



Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2069

BOARD OF COUNTY COMMISSIONERS

TO: Planning & Zoning Board Members
FROM: Cindy Fox, Planning & Zoning Manager
SUBJ: Planning and Zoning Staff Comments
February 9, 2015
DATE: January 9, 2015

The following comments are compiled by the Planning and Zoning staff and are reflections of a combination of technical reviews. These are presented to the Planning and Zoning Board and the Board of County Commissioners as a collection of known facts surrounding each proposal and their relationship to the policies of the Comprehensive Plan. It is hoped that these known facts and policy statements will assist each member in their individual decision-making efforts as additional information is received through the public hearing process. The material contained in these comments will be provided to the Commissioners in staff briefings. Any matter discussed in staff briefings not contained in this review will be disclosed at the Board of County Commissioners meeting.

STAFF COMMENTS PREPARED BY:

Planning & Zoning Office
NATURAL RESOURCES MANAGEMENT DEPARTMENT

Legend of Terms:

FLU Map - Future Land Use Map of Comprehensive Plan
FLUE - Future Land Use Element

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning and land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the planning and zoning staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan appeals, vested rights or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

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;

- 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.
- 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;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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:

Criteria:

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

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with (a) all written land development policies set forth in these administrative policies; and (b) the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element and transportation elements of the comprehensive plan.

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 unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits and vested rights determinations."

Section 62-1151 (c) of the Code of Ordinances of Brevard County directs "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) *Approval procedure.* An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use...

...In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odor, glare and noise, particulates, smoke, fumes and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) *General standards of review.*

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in section 62-1151(c) plus a determination that the following general standards are satisfied. The Board shall make the determination whether an application meets the intent of this section.
- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by section 62-2271.
 - d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
 - e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
 - f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

“...The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare...”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest MPO traffic counts.

Volume with Development (VOL W/DEV.): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (ALOS): Acceptable Level of Service currently adopted by the County.

Current Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The LOS that a proposed development may generate on a roadway.

III.B.2.

THIS ITEM WAS TABLED FROM THE 11/10/2014; 11/24/2014; 1/5/2015 P&Z & LPA MEETINGS AND THE 12/4/2014; 2/5/2015 BCC MEETING

Commission District # 4 (14PZ-00082)
 Initial Hearing Dates: P&Z 2/9/15 BCC 3/5/15

**REZONING REVIEW WORKSHEET
 (REVISED 12/11/2014)**

Applicant Name: EAGLE PROPERTIES OF VIERA, LLC, AND ANNA JACKOWSKA

Request: PIP to PUD with removal of BDP Z-10962(1 & 3)

Subject Property:

Parcel ID#: 25-36-35-TG-1; 26-36-02-TG-2; 25-36-35-00-757
 Tax Acct#: 2534780; 2626179; 2512062
 Location: South side of Viera Blvd., approx. 0.15 mile west of U.S. Hwy 1
 Address: No assigned address. (In the Viera area.)
 Acreage: 45.37 +/- acres.

Consistency with Land Use Regulations

<u>YES</u>	Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
<u>NO**</u>	Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
<u>YES</u>	Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PIP	PUD
Potential*	705,985 square feet Planned Industrial	98 SFR dwelling units
Can be Considered under FLU MAP	YES PLANNED INDUSTRIAL PARK	RES 2**

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

** Subject to Large Scale Comprehensive Plan Change from PLNIP to Res 2 included in 2014-2.1 amendment package.

	ADT	PM Peak		
Trips from Existing Zoning	0	0	Segment Number	537
Trips from Proposed Zoning	937.86	99.96	Segment Name	Holiday springs to US 1
Maximum Acceptable Volume (MAV)	15,600	1,419.6	Acceptable LOS	E
Current Volume	12,130	1,103.3	Directional Split	
Volume With Proposed Development	13,067.86	1,189.17	ITE CODE 210 98 SFR dwelling unit subdivision The proposed rezoning would reduce the trip generation potential from the existing zoning	
Current Volume / MAV	77.75%	77.7%		
Volume / MAV with Proposal	83.76	83.7%		
Current LOS	E	E		
LOS With Proposal	E	E		

Land Use Compatibility

FLUE Policy 1.1 requires consideration of land use compatibility and character of the area.

The request is for the PUD zoning classification. The Planned Unit Development (PUD) is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one 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. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of these staff comments.

Environmental Constraints

* Does the project appear to meet county use or density restrictions based upon:
 * Refer to NRMD's comments following these staff comments.

