



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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### STAFF COMMENTS

**23Z00035**

**Sherwood Golf Club, Inc., TRSTE LLC, and Villas of Sherwood Titusville, Inc.**

**Medium-density Multi-family Residential (RU-2-15), Planned Unit Development (PUD),  
Agricultural Residential (AU), General Use (GU), Single-family Residential (RU-1-13),  
Single-family Residential (RU-1-11), Medium-density Multi-family Residential (RU-2-10),  
Estate Use Residential (EU), and Suburban Residential (SR) with BDPs  
to Planned Unit Development (PUD) with removal of BDPs**

Tax Account Number(s): 2100937, 2113020, 2113021, 2113023, 2113024, 2100938, 2100939,  
2100940, 2100942, 2100943, 2100952, 2100953, 2111319, & 2101061

Parcel I.D.: 21-34-24-00-2, 21-34-24-09-B, 21-34-24-09-C, 21-34-24-09-R1, 21-34-24-  
09-R2, 21-34-24-00-2.1, 21-34-24-00-4, 21-34-24-00-4.1, 21-34-24-00-5,  
21-34-24-00-7.1, 21-34-24-00-21, 21-34-24-00-22, 21-34-24-00-41, & 21-  
34-24-00-519

Location: West side of I-95 approximately one-half mile south of SR 46 (District 1)

Acreage: 136.46± acres

Planning & Zoning Board: 8/12/2024

Board of County Commissioners: 9/05/2024

### 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>	RU-2-15, PUD, AU, GU, RU-1-13, RU-1-11, RU-2- 10, EU, and SR	PUD
<b>Potential*</b>	176 SF units, 92 MF units	187 SF units, 408 MF units
<b>Can be Considered under the Future Land Use Map</b>	NO RES 4 and RES 15	YES** RES 4 and RES 15

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

\*\*Approval is pending approval of companion request 23SS00005 which proposes to amend the Future Land Use designation from Residential 4 to Residential 15 on a 7.75± portion of the subject property.

## Background and Purpose of Request

The applicant is requesting a change of zoning classification from Medium-density Multi-family Residential (RU-2-15), Planned Unit Development (PUD), Agricultural Residential (AU), General Use (GU), Single-family Residential (RU-1-13), Single-family Residential (RU-1-11), Medium-density Multi-family Residential (RU-2-10), Estate Use Residential (EU), and Suburban Residential (SR) with BDPs to Planned Unit Development (PUD) and the removal of the BDPs on 136.46± acres.

The proposed PUD would allow 187 single-family units and 408 multi-family units within fourteen (14) parcels. The PDP shows the proposed multi-family to be concentrated in the eastern side of the PUD off N. Carpenter Road. The subject property is located west of I-95 and south of SR 46 with frontage along two Brevard County maintained road right-of-ways: N. Carpenter Road and London Town Road. The predominant Future Land Use (FLU) designation along this section of N. Carpenter Road is RES 15.

This project proposes to construct 595 residential units within five (5) PODs with an overall density of 6.73 units per acre:

POD #	Units and Lot size	Acres	Density
1	230 Townhome (22x100)	28.28	8.13
2	Stormwater Ponds	39.21	0
3	37 Single-family detached (90x100 & 40x100)	31.63	1.16
4	150 Single-family Villas (32x100)	25.12	7.35
5	178 Multi-family	12.23	17.01

The Planned Unit Development (PUD), as provided in Sec. 62-1446(b)(1) *the average density permitted in each PUD shall be established by the Board of County Commissioners, upon recommendation of the Planning and Zoning Board. The criteria for establishing an average density include existing zoning, adequacy of existing and proposed public facilities and services, site characteristics, and the recommended density of any land use involving the area in question. In no case shall the overall number of dwelling units permitted in the PUD be inordinately allocated to any particular portion of the total site area.*

The applicant has requested the removal of two existing BDPs associated with the subject property. The first BDP, recorded in **ORB 6806, Pages 1685 - 1688** and approved under **12PZ00055** on February 19, 2013, binds approximately 7.77 acres of the subject property which is zoned RU-2-10 to the following conditions based on a previously submitted development plan:

- Requires a 50-foot setback for Buildings 3 and 4 and a 20-foot setback for Building 2 as shown on the site plan;
- Requires planting of mature trees and shrubs between buildings along the south property line and the abutting single-family homes on lots 1-5

This 7.77 acre portion of the subject property is located south of London Town Road and west of Carpenter Road.

The second BDP, recorded in **ORB 5620, Pages 5603 - 5609** and approved under **Z-11158** on March 21, 2006, binds approximately 904 sq. ft. the subject property which is zoned RU-1-11 to the following conditions:

- Restricts development to no more than three (3) dwelling units on a 1.45-acre portion of 6.36 acres

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

	Existing Use	Zoning	Future Land Use
North	SFR	EU-2, RU-1-7, RU-1-11, SR	RES 4, NC
South	SFR	EU-2, RU-1-13	RES 15
East	Multi-family and vacant	RU-2-30, RU-2-15, RU-2-10	RES 15
West	SFR	EU-2, PUD, AU, RR-1	RES 1, RES 4

Planned Unit Development (PUD) encourages and permits variation in development by allowing flexibility with lot size, type of dwellings, density, lot coverage and open space from that required in standard residential zoning classification. The purpose of a PUD 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. This request is for single-family and multi-family residential units.

