you can do that, but you ought to be looking at your next-door neighbors."

Motion to recommend denial of item G7 by Ron Bartcher, seconded by Robert Sullivan. The vote failed 4 to 3.

Henry Minneboo said "you know when you have a project of this magnitude it's extremely cumbersome from the very beginning dealing with government today is probably one of the most difficult things you can do. These guys got just literally tons and tons of significant expenditures on

what's ahead of them and I'm just not sure that's our decision to make. I think the compatibility part will come in time. Whether they get the proper sewage, whether they get the proper water. They got a monstrous road to go. I think as a planning zoning board all we're doing is just putting the key in the dash and letting them go from this point on because there's a tremendous amount of work. This isn't a \$1,000 job. This is millions into doing this project. It doesn't make me in favor of it, I just don't think we need to get involved in every aspect. Well, if you can't get a fire station we shouldn't allow you to have it. I think that's not our decision. They've got to move forward. The County's got to work with it. The agreement isn't even worked out. That's why I'm in favor of this just moving forward to let him move forward."

Brian Hodgers addressed a question to Kim Rezanka. "I can't find it in this thousands of pages we have up here, but you showed a map of multiple communities around this that are similar in density. Was it in your presentation or do we actually have that?" Ms. Rezanka noted it was there.

Mr. Hodgers asked, "are all of those in the City of Palm Bay or are some of them in Brevard?"

Ms. Rezanka answered "Rolling Meadows and Willowbrook are in Brevard County. They're immediately to the north and west. They are in the County and they're two units of the acre. We're asking for three units of the acre. They're vested at two units of the acre."

Mr. Hodgers said in consideration "So to Ron's point that you're too far out, that falls on them as Henry was saying if they want to burn cash and go down this path over the next one or two years. And they may never get this project built, correct? I don't think that we're here to deny that if that's what they want to go forward, but the density is an issue. The commission already approved it. We didn't. They did. So, we deny it now, the Commission's likely going to approve it again. I don't know where we're at. You're at three to the acre, correct?"

Ms. Rezanka confirmed "yes sir and again it may turn out to be two and a half once engineering is done. To get this project off the ground with 1,100 acres, the engineering that has to go into it for the water and in the sewer. Because they're paying for it, not Palm Bay. Palm Bay is just saying you can have our water. It's a long process. It's a PUD process. We have to come back with the final development plan within three years or the zoning reverts back. So there is that stop gaff. If it this doesn't go anywhere, it'll go back to the to the zoning that we had before. We would ask that you allow the opportunity to go forward. Proportionate fair share is the law in this state. You can't deny it because we have don't have school concurrency now. We have to provide the concurrency. That's the same with traffic. That's how the whole proportion fair share ordinance has been written that we have to have it before we can build. But you can't deny it because we don't have it now; that's the state statute."

John Hopengarten asked "are we still at RES-4 because the County Commission said they agreed with RES- 4 but with the condition that you only put three units per acre. That's what you're asking. The other thing is that you had a long list of conditions. They're objecting to some of those conditions." Mr. Hopengarten wished to know how the Board's vote today will affect that.

Jeffrey Ball noted "we are presenting the application as we see fit in the conditions written as we see fit. If the Board has a difference of opinion and wants to entertain that I would suggest that you make that part of your motion. That way we can bring that in front of the Board for their decision to make. To clarify this item for the land use, this Board recommended RES- 2 it was transmitted to RES- 4 up

to the state. Now it's coming back from the state as RES-4. The zoning is the mechanism is the top cap the density at three units the acre. So that's where the cap is. It's part of the zoning, not the land use."

Mr. Calkins further stated that the conditions are on the PUD not the land use application.

Mr. Hopengarten said "which is the zoning. Which is what we're still talking about."

Tad Calkins responded, "I believe that the ruling is on G7."

Debbie Thomas confirmed "so the conditions need to be discussed in G8."

**Motion to recommend approval of item G7 by Debbie Thomas, seconded by Brian Hodgers. The vote passed 4 to 3.**

Mark Wadsworth carried on to item G.8.

Debbie Thomas requested that Ms. Rezenka come back up again to go back over the requested changes and allow staff input.

