



December 11, 2025

Chairman Jerry Campbell
Hernando County, a political subdivision
of the State of Florida
15470 Flight Path Dr.
Brooksville, FL 34604

via hand delivery and e-mail to
jjouben@hernandocounty.us

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Jeff Rogers, P.E.
County Administrator, Hernando County
15470 Flight Path Dr.
Brooksville, FL 34604

**Re: Request for Relief under the Florida Land Use and Environmental Dispute
Resolution Act, Section 70.51, Florida Statutes**

Dear Chairman Campbell, Mr. Jouben, and Mr. Rogers:

This is a Request for Relief under the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51 of the Florida Statutes (“FLUEDRA”),¹ on behalf of Meridien Development, LLC (“Meridien”) for the property located at the northeast corner of Commercial Way and Spring Hill Drive, Hernando County Property Appraiser Key Number 411931 (“Subject Property”). A copy of the deed for the Subject Property is attached as **Exhibit 1**.² We hope to use FLUEDRA to work with Hernando County (“County”) to resolve the issues presented in this Request for Relief that accomplishes the County’s goals and protects Meridien’s property rights.

As described below, the County Board of County Commissioners (“BOCC”) unreasonably denied Meridien’s application to rezone the Subject Property to a Planned Development Project (General Commercial) (“PDP(GC)”), which would allow the Subject Property to be developed into five commercial outparcels with all uses permitted by the C-1 commercial zoning district and a specific C-2 use for drive-in restaurants. A copy of the application for rezoning with the original proposed site plan is attached as **Exhibit 2**. Public hearings were held on June 9, 2025, August 5, 2025, and November 4, 2025. Copies of the transcripts from each hearing are attached as

¹ The County has adopted procedures for FLUEDRA in its Code of Ordinances (“Code”) in Chapter 23, Article X, Section 23-300 *et seq.*

² Meridien has a legal and equitable interest in the Subject Property as a contract purchaser.



Composite Exhibit 3 and will be referred to a “T” with the page and line number on which the information can be found. The application for rezoning was denied by resolution rendered on December 2, 2025. A copy of the denial resolution is attached as **Exhibit 4**. The County’s denial of Meridien’s application for rezoning constitutes a development order that is unreasonable, unlawful, and unfairly burdens the use of the Subject Property.

Pursuant to Section 70.51(6) of the Florida Statutes and Section 23-306(d) of the Code, a request for relief must contain the following:

- (a) A brief statement of the owner’s proposed use of the property;
- (b) A summary of the development order or description of the enforcement action. A copy of the development order or the documentation of an enforcement action at issue must be attached to the request;
- (c) A brief statement of the impact of the development order or enforcement action on the ability of the owner to achieve the proposed use of the property; and
- (d) A certificate of service showing the parties, including the governmental entity, served.

I. A Brief Statement of Meridien’s Proposed Use of the Subject Property

The Hernando County 2040 Comprehensive Plan (“Comprehensive Plan”) Future Land Use Map (“FLUM”) designates the Subject Property as being part of the Commercial Future Land Use Category due to its location at a preexisting functional commercial node as infill commercial development. *See* Strategies 1.04G(1), 1.04G(2), 1.04G(4), 1.04G(6), 1.04G(8), Comprehensive Plan. Meridien’s land use planning expert, Max Forgey, AICP, submitted an expert report that found that Meridien’s proposed commercial development was consistent with the Comprehensive Plan, to which County Planning Department Staff agreed. All land use planning experts agreed that the Subject Property was commercial infill with appropriate buffering that protected the preexisting residential areas from unreasonable encroachment by the proposed commercial development. Additionally, Meridien’s traffic expert, Michael R. Yates, found that Meridien’s proposed development would not adversely affect the level of service of the adjacent road network and would not overburden the adjacent road links or intersections, to which the County Engineer, J. Scott Herring, agreed.³

³ There was also significant discussion at the November 4, 2025 public hearing regarding the Spring Hill Safety Audit performed by the County, which identified issues with the corridor of Spring Hill Drive and its intersection at Commercial Way. In its own safety audit, the County identified issues with current drainage pipes and inlets being buried and obstructed due to improper maintenance over time and insufficient turning lane lengths approaching Commercial Way due to a median cut at Pinehurst Drive in addition to other issues. Despite these preexisting issues, the expert testimony found that Meridien’s proposed development would not adversely affect traffic in these areas. The County Engineer testified that the BOCC voted to delay these repairs until the 2026-2027 fiscal year. (T: 146:16-147:5, Nov. 4, 2025). The BOCC then used its own delay to repair issues on Spring Hill Drive that are unrelated to Meridien’s proposed development to justify denying Meridien’s rezoning application. *Id.* at 147:24-149:5, 154:16-25.