There is a mixture of residential zoning classifications in the surrounding area and the following provides a brief description:

RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth.

RU-2-15 zoning classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

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.*

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.

## Description of Waiver Request and Code Section:

### Waiver #1 –

**Sec. 62-1446. PUD-Land Use Regulations; Sub-Section (d) Minimum lot area, frontage, and setbacks; accessory uses; Paragraph (1) – to reduce the required 5,000 sf minimum lot area to 4,000 sf. (POD III Only)**

*The minimum lot size for detached single-family structures shall be an area not less than 5,000 square feet and having a width of not less than 50 feet. 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 (e.g., are directly adjacent to or abut a common open space area) and the arrangement of dwelling units provides for adequate separation of units and the living area of the dwelling unit or units is properly related to the configuration of the proposed lots.*

**Applicant Justification:** It is proposed to request a waiver to reduce the required 5,000 sf minimum lot area to a minimum of 4,000 sf.

We are requesting this waiver due to recently desired unit types, affordability, and site constraints. As it may be noticed, the site property, being an old defunct golf course, is very narrow and long. Not what is normally encountered for typical parcel dimensions. Providing lot area waivers for smaller lots allows for a viable number and a variety of unit sizes.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** *The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens. Providing lot area waivers for smaller lots allows for a viable number of and a variety of unit sizes, as well as a more affordable product.*
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** *There is no evidence that smaller lot sizes have a negative effect on adjacent properties.*
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** *This request is generally not applicable to other properties due to the configuration of the property being unique to this project.*
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The request is consistent with the PUD code section as follows:  
**Sec. 62-1442(b):**
  - *Accumulation of significant areas of usable open spaces for the preservation of natural amenities.*
  - *Flexibility in design to take the greatest advantage of natural land, trees, historical features, and other features.*
  - *Creation of a variety of housing types and compatible neighborhood arrangements that give the home buyer greater choice in selecting types of environment and living units.*

- *Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the county.*
- *Efficient use of land which may result in smaller street and utility networks and reduce development costs.*

**Staff analysis:** The affected lots in this request all have substantial relationship to a 15' common open space tract directly adjacent to the affected dwelling units. The PDP also indicated adequate separation of units and the living area will be properly related to the configuration of the proposed lots.

## **Waiver #2 –**

**Sec. 62-1446. PUD-Land Use Regulations; Sub-Section (d) Minimum lot area, frontage, and setbacks; accessory uses; Paragraph (3) – to reduce the required minimum 20 feet rear setback to 10 feet. (POD III)**

*Setbacks and minimum distances between structures are as follows:*

*a...."Single-family detached structures shall be set back not less than 20 feet from the rear lot line, except that screened porches may be set back not less than ten feet."*

**Applicant Justification:** It is proposed to request a waiver to reduce the required minimum 20' rear setback to a minimum of 10'.

We are requesting this waiver due to recently desired unit types, affordability, and site constraints. As it may be noticed, the site property, being an old defunct golf course, is very narrow and long. Not what is normally encountered for typical parcel dimensions. Providing lot area waivers for smaller lots allows for a viable number and variety of unit sizes.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens.
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** Enhanced landscape buffers will be provided as to not be injurious to the adjacent properties.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** This request is generally not applicable to other properties due to the configuration of the property being unique to this project.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The request is consistent with the PUD code section as follows:

**Sec. 62-1442(b):**

- *Accumulation of significant areas of usable open spaces for the preservation of natural amenities.*
- *Flexibility in design to take the greatest advantage of natural land, trees, historical features, and other features.*
- *Creation of a variety of housing types and compatible neighborhood arrangements that give the home buyer greater choice in selecting types of environments and living units.*
- *Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the county.*
- *Efficient use of land which may result in smaller street and utility networks and reduce development costs.*

**Staff analysis:** The affected lots in this request all have substantial relationship to a 15' common open space tract directly adjacent to the affected dwelling units. The PDP also indicated adequate separation of units and the living area will be properly related to the configuration of the proposed lots. The existing lots to the south are single-family attached which appears to have a 20 feet open space tract with rear building setbacks from 5 to 20 feet.

### **Waiver #3 –**

**Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (1) – to reduce the required minimum 50 feet wide right-of-way to a minimum of 30 feet with 10-foot easements on each side for Pod III.**

*Right-of-way width shall be sufficient to accommodate all public facilities, including, but not limited to: pavement, drainage, pedestrian ways, auxiliary lanes, medians, utilities and landscaping.*

*Generally, the minimum right-of-way width for local streets shall be 50 feet. Additional width may be required by the county manager or his designee if necessary to accommodate drainage or other public facilities. The minimum width may be reduced by the county development engineer, if public benefit, such as environmental preservation, can be demonstrated by the applicant.*

*Right-of-way requirements for all other roadway types shall be determined by an engineering analysis, prepared by the engineer-of-record, of the width required to accommodate necessary public facilities, as defined by the county development engineer.*

**Applicant Justification:** It is proposed to request a waiver to reduce the required minimum 50' wide right-of-way to a minimum 30' with 10' easements on each side.

We are requesting this waiver due to the site property, being an old defunct golf course, being very narrow and long. Not what is normally encountered for typical parcel dimensions. Providing a ROW width waiver allows for a viable number of and a variety of unit sizes. Easements will be provided to accommodate utilities and walkways.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.