The following environmental factors may affect development potential (Policies 1.1.A, II.2.E, and 3.1.F, of the Future Land Use Element):

Environmental Factor	Preliminary Assessment of Factor	Environmental Factor	Preliminary Assessment of Factor
Hydric Soils	Mapped	Coastal Protection	NA
Aquifer Recharge Soils	Mapped	Surface Water Protection	NA
Floodplains	Mapped	Habitat for Protected Species	Mapped

Note: This is a preliminary review based upon environmental maps available to the Natural Resources Management Department (NRMD) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether a proposed use or development of the property can be permitted under current federal, state or local regulations. Hydric Soils may be associated with wetlands. If applicable, the full text of NRMD's comments follow these staff comments.

Other Considerations: This request is for the PUD zoning classification for the purposes of developing the subject property as a gated single-family subdivision. The density of the proposed development utilizing the open space subdivision design will be 2.2 units per acre with a total of 98 homes.

The Planned Unit Development (PUD) is a concept which encourages and permits variation in development by allowing deviation in lot size, bulk or type of dwellings, density, lot coverage and open space from that required in any one 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.

The proposed plan provides a large buffer for a preserved eagle's nest, preserved land for wetland and upland buffers, perimeter buffering and by-pass piping/swales for adjacent properties' drainage. The proposed plan provides 13 acres of open space. 10.92 acres of passive space and 2.08 acres of active open space in the form of jogging trails and exercise stations. Only 37 percent of the total acreage will be used for single-family development.

The Preliminary Development Plan should be evaluated in the context of Section **62-1448(5)** of the Zoning code. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1448(5). The applicant's responses are indicated in **bold** and staff observations are provided in *italics*.

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.

There is no degree of departure with our application with respect to surrounding residential areas. The site is currently an industrial property and is not in conformance with the surrounding residential to the south or residential zonings and land uses to the west on undeveloped land. This project creates conformance where none exists.

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

The site is currently an industrial property and is not in conformance with the surrounding residential to the south or residential zonings and land uses to the west on undeveloped land. This project creates conformance where none exists.

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

A detailed stormwater pollution prevention plan has already been designed and is in the process of being permitted by both the county staff and St. Johns River Water Management District. It includes but is not limited weekly monitoring of all erosion protection, inspections after every rain event, perimeter silt fence, inlet protection, and maintaining a daily log. We anticipate zero impacts to not only the single family to the south but also all other adjacent properties because of the buffering and preservation along our perimeter. The only close monitoring will be for dirt into the public Viera Boulevard right-of-way past the soil tracking prevention device that will be installed at the time of ground breaking. All best management practices will be implemented.

- 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.

We are proposing sidewalks throughout the project, and walking/exercise trails in different locations on-site for use by the residents and their guests. We provided a traffic study to identify the minimal traffic impacts by this project. This plan is a substantial reduction in traffic generation with the proposed use versus the potential industrial use per the current zoning. In fact, the local residences recently protested to an interchange at I-95 specifically concerned with industrial traffic. We are gating the subdivision and providing a left turn lane where none exists. In addition, all on-site roadway will be built per county public right-of-way standards but are not the maintenance responsibility of the county. The site was master planned for both water and wastewater systems and both are stubbed out to the property. The water mains will provide fire protection and potable water and the gravity collection for wastewater eliminates the need for an on-site lift station. The surface drainage system is proposed to be collected in the roadway gutters and then piped into the on-site stormwater treatment ponds. Some areas have direct surface drainage into the stormwater treatment ponds. The collection and conveyance system and the stormwater treatment system exceed county and SJRWMD minimum standards. Flood control design is part of the surface drainage and stormwater treatment facilities. We are outside the 100 year flood plain and we do not anticipate any impacts to surrounding properties from stormwater runoff. The soils have very high percolation rates so consequently the ponds are dry retention allowing for recharge of the aquifer with our stormwater management system. Minimal fill is needed for this project.

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

This project proposes more open and conservation space than most projects. We not only have natural buffers maintained around the perimeter for the site, we have an eagle's nest and surround areas being preserved in addition to large expanses of wetlands and upland buffer preservation. Finally, we proposed a series of walking/exercise trails for the use of the residents and their guests. As identified previously, the dry retention ponds and high percolating soils recharge the aquifer too. All maintenance will be the responsibility of the homeowner's association (HOA).

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

The proposed subdivision project would be an independent development operated and maintained by the HOA. The HOA would maintain the roadways, sidewalks, stormwater conveyance and treatment ponds, and the open space/recreation amenities. The county would only be responsible for the gravity sewer collection system and the City of Cocoa for the water system.

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

Both utilities are not only available stubbed out to the site but they were previously designed and intended to be expanded for this future development. There is adequate water and wastewater capacity available adjacent to the site and at the treatment plants.

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

We have provided a traffic study specific to our project and identified previously the planned right-of-way improvements and the fact that all on-site roadways will be built to county standards but not their maintenance responsibility. All traffic is proposed to Viera Boulevard which has adequate capacity.

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.