The Subject Property's current zoning is Planned Development Project (Special Use) ("PDP(SU)") due to the Subject Property's historical use as a landscape buffer at the time of its initial development by the Deltona Corporation prior to the creation of the County Land Development Regulations in 1972. When the County created its Land Development Regulations, the Subject Property was assigned this zoning based on how the Subject Property was actually being used in 1972.

Meridien requested rezoning to PDP(GC) to enable the Subject Property to be developed as five commercial outparcels, including uses such as drive-in restaurants and coffee establishments, a four-bay quick change automotive service establishment, a drive-thru banking establishment, and professional offices.

II. Description of the Development Order

In December of 2024, Meridien submitted its application for rezoning. *See Ex. 2.* The initial proposed master plan provided for two access points on Commercial Way, one access point on Pinehurst Drive, and a stub out to the edge of the northern border of the Subject Property for a potential future connection to the frontage road in the commercial development to the north.

At County staff's request, Meridien conducted a public inquiry workshop on April 1, 2025 and took input from the nearby neighborhood.

In June of 2025, the County Planning and Zoning Commission recommended approval of the application for rezoning so long as the access to Pinehurst Drive was removed and the frontage road was connected to the adjacent commercial development to the north. Based on this recommendation, Meridien submitted a revised master plan that included these changes. A copy of the updated master plan is attached as **Exhibit 5**.

In August of 2025, the BOCC voted to continue Meridien's application for a rezoning to a later hearing date so that County staff and the BOCC could review the updated master plan prior to the continued public hearing.

In November of 2025, a final public hearing was held by the BOCC. In that public hearing, the BOCC denied the application for rezoning based on its preference to keep the Subject Property zoned as PDP(SU) for a landscape buffer along Commercial Way. (T: 147:20-155:15, Nov. 4, 2025).

The BOCC's decision to deny the application for rezoning is not only legally deficient but will also subject the County to claims for damages and attorney's fees.



A. The Development Order Will Not Survive Certiorari Scrutiny

The County's development order denying the application for rezoning will be quashed by the Circuit Court. First, the County denied Meridien due process of law in the way it conducted the quasi-judicial public hearings; second, the County failed to follow the essential requirements of law; lastly, the County did not meet its burden to support its denial of Meridien's application for rezoning with competent substantial evidence.

First, the BOCC violated Meridien's right to due process of law by failing to rebut the presumption of prejudice to Meridien of ex parte communications received by at least one County commissioner regarding the application for rezoning on the Subject Property. *Jennings v. Dade Cnty.*, 589 So. 2d 1337, 1341-42 (Fla 3d DCA 1991) (holding that once an ex parte contact is proven to have occurred, the burden shifts to the government to rebut the presumption of prejudice to the applicant). Notably, Commissioner Campbell, on his own initiative, stated

One thing I'd like to point out is several residents mentioned Chick-fil-A specifically. **I wanted to mention that the current owner of Chick-fil-A on State Road 50, it's my understanding has nothing to do with this Chick-fil-A. So he's a great community partner, so don't hold this against him. He has nothing to do with this. This is corporate.** And so, please, I'd appreciate the applicant keeping it neutral and just saying a chicken restaurant. But, you know, just keep that in mind.

(T: 66:17-67:4, Aug. 5, 2025) (emphasis added).