**Explanation:** The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens.

2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** Additional easements for access and utilities are being provided as to not be injurious to the adjacent properties.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** This request is generally not applicable to other properties due to the configuration of the property being unique to this project. However, for private roadways, having a reduced or no ROW in conjunction with easements is not uncommon.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The request is consistent with the PUD code section as follows:

**Sec. 62-1442(b):**

- *Flexibility in design to take the greatest advantage of natural land, trees, historical features, and other features.*
- *Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the county.*
- *Efficient use of land which may result in smaller street and utility networks and reduce development costs.*

**Staff analysis:** The proposed right-of-way width is not sufficient to accommodate all public facilities, including, but not limited to: pavement, drainage, pedestrian ways, auxiliary lanes, medians, utilities and landscaping. The applicant is proposing sidewalks to be included in easements within the front building setback. The Board will need to evaluate if a public benefit has been demonstrated. Road ROW will be private and maintained by the Homeowner's Association.

**Waiver #4 –**

**Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (1) – to reduce the required minimum 50 feet wide right-of-way to a minimum of 30 feet with a 5-foot easement on each side for Pods I and IV.**

*Right-of-way width shall be sufficient to accommodate all public facilities, including, but not limited to: pavement, drainage, pedestrian ways, auxiliary lanes, medians, utilities and landscaping.*

*Generally, the minimum right-of-way width for local streets shall be 50 feet. Additional width may be required by the county manager or his designee if necessary to accommodate drainage or other public facilities. The minimum width may be reduced by the county development engineer, if public benefit, such as environmental preservation, can be demonstrated by the applicant.*

*Right-of-way requirements for all other roadway types shall be determined by an engineering analysis,*



*prepared by the engineer-of-record, of the width required to accommodate necessary public facilities, as defined by the county development engineer.*

**Applicant Justification:** It is proposed to request a waiver to reduce the required minimum 50' wide right-of-way to a minimum 30' with 5' easements on each side.

We are requesting this waiver due to the site property, being an old defunct golf course, being very narrow, and long. This is not what is normally encountered for typical parcel dimensions. Providing a ROW width waiver allows for a viable number of and a variety of unit sizes. Easements will be provided to accommodate utilities and walkways.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens.
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** Additional easements for access and utilities are being provided as to not be injurious to the adjacent properties.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** This request is generally not applicable to other properties due to the configuration of the property being unique to this project. However, for private roadways, having a reduced or no ROW in conjunction with easements is not uncommon.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The request is consistent with the PUD code section as follows:

**Sec. 62-1442(b):**

- *Flexibility in design to take the greatest advantage of natural land, trees, historical features, and other features.*
- *Allowance of sufficient freedom for the developer to take a creative approach to the use of land and related physical development, as well as utilizing innovative techniques to enhance the visual character of the county.*
- *Efficient use of land which may result in smaller street and utility networks and reduce development costs.*

**Staff analysis:** The proposed right-of-way width is not sufficient to accommodate all public facilities, including, but not limited to: pavement, drainage, pedestrian ways, auxiliary lanes, medians, utilities and landscaping. The applicant is proposing sidewalks to be included in easements within the front building setback. The justification presented does not address a public benefit. Road ROW will be private and maintained by the Homeowner's Association.

## Waiver #5 –

**Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (3) – to reduce the minimum 100-foot setback of the cul-de-sac right-of-way to the plat boundary to 15 feet with the inclusion of a 6’ high wall and landscaping in one (1) location (Pod III).**

*Cul-de-sac design. Generally, cul-de-sacs shall terminate with a circular right-of-way with a minimum diameter of 100 feet and a paved area with a minimum diameter of 84 feet. The right-of-way for the cul-de-sac shall be at least 100 feet from the nearest road or street or the nearest plat boundary. This distance may be reduced to 50 feet where a minimum ten feet wide, four feet high opaque, vegetative buffer is provided.*

*Where a street is to be temporarily terminated at a property line and is to be continued when adjacent property is subdivided, either a temporary turnaround having an outside diameter of 84 feet or a "T" type turnaround shall be provided. Sufficient right-of-way shall be dedicated to accommodate the temporary cul-de-sac or turnaround.*

**Applicant Justification:** It is proposed to request a waiver to reduce the minimum 100’ setback of the cul-de-sac right-of-way to the plat boundary to 15’ with the inclusion of a 6’ high wall and landscaping in one (1) location (Pod III).

We are requesting this waiver due to the parcel configuration, as well as the inability to connect to adjacent properties. Sufficient landscaping and barrier walls/fences will be provided to reduce noise and lighting on adjacent properties.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens.
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** Enhanced landscape buffers and opaque barriers will be provided as to not be injurious to the adjacent properties.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** This request is generally not applicable to other properties due to the configuration of the property being unique to this project.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The intent is to shield the adjacent properties from light and noise. The enhanced landscape buffers and opaque barriers will provide this protection to meet the code intent.

**Staff analysis:** The applicant’s proposed landscaping and barrier in the request does not sufficiently meets the requirements Sec. 62-2956 paragraph (3) “This distance **may be reduced to 50 feet** where

a minimum ten feet wide, four feet high opaque, vegetative buffer is provided.” “These requirements may be modified by the county manager or his designee if public benefit has been demonstrated by the applicant.” Fire has no issues with the proposed as long as the cul-de-sac meets the minimum radius of 42’ for adequate turning radii for fire department apparatus per the Florida Fire Prevention Code (FFPC) 1-18.2.3.5.3.1. The Board will need to evaluate if a public benefit has been demonstrated.

