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Hernando County Planning & Zoning Commission
20 North Main Street
Brooksville, FL 34601

SUBJECT: EXPERT REPORT IN SUPPORT OF REZONING PETITION #H-24-82 FOR
SPRING HILL PDP (GC) LOCATED AT US 19 AND SPRING HILL DRIVE IN
UNINCORPORATED HERNANDO COUNTY FLORIDA

1. PURPOSE OF REPORT

This report, prepared on behalf of Applicant MERIDIEN DEVELOPMENT LLC, 7901 SE Osprey Street, Hobe Sound FL 33455, outlines justifications for approval of Rezoning Application Number H-24-82, which proposes to rezone an eleven-acre (11.0 +/- acre) parcel located at the northeast corner of Commercial Way (US 19) and Spring Hill Drive in unincorporated Hernando County. This report will provide the Hernando County Planning & Zoning Commission (P & Z) and the Board of County Commissioners (BOCC) with competent substantial evidence by evaluating the proposed uses and their general consistency with the Hernando County Comprehensive Plan and Land Development Code (LDC) and will propose findings of fact to justify a recommendation of approval by the P & Z at their as-yet unscheduled hearing, and subsequent approval by the BOCC.

2. QUALIFICATIONS AND PROFESSIONAL EXPERIENCE OF EXPERT

The undersigned is a land use planner and expert witness with a Master of Public Affairs (MPA) degree with a concentration in Urban and Regional Planning from the O'Neill School of Public and Environmental Affairs at Indiana University Bloomington. Max Forgey been a member in good standing of the American Institute of Certified Planners (AICP) since 1993. His work in Florida spans more than three decades, serving as both a public sector planner and private

consultant with extensive experience in comprehensive planning, zoning, land development review, and expert witness testimony. A full resume detailing his professional qualifications and career experience is appended to this report.

3. SUBJECT PROPERTY AND APPLICANT'S REQUESTED ACTION

The subject property is currently designated **Residential** on the Future Land Use Map (FLUM), a component of the Hernando County Comprehensive Plan, and is zoned **PDP(SU)-Landscape Buffer**. The subject property comprises approximately 11 acres of unimproved, undeveloped land located at the northeast corner of Commercial Way (US 19) and Spring Hill Drive in unincorporated Hernando County, with substantial frontage on US 19 and Spring Hill Drive.

The petitioner is a joint venture between Meridien Development LLC and GPK Holdings LLC, which is also the Contract Purchaser of the 11-acre parcel. The Applicant proposes to rezone the property to allow development of a high-quality, infill commercial center consisting of five buildable commercial lots and one dedicated open space parcel. Uses contemplated include national fast-casual dining, a drive-through coffee shop, and small to mid-sized office and medical tenants. The development will be capped at 24,000 square feet of total building area and shall not exceed a single story.. A separate parcel of approximately 2.5 acres will also be created for the Open Space - Conservation Area which will include an area for a detention pond.

The Applicant seeks deviations to reduce the front yard setback on US 19 from 125 feet to 50 feet, consistent with existing commercial development in the area—and to reduce internal setbacks and buffer widths where necessary to accommodate the subdivision and contemporary retail building footprints.

The site lies predominately within FEMA-designated Flood Zone X, indicating that the property is a minimal flood risk, with a minor portion in Zone AE. Surrounding land uses include major regional retail to the west (Walmart), C-1 and C-2 zoning to the north and south, and residential subdivisions to the east across Pinehurst Drive. The Applicant has conducted Phase I Environmental Survey and a geotechnical survey which have identified no adverse conditions on the property.

4. QUASI JUDICIAL NATURE OF CASE

Application No. H-24-82 is **quasi-judicial** in nature. As a quasi-judicial matter, the application must satisfy a **strict scrutiny** test to ensure adherence to the city's land use policies, emphasizing the importance of procedural fairness and evidence-based decision-making.

In Florida, changes in zoning, as in this situation, must be amended by quasi-judicial procedures. W. Thomas Hawkins, in his magisterial *Land Use Law in Florida* [Routledge, 2021] posits that “Florida courts call as-applied land use actions quasi-judicial, and subjects those decisions to strict scrutiny, a standard which...requires **competent and substantial evidence** and testimony showing that the decision meets applicable requirements of law. Additionally, parties affected by quasi-judicial decisions are entitled to procedural due process protections to which parties affected by legislative decisions are not entitled [pg. 35].

The undersigned and Client Meridien Development LLC intend to present a complete body of competent substantial data and analysis in support of this application for rezoning of the subject property, including a thorough review of the Hernando County Comprehensive Plan, Land Development Code, and other persuasive evidence.

