



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

20PZ00019

River Fly-In Condominium, Inc.

Amendment to Existing BDP (Binding Development Plan) in a PUD (Planned Unit Development)

Tax Account Number: 2501008
Parcel I.D.: 25-36-01-00-254
Location: South side of Cone Road, approximately 150 feet east of Kemp Street;
also located on the east side of Kemp Street, approximately 145 feet
south of Cone Road. (District 2)
Acreage: 13.03 acres

Planning and Zoning Board: 04/06/20

Board of County Commissioners: 05/07/20

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PUD with BDP	PUD with Amended BDP
Potential*	112 condominium units	112 short-term rental units (resort dwelling use)
Can be Considered under the Future Land Use Map	YES Residential 15	YES Residential 15

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

Background and Purpose of Request

The applicant is seeking to amend the current Binding Development Plan (BDP) to allow for short-term rentals of a proposed 112-unit condominium. The current BDP in effect is the second iteration of the BDP document. The applicant wishes to replace this BDP with a proposed (third version). The third version proposes to clarify the uses in the PUD and includes conditions consistent with Section 62-1841.5.5 of Brevard County Code concerning Resort Dwellings use.

This property is located at the SE corner of the Merritt Island Redevelopment District (MIRA); lying south of Cone Road and east of Kemp St. This item is scheduled to be heard by MIRA at their March 26, 2020 meeting.

The original zoning approval of the PUD's Preliminary Development Plan (PDP) occurred on May 22, 2006, under Zoning Resolution # **Z-11244**. This zoning action changed the property's zoning from Light Industrial (IU) to PUD with a BDP recorded in ORB 5648, Pages 7252 through 7265. This action includes a recorded copy of Declaration of Covenants and Waiver of Claim and to meet additional standards or restrictions in developing the property. One of the BDP conditions listed as Item 2 D. (ii) stated that ownership within the Project shall be limited to persons who hold non-revoked pilot certifications issued by the FAA, their spouses or their surviving relatives.

The first amendment (second BDP) was approved by Zoning Resolution **14PZ-00030** adopted on August 6, 2014. This amendment recorded a revised BDP document under ORB 7182, Pages 1198 through 1213. One of the conditions amended concerned pilot ownership of unit(s). This condition was replaced with a condition that states the condominium/homeowner's association shall approve each and every conveyance of a unit and resale of a unit. The BDP further documents that any conveyance made without the condominium/homeowners' associations' approval shall be voidable by the condominium/homeowners' association and removed the requirement to be a pilot. This version also does not identify occupancy - whether the units are to be owner occupied or if they can be rented/leased.

This third BDP (current proposal) proposes to clarify that under the PUD zoning classification, the condominium use functions as a multi-family designation and therefore the applicant desires that the Board allow short-term rentals under the permitted with conditions use – Resort Dwellings.

Site plan # **16SP00018**, the approved site plan for this project, provides (247 standard and 8 ADA parking spaces) for a total parking count of 255 parking spaces. If developed as short-term rental units, the required parking count could be reduced to one parking space per rented bedroom rather than two (2) parking spaces per condo unit. Required parking could drop from 255 to 136 total parking spaces.

Land Use

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development. The current use of the PUD is a 112-unit condominium and the proposed utilization of short-term rental use as proposed by the new BDP are both consistent with a residential density allowance of up to 15 units per acre. The current PDP and site plan propose a development density of 8.6 units per acre.

Environmental Constraints

No comment provided.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is Cone Road, between S. Courtenay Parkway and Plumosa, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 38.46% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 7.2%. The corridor is anticipated to continue to operate at 45.66% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

This change of occupancy from property owner residency to allow short-term rentals use increases the potential trips generation that this site would impose upon the local area. Based upon the Institute of Transportation Engineers ITE Code # 230 - Residential Condo/Townhouse use and comparing it to ITE Code # 265 - Timeshare use, the trip generation almost doubles the number of vehicle trips per day from 651 trips to 1,123 trips per day.