#### **Waiver #6 –**

**Sec. 62-2883. General design requirements and standards.; Sub-Section (d) – to replace the required 15’ perimeter buffer tract with a 15’ perimeter buffer easement, or 10’ perimeter easement where adjacent to an existing drainage easement, and allow it to be disturbed for grading, landscape, and buffer improvements, including but not limited to walls, fences, retention slopes, walking paths, and utilities (Pod III).**

*Buffer requirements: In the design of a proposed residential subdivision, a minimum 15-foot perimeter buffer shall be required. Such buffer shall remain undisturbed along all property boundaries and shall be platted as a common tract, separate from individual lots. Landscape improvements may be constructed within said buffer tract subject to review and approval by the county. The buffer requirements described herein shall not apply to minor subdivisions.*

**Applicant Justification:** It is proposed to request a waiver to replace the required 15’ perimeter buffer tract with a 15’ perimeter buffer easement and allow it to be disturbed for grading, landscape, and buffer improvements, including but not limited to walls, fences, retention slopes, walking paths, and utilities.

We are requesting this waiver due to the property width issues and the fact that the property is already developed. The 15’ perimeter buffer tract requirement was introduced to the code back in 2001 to maintain an existing wooded buffer between new and existing developments. No such wooded area exists since the property was cleared and developed previously as a golf course, for viewing purposes of the abutting residences.

The 15’, or 10’ adjacent to an existing drainage easement, perimeter buffer easement will be provided in lieu and will be landscaped to create a buffer where none currently exists.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** The site is an abandoned golf course. The physical conditions, shape, and topography are very unique in that the parcels are long and skinny, previously being course holes made up of tee boxes, fairways, and greens.
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** Enhanced landscape buffers will be provided so as to not be injurious to the adjacent properties, it will be in an easement in lieu of a tract. This waiver has been granted on similar projects.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** This request is generally not applicable to other properties due to the configuration of the property being unique to this project.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** The intent is to provide a 15' landscape buffer, which is what is still being proposed to provide. The code intent is to maintain existing vegetation between adjacent properties, however since this property is already developed, a natural buffer does not exist.

**Staff analysis:** there is no existing wooded buffer between POD III and the existing development to the south, therefore Staff would support adding landscaping, fencing and sidewalks with landscaping abutting stormwater areas where the width is greater than 15' to the perimeter buffer area.

#### **Waiver #7 –**

**Sec. 62-3206. Parking and Loading Requirements; Sub-Section (c); Paragraph (13) – to remove the requirement for one level of parking under a building that would exceed 45' in height for Pod V.**

*All properties located within a residential zoning classification where building height exceeds 45 feet, one level of parking shall be required to be located within the area defined by the exterior walls of the principal habitable structure.*

**Applicant Justification:** It is proposed to request a waiver to remove the requirement for one level of parking under a building that would exceed 45' in height for Pod V.

We are requesting this waiver due to the ability to provide required parking at ground level outside. In addition, first-level interior parking is expensive and typically found in heavily urbanized settings. This location is more rural or sub-urban in nature and first level parking would be unusual in this setting.

1. The particular physical conditions, shaper, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out. **Explanation:** The site is located in a more rural area. This requirement is for a more urban environment where outdoor parking may be difficult to provide. This is not the case in the proposed tract. It would be inconsistent with the area to provide underground parking, causing the actual building height to be higher than necessary.
2. The granting of the waiver will not be injurious to the other adjacent property. **Explanation:** It would actually enhance the adjacent properties by not requiring the buildings in this tract to have a net increase in building height just to accommodate underground parking.
3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant. **Explanation:** Due to the location of the property, this waiver would not be generally necessary if set in a more urban environment.
4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article. **Explanation:** Reduced net building height is consistent with the code and comp plan when adjacent to SFR.

**Staff analysis:** Waiver to Sec. 62-3206. Parking and Loading Requirements; Sub-Section (c); Paragraph (13) – to remove the requirement for one level of parking under a building that would exceed 45’ in height cannot be considered for a waiver at this time. Alternative development standards can only be considered for land development regulations in articles VI or VII of chapter 62 of the Brevard County Code during the PUD rezoning process. This request can be considered during the site plan.

## **Land Use**

The subject property is currently designated as Residential 4 (RES 4) and Residential 15 (RES 15) on the FLUM (Future Land Use Map).

The existing RU-2-10 and RU-2-15 zoning classifications cannot be considered consistent with the existing Residential 4 (RES 4) FLU designation.

The proposed PUD zoning classification can be considered consistent with the existing Residential 4 (RES 4) and Residential 15 (RES 15) FLU designations, as well as the proposed Residential 4 (RES 4) and Residential 15 (RES 15) FLU designations.

## **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 – 5 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:**

- 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.