5. CONSISTENCY WITH THE HERNANDO COUNTY COMPREHENSIVE PLAN

Future Land Use Map (FLUM). The FLUM is a component of the Future Land Use Element (FLUE) and is adopted by ordinance. *FLUE Goal 1.04* and its subordinate objectives and strategies identify the FLUM as the guiding mechanism for land use decision making in Hernando County:

“Land use designations are intended to protect community character, discourage urban sprawl, promote economic growth and promote compatibility between uses. The Future Land Use Map shall be the guiding mechanism that directs development through general category locations, descriptions, densities and intensities of future land use. [F.S. 163.3177(6)(a)]”

Although the FLUM shows this parcel as Residential, the following strategies support the notion that commercial use is consistent with the Comprehensive Plan:

Strategy 1.04A(1) states, in part: “... The categories on the Future Land Use Map illustrate the predominant future character of the area indicated and are not intended to be parcel-specific and may not match the zoning designations or boundaries in existence at the time of Plan adoption. Rather, they indicate the **anticipated future disposition** of the land’s character with which future zoning, rezoning, development and redevelopment will be generally consistent.”

Strategy 1.04A(2) states, in part: “Review of rezoning requests shall be consistent with the overall intent of the Future Land Use Map (FLUM) and Comprehensive Plan strategies in terms of potential use or character and in terms of potential densities and intensities...”

The proposed use is consistent with FLUE Goal 1.04, and with Strategy 1.04A(1) and Strategy 1.04A(2) because it is consistent with the FLUM which is the guiding mechanism for directing future development in unincorporated Hernando County in the rezoning process.

“Residential” FLUM definition. The subject property has a FLUM designation of “Residential” which is addressed in FLUE *Strategy 1.04A(3)*, *Objective 1.04B*, and *Strategy 1.04B(1)* which state as follows:

“Strategy 1.04A(3): “The Residential Category accommodates residential growth clustered in and around urbanized areas and those areas that maximize the efficient use of infrastructure contained in long range facilities plans of the County.”

“Objective 1.04B: “The Residential Category allows primarily single family, duplex, resort and multi-family housing and associated **ancillary uses** such uses may be allowed subject to the locational criteria and performance standards of this Plan. Residential density shall not exceed 22 dwelling units per gross acre.”

“Strategy 1.04B(1): “**Commercial and institutional uses** within the Residential Category are generally associated with medium and high density residential development and **may include neighborhood commercial**, office professional, recreational, schools, and hospitals. Minor public facilities that do not unduly disturb the peaceful enjoyment of residential uses may also be allowed.”

While the FLUM designates the subject property as Residential, the Residential FLUM category is not exclusively residential in implementation and specifies that some commercial activities are allowable. The Commercial Category language in *Strategy 1.04B(1)* “recognizes existing commercial use corridors along U.S. Highway 19 The Commercial FLUM designation is the predominate use along Commercial Way/ US 19, and the proposed use would be an extension of the existing neighborhood scale commercial uses along US 19. . . and existing and planned commercial nodes at intersections of arterial and/ or collector roads . . . [t]he Commercial Category also recognizes the ability to designate infill parcels for commercial use lying in proximity to and between, but not necessarily contiguous to, other existing commercial designated properties.”

“Commercial” FLUM definition. FLUE *Objective 1.04G* defines the “Commercial” FLUM designation that dominates the immediate vicinity of the subject property.

“The Commercial Category allows primarily retail, office, and commercial service uses with an overall average gross floor area ratio of 0.35 but also includes limited industrial, recreational and institutional uses. Residential and mixed uses may be allowed subject to locational criteria and performance standards.”

FLUE Strategy 1.04G(1) amplifies the intent of the objective:

“Commercial development as envisioned on the Future Land Use Map is intended primarily for locations at major intersections and along major corridors where service to local and regional markets are enhanced by transportation patterns. New commercial zoning is directed to these mapped areas. Commercial areas that are not mapped but are allowed under this Future Land Use Category include neighborhood commercial and specialty commercial uses as described in this Plan, commercial approved as part of mixed use developments, commercial designated by planned development districts, the infill development of existing commercial areas, commercial areas extending from designated commercial nodes, and pre-existing commercially developed and designated areas. Frontage roads and cross-access between commercial uses is required where needed in accordance with the provisions of this Plan and adopted land development regulations.”

FLUE Strategy 1.04G(6) provides decision-making guidance about future commercial development along the US 19 corridor, which is stated here in abridged form:

The Commercial Category provides for commercial uses including products and services along major corridors and at roadway intersections to serve residents and visitors on both a localized and regionalized basis. **The Commercial Category recognizes existing commercial use corridors along U.S. Highway 19 and State Route 50 and existing and planned commercial nodes at intersections of arterial and/or collector roads.** The Commercial Category includes small unmapped existing commercial properties. The Commercial Category also recognizes the ability to designate infill parcels for commercial use lying in proximity to and between, but not necessarily contiguous to, other existing commercially designated properties...”

The proposed use is consistent with *Objective 1.04G* because it will offer retail, office, and commercial service uses, and may offer other allowable uses subject to locational criteria and performance standards. The proposed use is consistent with *FLUE Strategy 1.04G(1)* because it is located at a “major intersections” and “along a major corridor where service to local and regional markets are enhanced by transportation patterns.”