Nowhere in Meridien's rezoning application or in the public hearings did it describe the corporate reasoning of Chick-Fil-A to negotiate becoming a tenant or whether "a great community partner," who owns another Chick-Fil-A franchise in Hernando County, was involved with Meridien's application. In its rezoning narrative, Meridien only described potential tenants it was in negotiations with for the approved C-1 and specific C-2 uses at the Subject Property; however, it never confirmed specific tenants nor showed any formal signed lease agreement with Chick-Fil-A or any other business. The comments from Commissioner Campbell, on their face, prove that he received and relied on information from outside the public hearings, which creates a presumption of prejudice and a violation of due process. Further, the comments cast doubt on the appearance of impartiality required of the BOCC in quasi-judicial hearings, with Commissioner Campbell's comments implying that Meridien's application is something negative that citizens are justified in being angry about.

The BOCC also violated Meridien's right to due process of law by relying on their own testimony and personal observations over the testimony of numerous expert witnesses, which violated Meridien's due process right to a neutral and unbiased proceeding and prevented Meridien



from meaningful cross-examination of the BOCC as active witnesses against it. *See R.W. v. Dept. of Children & Families*, 189 So. 3d 978, 980 (Fla. 3d DCA 2016) (citing *Riddle v. State*, 755 So. 2d 771, 773-74 (Fla. 4th DCA 2000) (holding that a judge “must ensure that he or she does not become an active participant or an advocate in the proceedings and should not by words or actions make it appear that his or her neutrality is departing from the center”) (internal quotations omitted)); *see also Canney v. Bd. of Public Instruction of Alachua Cnty.*, 278 So. 2d 260, 263 (Fla. 1973) (holding that due process in quasi-judicial proceedings requires an applicant “be given an opportunity to be heard that he be given a fair hearing by an impartial body.”); *see Carillon Cmty. Residential v. Seminole Cnty.*, 45 So. 3d 7, 9 (Fla. 5th DCA 2010) (holding that due process requires that the quasi-judicial proceedings be “essentially fair.”); *accord Seminole Entertainment, Inc. v. City of Casselberry*, 811 So. 2d 693, 696 (Fla. 5th DCA 2001).

Second, the BOCC’s denial resolution departed from the essential requirements of law because it failed to apply the Comprehensive Plan, instead relying on the Subject Property’s current zoning as their basis for denial. *See, e.g.*, (T:133:4-134:12) (providing an exchange between County Planning Department staff and Commissioner Campbell where he argues with Staff that the BOCC does not have to apply the commercial infill provisions of the Comprehensive Plan). The BOCC improperly denied the rezoning application based on their collective preference to have the Subject Property remain as a landscape buffer from Commercial Way instead of analyzing whether the proposed development was consistent with the Comprehensive Plan. *See Town of Largo v. Imperial Homes Corp.*, 309 So. 2d 571, 573 (Fla. 2d DCA 1975) (“The mere purchase of land does not create a right to rely on existing zoning.”); *accord City of Cape Canaveral v. Mosher*, 467 So. 2d 468, 469 (Fla. 5th DCA 1985) (citing *City of Miami Beach v. 8701 Collins Ave., Inc.*, 77 So. 2d 428, 430 (Fla. 1954)). Further, much of the discussion and reasons for denial were centered around a Chick-Fil-A being a tenant on the property. (T: 19:19-21:23, 32:21-34:4, 68:19-70:10, 79:21-82:19, Nov. 4, 2025). Zoning and land use changes are not based on specific tenants, they are based on a category of uses; therefore, the BOCC did not follow the essential requirements of law by denying the rezoning application based on a specific potential tenant like Chick-Fil-A instead of the actual contemplated uses in the C-1 and C-2 zoning districts in the Code. *See generally* § 163.3202(2)(b), Fla. Stat. (providing that local land development regulations must “[r]egulate the use of land and water for those land use categories included in the land use element . . .”). There are no requirements in the Comprehensive Plan nor the Code that provide more restrictive zoning requirements for a specific franchise of drive-in restaurant. Thus, the BOCC failed to apply the correct law.