There are substantial public benefits from this project. The departure from the existing land use requirements creates compatibility where none exists today with respect to the existing homes to the south and the existing residential zonings/land use to the west on undeveloped land. Just some of the public benefits are as follows:

- **Many local residents protested the interchange at I-95 and Viera Boulevard due to concerns with industrial traffic. This eliminates the potential development of 45 acres of industrial land and creates compatibility where none exists to the existing single family homes to the south.**
- **The increased tax base, construction jobs, construction materials needed, landscaping, trucking, local hardware stores and restaurants, home buying, furniture, grocery and appliance stores, engineering, and many other sectors of the economy are positively impacted with a project such as this one.**

The eagle's nest and surrounding buffer and wetlands plus upland buffers will be maintained in conservations easements in perpetuity.

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

This is a reduction in intensity and development potential as compared to the current zoning and land use conforming and being more compatible with the surrounding properties and any adopted development plan of the county.

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

We propose substantial open space, conservation space, and recreation areas including exercise and walking trails as previously detailed. All will be maintained by the HOA so we not only are compatible with the development and neighboring properties, but we conform with all PUD code requirements.

The Preliminary Development Plan (PDP) is part of the zoning application for a PUD and therefore is conceptual in nature. 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. Additional details on the Preliminary Development Plan that are normally required at the Final Development Plan stage have not been reviewed by staff. Accordingly, PUD

zoning approved by the Board of County Commissioners will not be viewed as a waiver of land development regulations that are applied at the Final Development Plan stage of review.

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.

Historically a 71 foot buffer was established for the south property line adjacent to Holiday Springs at Suntree to offset any incompatibility of residential uses adjacent to industrial uses, and was retained through a Binding Development Plan [Z-10962(3)] approved in 2005 when the property was rezoned from IU to PIP. This application will not retain the 71 foot buffer since the uses are both residential. Additionally, a buffer on the western portion of the property was established in 1982 however, the property lines have changed and the Binding Concept Plan (AKA Binding Development Plan) approved as part of the application to rezone the property from GU to IU in 1982 (Z-6037), is no longer consistent with the ownership pattern of the subject property.

As part of this request, a School Facility Planning and Concurrency Application for the subject property has been made to the Brevard County School Board. Their full report is attached however, in summary, their report indicates that there is projected to be sufficient capacity at every school level serving the proposed subdivision.

Summary: This request is for the purposes of rezoning 45 acres of planned industrial zoning PIP to PUD for the purposes of developing the subject property as a gated single-family home subdivision with 98 homes.

The proposed plan provides a large buffer for a preserved eagle's nest, preserved land for wetland and upland buffers, perimeter buffering and by-pass piping/swales for adjacent properties' drainage. According to the proposed plan, approximately 13 acres of open space is planned, with 10.92 acres of passive space and 2.08 acres of active open space in the form of jogging trails and exercise stations.

If this application is approved, the applicant wishes to remove the BDP that establishes a 71 foot buffer along the south property line since it was established due to potential incompatibilities between industrial uses and residential uses. Additionally, a buffer established in 1982 on the western portion of the property won't be retained since the property lines have changed and the Binding Concept Plan (AKA Binding Development Plan) approved as part of the application to rezone the property to IU is no longer consistent with the ownership pattern of the subject property. The Board may wish to stipulate a minimum buffer along the east (Silicon Avenue) property line in that PIP zoning is across the street. Similarly, PIP zoned properties abut to the northwest and northeast.

A School Facility Planning & Concurrency Application for the subject property was made to the Brevard County School Board. Their report indicates that there is projected to be sufficient capacity at every school level serving the proposed subdivision.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review
SUMMARY

Item #: 14PZ-00082	Applicant: Eagle Properties of Viera
Zoning Request: PLNIP to RES-2 and PIP w/BDP to PUD w/removal of BDP	BCC Hearing Date: 3/5/2015
P & Z Hearing Date: 2/9/2015	

This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Natural Resource	Preliminary Assessment	Natural Resource	Preliminary Assessment
Wetlands Potential/Hydric Soils	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Mapped

Comments:

This review relates to the following properties: Twp. 25/26, Rng. 36, Sec. 35/02; Tax ID Nos. 2534780 & 2626179

The subject site contains wetlands. 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 subdivisions 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 Sec. 65-3694(c)(6). The applicant is encouraged to contact NRM prior to any plan or permit submittal.

The subject site contains mapped aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

The western portion of the site is mapped as floodplain as identified by the Federal Emergency Management Agency, and is subject to the development criteria in Conservation Objective 4, its subsequent policies, and the Floodplain Ordinance

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, there is an area of mapped scrub jay occupancy; a mapped bald eagle nest; and gopher tortoises may utilize areas of sandy soils. Prior to any plan, permit submittal, or development activity, including land clearing, 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.

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. Land clearing is not permitted without prior authorization by NRM.