Kim Rezenka approved and commenced by stating "number three and number seven. These are requesting smaller lot sizes and reduction of rear setbacks. Staff added the condition they shall have a substantial relationship to a 15t common open space track directly adjacent to the affected dwelling units. The concern we had was the "substantial relationship". Who defines that as a very ambiguous term. We've not been able to address that with staff. We got these staff comments on Thursday, but we're concerned about that substantial relationship because we do not know what it means. Regarding 10A, that is a proportionate fair share for traffic impacts and again we do not believe it's incumbent upon Sunterra to pay for all 20,000 homes that are coming into this area. We wanted to have flexibility. They're going to pay their fair share. They have to by law. But the way it was written is that they shall do it all. We did not think that was fair. Same with (b) in terms of the fire station. Although they did agree to donate two acres of land, the county has come back and said you're going to donate the land, pay for site design permitting construction, and the necessary equipment. Which according to Palm Bay would be \$27 million. Where the land to be donated is about \$1 million. That's excessive for what we were requesting. We will certainly pay the fair share. We'll work with the county and with Palm Bay to make sure there's a fire station because the residents of Sunterra need to be safe as well. We're just looking for flexibility. We thought these two were overreaching."

Tad Calkins stated "I would say that our conditions are what we felt were appropriate going forward. If the board wants to consider the applicant suggested changes, then you can do that and we'll include that in your recommendation."

Ms. Thomas then continued with "that being said... the 10B and the \$27 million fire station, is it the County's position that they're expecting that to be the \$27 million? If that's what it comes out to cost for the fire station to be the responsibility of the developer.

Mr. Calkins confirmed "the county does not have the money to put in or to build a fire station in that area. It's not a CIP project. We don't have a CIP project for the roadways at this time. We don't have the ability, because of that entering into the proportionate share agreement that they're suggesting, until that gets on the CIP. The fire station that we asked for was not \$27 million. We just did one with

the Viera company and it came out to be about \$6 million. The problem I think for the applicant is they're looking for reimbursement through impact fees and our amount of impact fees are not what the city is collecting. We have no objection to the applicant working with the City and the County and coming up with an agreement on how to provide fire services down there. The county at this point does not have the money to build a fire station down there. It would have to be a joint effort between the three parties, or it would have to be the applicant's responsibility."

Ms. Thomas questioned further "and regardless to whether this was left in there as is or not, that is something that has to be met regardless before this project continues on?"

Tad Calkins noted that was correct.

Henry Minneboo added "Kim and her group got this information on Thursday. We probably shouldn't be having a discussion on a Monday. This isn't like we're giving somebody a residential lot. This is a major magnitude and here we are debating it on Monday because they got it on Thursday. I know Kim well enough. I'll assure you everything you said is not going to happen in that agreement. We should have had it together. We should have even tabled this item. It's becoming convoluted."

Mr. Sullivan agreed with Mr. Minneboo and said this was very short notice to digest on the magnitude. He recommended to deny.

Mr. Wadsworth held the motion for discussion.

Brian Hodggers wondered "where did the disparity come from between 27 million and 6 million?"

Mr. Calkins explained "the fire station that Ms. Rezenka is referring to is a city fire station. I don't have any idea what their standards are or what kind of equipment they're looking for that. The one that we suggested, or we were hoping for was similar to the one that we just did with the Viera Company."

Kim Rezenka agreed and stated "Tad and the fire chief in Brevard County did tell us it was a \$6 million fire station but because Palm Bay is building one at Sunrise Elementary, Fire Station 8, it's \$27 million based upon their fire estimate. It serves 10,000. So, it's probably a larger station but we shouldn't have a \$6 million station and a \$27 million station within two miles of each other. I was just trying to show you the discrepancy of the costs and the fact that 3,100 homes probably can be better served by the Palm Bay Station. That's what we want the opportunity to work. I have the numbers if you're interested. I can even send you the whole fire report for Palm Bay and all the stations they're building, \$173 million I think is what they're looking for to upgrade all of their fire stations. We're happy to work with staff between now and County Commission."

Mark Wadsworth conveyed "that's where I'm headed. I don't know how many people a fire station can hand handle. If the fire station going there is considered a percentage of your development, are you willing to modify? Debbie I'm hearing what you're saying in that your statement is to pick up your share as far as the subdivision."

Mr. Hodggers added that there are other developments going in that have not even started yet that are going to be in the same phase. Therefore, the applicant will be sharing that \$27 million.

Ms. Rezenka said “that's what makes more sense to us than building a separate fire station for Brevard County when there's not that much in Brevard County that would need that. We're just looking for flexibility. That's all we're looking for.”

Brian Hodgers suggested at the end of the day if the fire station's not there they can't complete the project. It goes back to his earlier statement that they've got a long road ahead of them if they can't comply with what the county needs for fire service.

Motion to recommend denial of item G8 by Robert Sullivan, with no second. The vote failed.

**Motion to recommend approval of item G8, as originally written by the County and to allow for discussions to continue between the Developer and the County to come to agreement, by Debbie Thomas and seconded by Brian Hodgers. The vote passed 4 to 3.**