**This Future Land Use Amendment request to change from RES 4 to RES 15 will require a connection to potable water and a centralized sewer system.**

**The Mims Water Treatment Plant’s design capacity is adequate to serve the proposed development. However, the plant is under maintenance which has temporarily reduced its capacity. The County is in the process of performing the improvements to regain the capacity. That said, the developer should anticipate conditional approval stipulating the development shall not exceed the design capacity of the plant and they will work with Utilities ensuring the phasing timeline coincides with water availability prior to the submittal of the first engineered plan (site plan or subdivision).**

## **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;

**The proposed 595 residential units would generate approximately 5,253 daily trips. Traffic volumes and emergency response issues may diminish the enjoyment of, safety or quality of life in the existing neighborhoods. Additional access points and road capacity improvements may alleviate the foreseeable issues. 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;

**October 2006, the Board of County Commissioners directed Planning and Zoning staff to prepare a Small Area Study (SAS) for the Mims community in northern Brevard County in order to assess the area's growth capabilities and develop tactics for managing growth. The concern was continued growth would likely exceed the County's ability to supply potable water, due to aquifer limitations. The same aquifer supplies water to private well-users in Mims. *Analysis indicated that by reducing FLUM densities in parts of Mims would reduce potential buildout number by 30%.* The Mims Small Area Study was approved by the Commissioners on April 10, 2007. *As a result of the study, recommendations were developed which included reducing the FLUM residential densities by one designation.* A Comprehensive Plan Amendment was approved by the Board as part of the 2008A package to confirm the findings in the study. Because the subject property was already developed, it was not included in the 3,783 acres affected by Amendment 2008A.**

**Land use patterns area includes RES 15, RES 4, RES 2, RES 1, PUB-CONS, NC and CC. The land use pattern transitions from 15 units per acre west N. Carpenter Rd to RES 1, RES, 2 and RES 4 units per acre on the east and west sides of Turpentine Rd. To the north is RES 4, RES 1, and mix of NC and CC. To the south is RES 15 west of N. Carpenter Rd which transitions to RES 4 and RES 2 closer to Turpentine Rd. Further south is PUB-CONS land use. The proposed density is 6.73 units per acre while the existing developed density in the surrounding area is 2.42 units/ac.**

**Land uses in the surrounding area include single-family, duplexes, townhomes and multi-family residential units.**

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

**There has not been any actual development adjacent to the site in the preceding three (3) years.**

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

**While there has not been any actual development adjacent to the site in the preceding three (3) years, six zoning actions has been approved within one-half mile:**

- **21Z00043**, approved by the Board on May 30, 2022, was a request to rezone 73.59 acres from AU, GU, BU-1 and BU-2 to all RU-1-7 with BDP for 180 SFR units located approximately 3,330 feet northwest of the subject property on SR 46.
- **22Z00010**, approved by the Board on May 25, 2022, was a request to rezone from AU to RR-1 on 1.0 acre located approximately 3,517 feet west of the subject property on Turpentine Road.

**21Z00044**, approved by the Board on March 2, 2022, was a request to rezone from GU to BU-1 on 4.0 acres located approximately 3,000 feet northwest of the subject property SR 46.

Small Scale companion application 21PZ00081, approved by the Board on March 3, 2022, was a request to amend the Future Land Use Map (FLUM) from NC to CC on 4.0 acres of 118.3 acres.

- **21Z00036**, approved by the Board on February 2, 2022, was a request to rezone from AU to RR-1 on 4.26 acres located approximately 3,200 feet west of the subject property on Turpentine Road.
- **21Z00030**, approved by the Board on January 26, 2022, was a request to rezone from RU-1-11 with BDP to RU-1-7 with replacement BDP on 79.16 acres located approximately 1,100 feet west of the subject property on the south side of SR 46 and east of Turpentine Road. The BDP limits the gross density on the property to a maximum of 198 units. The developer shall also provide minimum unit size of 1,800 square feet, 300-foot-wide buffer along the east approximately 1,600 feet of the south property line (placed in a conservation easement) and numerous additional buffers and fencing.

Small Scale companion application 22PZ00001, approved by the Board on April 7, 2022, was a request to amend the FLUM from RES 1 to RES 4 on 8.25 acres of 79.16 acres.

- **20Z00028**, approved by the Board on December 2, 2020, was a request to rezone AU and EU-2 with BDP to all EU-2 with removal of BDP on 0.24 acres located approximately 1,595 feet southwest of the subject property on Arnold Palmer Drive.

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

**The proposed PUD requires several waivers. If the Board approves the waiver requests, that would set a precedent for other such requests.**

#### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

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.

**The proposed 595 residential units would generate approximately 5,253 daily trips. Traffic volumes and emergency response issues may diminish the enjoyment of, safety or quality of life in the existing neighborhoods. Additional access points, traffic management and road capacity improvements may alleviate the foreseeable issues.**

- 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 subject property is located in several existing platted residential neighborhoods. There are clearly established roads and plat boundaries.**

- 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.

**The request is not for commercial use. It is located in several existing single-family residential neighborhoods.**

- 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.