Lastly, there was not competent substantial evidence to support the BOCC’s denial of the application for rezoning. As a matter of law, Meridien met its burden of proof because its application for rezoning had unanimous support from the County Planning Department and the County Department of Public Works staff concurring with Meridien’s land use planning and traffic experts. Further, the Planning and Zoning Commission recommended approval of the project. The Florida Supreme Court, in *Board of County Commissioners of Brevard County v. Snyder*, 627 So. 2d 469, 471 (Fla. 1992), labeled rezoning decisions as quasi-judicial “to refer them to an



independent forum that is isolated as far as possible from the more politicized activities of local government, much as the judiciary is constitutionally independent of the legislative and executive branches.” *Lee Cnty. v. Sunbelt Equities, II, Ltd. P’ship*, 619 So. 2d 996, 1001 (Fla. 2d DCA 1993). The applicant’s burden under *Snyder* is met the moment when local government staff finds the project is consistent with the Comprehensive Plan and in compliance with the Code. *See Village of Palmetto Bay v. Palmer Trinity Private Sch., Inc.*, 128 So. 3d 19, 27 (Fla. 3d DCA 2012); *Balm Rd. Invest., LLC v. Hillsborough Cnty. Bd. of Cnty. Comm’rs*, 336 So. 3d 776, 777 (Fla. 2d DCA 2022).

County staff found that Meridien’s application for rezoning was consistent with the goals, objectives, and strategies of the Comprehensive Plan. Consequently, Meridien met their burden of proof. This shifted the burden of proof to the County to provide competent substantial evidence of a legitimate public purpose for maintaining the existing zoning and that the decision was not arbitrary, discriminatory, nor unreasonable. *Snyder*, 627 So. 2d at 471. The County did not attempt to meet this burden. Neither did the County have any competent substantial evidence in support of its burden that would justify a denial. *Village of Palmetto Bay*, 128 So. 3d at 27; *Balm Rd. Inves., LLC*, 336 So. 3d at 777.

In sum, the County’s denial of Meridien’s rezoning application was unreasonable because it violated Meridien’s right to due process, did not follow the essential requirements of law, and was not supported by competent substantial evidence.

B. The Development Order Creates a Claim Pursuant to the Bert J. Harris Private Property Rights Protection Act

Section 70.001, Florida Statutes, also known as the Bert J. Harris Private Property Rights Protection Act (“Bert Harris Act”), creates “a separate and distinct cause of action from the law of takings” and provides “for relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity in the state, as applied, unfairly affects real property.” § 70.001(1), Fla. Stat. Specifically, when a governmental entity inordinately burdens “an existing use of real property or a vested right to a specific use of real property, the property owner is entitled to relief.” *Id.* § 70.001(2). Existing use is defined to include “reasonably foreseeable, nonspeculative land uses which are suitable for the subject real property and compatible with adjacent land uses.” *Id.* § 70.001(3)(b)(2).

The County’s resolution denying Meridien’s rezoning application constitutes an inordinate burden to an existing use of the Subject Property because the proposed development is a reasonably foreseeable land use that is suitable for the Subject Property and compatible with the surrounding area, which is commercial infill along a preexisting arterial roadway, Commercial Way.



Accordingly, Meridien has a claim pursuant to the Bert Harris Act. Compensation for the actual loss in fair market value of the property and attorney's fees are available to a successful plaintiff for such a claim.

III. Brief Statement of the Impact of the Development Order on the Ability of Meridien to Achieve the Proposed Use of the Subject Property

As described *supra*, the County's denial of the application for rezoning prevents Meridien from redeveloping a vacant landscape buffer that existed before the creation of the County's Land Development Regulations on Commercial Way, a commercial use corridor as identified in the Comprehensive Plan. In sum, the County violated Meridien's private property rights and acted unreasonably by refusing to rezone the Subject Property to PDP(GC) for five commercial outparcels.

IV. Certificate of Service Showing the Parties, Including the Governmental Entity, Served

The Certificate of Service is on the following page.

V. Relief Requested

The resolution denying Meridien's application for rezoning of the Subject Property is unreasonable and unfairly burdens Meridien's ability to develop the Subject Property. Based on the unreasonable denial resolution, Meridien demands mediation under FLUEDRA.

Sincerely,

A handwritten signature in blue ink that reads 'Kyle J. Benda'.

Kyle J. Benda



CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2025, this document was sent via hand delivery to County Administrator, Jeff Rogers, P.E., 15470 Flight Path Dr. Brooksville, Florida 34604 and by e-mail to County Attorney, Jon Jouben, Esq., 20 North Main Street, Suite 462, Brooksville, Florida 34601, at jjouben@hernandocounty.us and phare@hernandocounty.us.

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