No school concurrency information has been provided as the development potential of this site was initially reviewed back in 2006.

The subject property is served by potable water provided by the City of Cocoa. The subject property is under agreement to be served by sewer by Brevard County.

Applicable Land Use Policies

The applicant is seeking to amend the current Binding Development Plan (BDP) to allow for short-term rentals of a proposed 112-unit condominium. The current BDP in effect is the second iteration of the BDP document. The applicant wishes to replace this BDP with a proposed (third version). The third version proposes to clarify the uses in the PUD and includes conditions consistent with Section 62-1841.5.5 of Brevard County Code concerning Resort Dwellings use.

The zoning approval under the original BDP states that ownership within the Project shall be limited to persons who hold non-revoked pilot certifications issued by the FAA, their spouses or their surviving relatives. It did not identify occupancy - whether the units are to be owner occupied or if they can be rented/leased.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. The proposed development of a 112-unit condominium is consistent with the Residential 15 FLUM as the proposed residential development potential is 8.6 units per acre. The proposed transition from owner occupied units to short-term rental of units doesn't change the residential use of this site; however, the resort dwelling use will require a Business Tax Receipt (BTR). This proposed use change will also act as a transition to buffer the residential lots lying north of this site from the Light Industrial (IU) zoning and Industrial FLUM located to the south of this site. Although parking may be allowed to be reduced due to the nature of the short-term rentals, traffic on local roadways potentially doubles (from 651 to 1,123 trips per day).

Analysis of Administrative Policy #4 - Character of a neighborhood or area. This site has had PUD (residential zoning) since 2006. While this proposed change to the BDP doesn't alter the underlying residential zoning, it will allow the property owners to have the potential to offer short-term rentals. There have been no zoning applications for change of land use to commercial or industrial

uses within the last five (5) years. The character of the area is a mixture of developed single-family residential lots with warehouse and industrial uses with a public airport in the immediate vicinity.

To the north of this site abutting Cone Road are three developed residential lots. The northwestern two lots have the General Use, GU. The 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. Those lots are considered as nonconforming lots of record and predate 1958. The northeastern lot is zoned Single-family residential, RU-1-11. The 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. To the north of Cone Road lie the Brevard Veteran's Memorial Center Park and a county storm water facility. Both uses are zoned Government Managed Lands with the Park designation, GML(P). The GML(P) classification allows parks or recreational land uses for governmental purposes.

To the east of this site lies undeveloped land zoned for Light Industrial, IU uses. The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

To the south of this site is a developed industrial site.

To the west of this site across Kemp Street are two properties with GML zoning. The northern half is zoned GML. This portion is owned by the county and used for county support services (Road & Bridge). The southern part is zoned GML and has a conditional use permit (**CUP-8587**) for the Merritt Island Airport. This zoning action was adopted April 23, 1990.

There have been only two recent zoning actions within a half-mile of the subject property in the last three years. The most recent action concerned the addition of a CUP for truck and trailer rental at the U-Haul facility located at the NW corner of Fortenberry Road and South Sykes Creek Parkway. This action was approved under **18PZ00061** and was adopted on August 2, 2018. The second zoning action concerned the removal of a stipulation for child care use only in a BU-1-A zoning classification. This action was identified as **16PZ00045** and was adopted August 4, 2016. The property is located in a southwesterly direction approximately ½ mile from this requested zoning action. The property is located on the west side of S. Courtenay Parkway across from Aztec Avenue.

For Board Consideration

The applicant is seeking to amend their BDP to allow for short-term rentals of a proposed 112-unit condominium. The applicant proposes to clarify the uses in the PUD and includes conditions supporting the requirements of Section 62-1841.5.5 of Brevard County Code concerning Resort Dwellings use.

The Board should determine whether the proposed BDP changing occupancy from long-term to short-term rentals is appropriate for the area. If the Board approves this change, a minor amendment to the PDP will be required to reflect this change of use.