**The area is primarily single-family residential with no commercial zoning nearby.**

#### **Analysis of Administrative Policy #5 - Traffic.**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:



Criteria:

- A. Whether adopted levels of service will be compromised;

**It is anticipated that the development will not impact the levels of service above unacceptable levels. However, the required Traffic Impact Analysis will determine the degree of the impacts and any necessary roadway improvements. The TIA Methodology has been approved by County staff.**

- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

**A road system condition assessment must be conducted by the applicant to assess the physical quality of the existing pavement and structural condition of affected roadways and identify necessary improvements, such as road resurfacing or road reconstruction, to support the proposed development without significant road system deterioration.**

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;

**The road system condition assessment must include an inventory of the existing affected roadways and identify necessary improvements, such as road widening or other modifications, to support the proposed development.**

- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;

**The road system condition assessment must include an evaluation of potential impacts on public safety that could result from the proposed development. Separately, a traffic calming study must be conducted by the applicant for the affected roadways and will identify necessary improvements to mitigate speeding and encourage preferred routing of traffic.**

- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;

**The development is anticipated to impact the road system's volume-to-capacity ratios. The required Traffic Impact Analysis will determine the degree of the impacts.**

- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;

**The evaluation of whether the road system's physical deterioration is likely can be conducted after the resulting traffic volumes are identified in the Traffic Impact Analysis.**

G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

**An increase in traffic volumes may result in the speed at or below which 87 percent of the drivers travel on a road segment. The required Traffic Calming Study will determine the prevailing existing and anticipated driving behaviors in the area.**

### **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 existing Sherwood community has documented flooding issues. The proposed development with proposed lots and infrastructure over existing drainage systems and easements appears to block historical drainage patterns, limit access for County maintenance, and may require the developer to vacate many drainage easements throughout the development including easements that are County maintained.**
- **Currently Pods V are showing wetland impacts, included in the total proposed wetland impact at 1.8%. These pods show preserved wetlands as well. However, no other features (access roads, building footprints) are shown. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total acreage on a cumulative basis as set forth in Section 65 3694(c)(6).**
- **The one small area of Pompano sand, 0 to 2 percent slopes on the northeastern portion of the site (portion of the proposed townhome area) may also function as an aquifer recharge soil. The applicant was notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.**
- **The pond on the south end of the property is shown to be in FEMA Special Flood Hazard Area (SFHA) A. The conceptual plan depicts a "modified pond." The area is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage.**

**These issues may limit the development of the property.**

### **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 PUD Pods have been proposed such that, to the maximum extent possible, the density, unit type, and/or lot sizes generally conform to the surrounding existing neighborhoods.

**Staff analysis:** The developed character of the surrounding area is single-family residential and multi-family residential. Built-out densities of adjoining residential developments range from approximately 1.16 units per acre to 17.01 units per acre.

#### **Surrounding Area Existing Development**

<b>Development by Plat Name</b>	<b>Acreage</b>	<b>Density (units built)</b>	<b>Lot sizes</b>
Sherwood Estates Unit 10	21.10	60 units – 2.84 units/ac	0.30 to 0.55ac
Sherwood Estates Unit 9	8.47	20 units – 2.36 units/ac	0.26 to 0.54ac
Sherwood Estates Unit 8	20.4	42 units – 2.05 units/ac	0.25 to 0.52ac
Sherwood Estates Unit 7	30.30	69 units – 2.27 units/ac	0.25 to 0.53ac
Sherwood Estates Unit 6	26.74	57 units – 2.13 units/ac	0.31 to 0.59ac
Sherwood Estates Unit 15	7.88	17 units – 2.15 units/ac	0.34 to 0.76ac
PUD 2 Stage 1 Tract A TH	51.24	40 units – 7.80 units/ac	0.04 to 0.07ac
PUD 2 Stage 1 Tract B TH	4.971	26 units – 5.23 units/ac	.04 to 0.08ac
PUD 2 Stage 2 Phase 1 TH	8.44	28 units – 3.31 units/ac	0.04 to 0.09ac
PUD 2 Stage 2 Phase 2 3 Dup	3.6	24 units – 3.6 units/ac	0.15ac
Sherwood Villas Unit 1	6.60	15 units – 2.27 units/ac	0.28 to 0.54ac
Sherwood Villas Unit 2	31.53	102 units – 3.23	0.23 to 0.54ac
Eagle Pointe Subdivision	18.75	37 units – 1.97 units/ac	0.24 to 0.36ac
Fairway Woods 1 Phase 1 MF	6.37	12 units – 1.88 units/ac	
Birchwood Forest	22.66	51 units – 2 units/ac	0.12 to 0.58ac
Nottingham Manor MF	4.2	60 units – 14 units/ac	
Quadruplex	1	4 units – 4 units/ac	
<b>Grand Total</b>	<b>274.25</b>	<b>664 – 2.42 units/ac</b>	

**This request is for an overall average density of 6.73 units per acre, over five PODs (excluding POD 4).**

<b>POD</b>	<b>TYPE</b>	<b>ACREAGE</b>	<b>UNITS</b>	<b>DENSITY</b>
1	Townhomes	28.28	230	8.13
2	Stormwater	39.21	0	0
3	Single-family	31.63	37	1 .16
4	Single-family Villas	20.39	150	7 .35
5	Multi-family	10.46	178	17.01

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

TYPE	EXISTING	PROPOSED
Single-family detached	0.23 – 0.76ac	0.09 and 0.20ac
Single-family attached (Villas)	0.15	0.07
Townhomes	0.04 – 0.09ac	0.05ac

**Applicant response:** The PUD Pods have been proposed such that, to the maximum extent possible, the density, unit type, and/or lot sizes generally conform to the surrounding existing neighborhoods.

**Staff analysis:** The proposed single-family lot sizes are comparable smaller than the existing. Townhomes lots size are within range, while the proposed duplex lot sizes are about half the size of the existing.

- c. Prevention of erosion and degrading of surrounding area.

**Applicant response:** As is required by state and local laws and code, construction and stormwater erosion prevention shall be implemented and maintained to not cause adverse impacts to the adjacent properties.

**Staff analysis:** The PDP narrative indicates the surface water management system for the project will consist of swales, culverts, lakes, and shallow retention areas which will overflow into existing on-site wetland systems and/or existing on- and off-site drainage systems. However, staff has indicated that due to historical drainage patterns and flooding issues a drainage study with and associated master drainage plan is needed prior to construction of the first phase of the development.

- 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:** Recreation facilities, additional access/egress connections for fire safety, potable water supply extension and looping, sewage collection and transmission, and stormwater treatment/attenuation and flood control, and soil conservation are proposed within the PUD and justification shall be provided with the construction plans.

**Staff analysis:** The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. Open space amenities include a Dog Park, Park Benches, Walking Trails, Observation Pier, Tot Lot, Pickle Ball / Fire Pit / Arbor, and Educational Trail / Preserve.

The Mims Water Treatment Plant's design capacity is adequate to serve the proposed development. However, the plant is under maintenance which has temporarily reduced its capacity. The County is in the process of performing the improvements to regain the capacity. That said, the developer should anticipate conditional approval stipulating the development shall not exceed the design capacity of the plant and they will work with Utilities ensuring the phasing timeline coincides with water availability prior to the submittal of the first engineered

plan (site plan or subdivision). Surface drainage and flood control – addressed in c. above. Soil conservation is not shown.

- 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:** A mix of common open space features and facilities shall be provided in addition to preservation of existing open space paths and wetlands.

**Staff analysis:** The proposed common open space can 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:** All stages of the PUD shall be capable of meeting applicable code sections as an independent development.

**Staff analysis:** The applicant is proposing to develop the property in six (6) stages. The cumulative density for all POD's proposed for development, vary upward more than two units per acre. Per Sec. 62-1446(b)(2) requirements. Where a developer elects to develop the property in stages, the cumulative density with each subsequent stage must be approximately the same as the overall density approved for the entire project in that such cumulative density shall not vary upward more than two units per acre". Upon completion of all stages, the final density shall not exceed the density approved in the preliminary development plan.

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

**Applicant response:** Availability for water and sewer service has been confirmed as part of the concurrency review.

**Staff response:** The Mims Water Treatment Plant's design capacity is adequate to serve the proposed development. However, the plant is under maintenance which has temporarily reduced its capacity. The County is in the process of performing the improvements to regain the capacity. That said, the developer should anticipate conditional approval stipulating the development shall not exceed the design capacity of the plant and they will work with Utilities ensuring the phasing timeline coincides with water availability prior to the submittal of the first engineered plan (site plan or subdivision).

- 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 study methodology and analysis has been provided. All required improvements shall be designed and provided with the construction plan submittal.

Additional access/egress connections were requested and have been provided for emergency management that do not exist currently.

**Staff analysis:** The PDP proposes the creation of thoroughfares within each POD to support the traffic generated within the development. However, staff analysis has indicated traffic management and road capacity improvements will be needed prior to completion to adequately support the new 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.

**Applicant response:** The existing neighborhoods suffer from poor interconnectivity of roads for emergency egress, flooding conditions, and being adjacent to an unmaintained defunct open space. The proposed development will provide additional egress points, stormwater attenuation, and maintained usable open space features that are open to the public to address these concerns.

**Staff analysis:** Benefits within the proposed development include varies types of recreational amenities. The applicant has made significant revisions to the PDP to address existing residents' concerns pertaining to density and existing flooding issues in the area.

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

**Applicant response:** The proposed project is in conformance and is compatible with the current development plan of the County.

**Staff analysis:** The subject property is located within the Mims Small Area Study. The Mims Study, accepted by the Board on April 10, 2007, recommended a reduction in the designated Future Land Use Map densities in the Mims area. A Comprehensive Plan Amendment was approved by the Board as part of the 2008A package to confirm the findings in the study. Because the subject property was already developed, it was not included in the 3,783 acres affected by Amendment 2008A.

- 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 proposed common open space features enhance the existing open spaces or propose new features that were previously not available.

**Staff analysis:** The PDP states 88.48 acres of total open space will be provided, which includes 26.51 total passive and 61.96 active recreation space. Proposed amenities include Clubhouse/Pool, Dog Park, Park Benches, Walking Trails, Observation Pier, Tot Lot, Pickle Ball / Fire Pit / Arbor, and Educational Trail / Preserve.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Carpenter Road, between Dairy Road and SR 46, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 30.41% of capacity daily. The proposed development from this rezoning request increases the percentage of MAV utilization by 33.67%. The corridor would anticipate operating at 64.08% daily capacity. The proposed development is not anticipated to create a deficiency in LOS. The applicant may consider phasing to ensure there remains capacity to support the development.

The Mims Water Treatment Plant's design capacity is adequate to serve the proposed development. However, the plant is under maintenance which has temporarily reduced its capacity. The County is in the process of performing the improvements to regain the capacity. That said, the developer should anticipate conditional approval stipulating the development shall not exceed the design capacity of the plant and they will work with Utilities ensuring the phasing timeline coincides with water availability prior to the submittal of the first engineered plan (site plan or subdivision).

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Mims Elementary School, Madison Middle School, and Astronaut High School for the total of projected and potential students from this development.

## **Environmental Constraints**

- Wetlands Protection & Hydric Soils
- Aquifer recharge
- Floodplain Protection
- Protected & Specimen Trees
- Protected Species

The subject property contains wetlands as depicted on applicant's submittal. Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

## **For Board Consideration**

The Board may wish to consider if the request is consistent and compatible with the surrounding area. In addition, the Board may consider if the conditions and waivers mitigate potential impacts to the surrounding properties. Without Board approval of waivers, all design elements shown on the PDP will require conformance with Brevard County code. The applicant will provide a BDP containing the following waivers and conditions:

- 1) The proposed development shall be based on 187 SF units, 408 MF units.
- 2) Due to historical drainage patterns and flooding issues a drainage study with and associated master drainage plan is needed prior to construction of the first phase of the development.
- 3) Approval of requested waiver from Sec. 62-1446. PUD-Land Use Regulations; Sub-Section (d) Minimum lot area, frontage, and setbacks; accessory uses; Paragraph (1) – to reduce the required 5,000 sf minimum lot area to 4,000 sf. (POD III Only). All affected lots shall have

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. PUD-Land Use Regulations; Sub-Section (d) Minimum lot area, frontage, and setbacks; accessory uses; Paragraph (3) – to reduce the required minimum 20 feet rear setback to 10 feet. (POD III). All affected lots shall have substantial relationship to a 15' common open space tract directly adjacent to the affected dwelling units with adequate separation of units and the living area will be properly related to the configuration of the proposed lots.
- 5) Approval of requested waiver from Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (1) – to reduce the required minimum 50 feet wide right-of-way to a minimum of 30 feet with 10-foot easements on each side for Pod III. The affected rights-of-way shall be private and maintained by the Homeowner's Association.
- 6) Approval of requested waiver from Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (1) – to reduce the required minimum 50 feet wide right-of-way to a minimum of 30 feet with a 5-foot easement on each side for Pods I and IV. The affected rights-of-way shall be private and maintained by the Homeowner's Association.
- 7) Approval of requested waiver from Sec. 62-2956. Transportation technical guidelines and performance standards.; Sub-Section (a) Roadway; Paragraph (3) – to reduce the minimum 100-foot setback of the cul-de-sac right-of-way to the plat boundary to 15 feet with the inclusion of a 6' high wall and landscaping in one (1) location (Pod III). Landscaping shall consist of a minimum of 2 shade trees per 100 LF and 4 understory trees per 100 LF.
- 8) Approval of requested waiver from Sec. 62-2883. General design requirements and standards.; Sub-Section (d) – to replace the required 15' perimeter buffer tract with a 15' perimeter buffer easement, or 10' perimeter easement where adjacent to an existing drainage easement, and allow it to be disturbed for grading, landscape, and buffer improvements, including but not limited to walls, fences, retention slopes, walking paths, and utilities (Pod III).
- 9) Prior to County approval of a construction plan and/or Preliminary Plat, the Developer shall:
  - a. Execute an agreement including, but not limited to, a Proportionate Fair Share agreement, with the County 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.
- 10) 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.
- 11) Address all staff comments regarding the PDP prior to, or concurrent with, site plan and subdivision submittals.
- 12) 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.



- 13) 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.
- 14) Prior to County approval of a construction plan and/or Preliminary Plat/and or Site Plan, the Developer shall submit a road system condition assessment to include an evaluation of potential impacts on public safety.
- 15) Prior to County approval of a construction plan and/or Preliminary Plat/and or Site Plan, the Developer shall submit a traffic calming study for the affected roadways and will identify necessary improvements to mitigate speeding and encourage preferred routing of traffic.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT**  
**Zoning Review & Summary**  
**Item #23Z00035**

**Applicant:** MBV Engineering for Ballarena Group Corp. (Sherwood)

**Land Use & Zoning Request:** FLU – RES 15 & RES 4 to Change 4 RES 4 parcels to RES 15; Zoning – RU-2-15, AU, RU-2-10, RU-1-13, & PUD to PUD with removal of two Binding Development Plans (BDPs)

**Note:** Wants to develop Single Family Detached Housing, Townhomes, Duplexes and Apartments.

**Zoning Hearing Date:** 08/12/2024; **BCC Hearing Date:** 09/05/2024

**Tax ID Nos:** 2101061, 2100937, 2100938, 2100939, 2100940, 2100942, 2100943, 2100952, 2100953, & 2111319

- 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:**

- Wetlands Protection & Hydric Soils
- Aquifer recharge
- Floodplain Protection
- Protected & Specimen Trees
- Protected Species

The subject parcel contains mapped wetlands and hydric soils, indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing or alteration activities. 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. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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.

**Land Use Comments:**

**Wetlands Protection/Hydric Soils**

The subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands (Freshwater Forested/Shrub Wetland and Mixed wetland hardwoods) and hydric soils (Terra Ceia muck, frequently flooded, Tomoka muck, undrained), indicators that wetlands may be present on the property. A wetland delineation is required prior to any land clearing or alteration activities. 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. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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, or performing any land clearing activities.

### **Aquifer Recharge Soils**

The one small area of Pompano sand, 0 to 2 percent slopes on the northeastern portion of the site may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

### **Floodplain Protection**

The pond on the south end of the property is shown to be in FEMA Special Flood Hazard Area (SFHA) A. The conceptual plan depicts a "modified pond." The area is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage.

### **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design to incorporate valuable vegetative communities or robust trees into the design. Per 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. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

### **Protected Species**

Federally and/or state protected species may be present on the property. Should any protected species be present, 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.