Spring Hill Corridor. Future Land Use Element (FLUE) Objective 1.06B provides as follows: “The area along Spring Hill Drive extending from U.S. Highway 19 to Waterfall Drive is identified as the Spring Hill Drive Corridor.” This objective and its subordinate strategies explicitly recognize the Spring Hill Corridor as an opportunity for revitalization and infill.

Subordinate *Strategy 1.06B(2)* amplifies this objective with a catalogue of specific implementing actions as follows:

“Development proposals along the Spring Hill Drive Corridor should consider:

- a. building placement that is integral to the street front with parking behind it;
- b. mixed commercial and residential uses including mixed-use buildings;
- c. shared and reduced parking, and flexible parking placement to enhance multi-modal connections, drainage and public space layouts;
- d. pedestrian and bicycle access enhancements to improve connectivity from the neighborhood to Spring Hill Drive;
- e. sidewalks, bicycle lanes and pedestrian connectivity along the Corridor;
- f. public areas and amenities such as furniture and lighting, coordinated with open space and public transit;
- g. transition at street intersections from residential to nonresidential land use character;
- h. appropriate architectural standards including building scale,
- i. building mass step-down, architectural compatibility and themes.”

This strategy, which applies specifically to Spring Hill, supports commercial development that places buildings along the street edge, enhances pedestrian access, improves architectural quality, and transitions sensitively to adjacent residential land uses, as proposed in this application. The proposed uses are consistent the nine Strategy 1.06B(2) criteria.

Centers and Corridors. *GOAL 1.06* – “Centers and Corridors” articulates an overarching vision of the importance of designated corridors, such as Spring Hill, as an opportunity for good planning with these words: “Hernando County will consider identifying Centers and Corridors of economic activity and/or transitioning neighborhoods and uses where increased planning focus and public investment may be prioritized. This planning effort seeks to provide place-making amenities attractive to the workforce, address the negative characteristics associated with aging

neighborhoods, preserve community character in historic and unique neighborhoods and proactively manage land use along major transportation corridors. [F.S. 163.3177(6)(a)9.b]

Objective 1.06A gives specific identifiers of the designated corridors as follows:

“Centers and Corridors are characterized as having three or more of the following features: **moderate to high land value**, **concentration of workforce**, presence of mixed housing types, concentration of **employment opportunities**, presence of community focal points such as schools or parks, served by public transit, and presence of **goods and services** to meet daily needs.

While a good case could be made that the subject property meets all of the criteria, it certainly qualifies by meeting the four criteria in **boldface** above.

Subordinate *Strategy 1.06(A)2* prescribes the procedural criteria for approving land use changes in the Spring Hill Corridor: “Use of the Planned Development Project (PDP) and master plan process is recommended for designated Centers and Corridors.” The application is therefore consistent with FLUE Strategy 1.06(A)2.

6. SITE PLANNING AND ENVIRONMENTAL CONSIDERATIONS & PUBLIC FACILITY IMPACTS

Site planning. The master site plan attached to this application envisions an infill commercial development, with parcels arranged to maximize access, function, and compatibility. Primary ingress and egress are provided from US 19 via two driveways—one full access and one limited to right-in/ right-out movements. A third driveway is proposed on Pinehurst Drive and designed as a $\frac{3}{4}$ access point, allowing right-in/ right-out and left-in maneuvers while restricting outbound left turns to protect residential traffic flow. The applicant also proposes to offer a sidewalk along Pinehurst to assure safe, convenient pedestrian access and travel.

Internal traffic flow will be facilitated by a shared drive aisle that links all five commercial lots. This layout will support internal connectivity and access management and will also preserve long-term operational flexibility for parcel owners. Parcel lines are platted with cross-access easements to avoid future conflicts and improve coordinated site design.

Setbacks and landscape buffers are provided in accordance with Hernando County Code. The applicant requests modifications where warranted by site geometry or tenant-specific layout needs. The front setback reduction along US 19, for instance, brings buildings closer to the street edge and aligns with neighboring developments, improving visual continuity and pedestrian accessibility. The drive-through uses are placed away from residential edges.

Environmental. The environmental conditions of the site are generally favorable for development. The Applicant has conducted Phase I Environmental Survey and a geotechnical survey which have identified no adverse conditions on the property. Protected species, wetlands, and other environmental features will be further addressed in upcoming reports. The proposed site plan provides meaningful conservation through the reservation of a 2.5-acre open space tract along the northern property boundary.

This open space amenity will serve multiple purposes: it will house the stormwater retention system for the entire development, will provide a wide vegetative buffer between commercial buildings and adjacent single-family homes, and will protect visual and noise separation through thoughtful landscaping. By preserving this area and designing the drainage features in accordance with Southwest Florida Water Management District (SWFWMD) requirements, the project will satisfy environmental obligations while enhancing compatibility with neighboring uses.

Public facility impacts. The proposed development will not adversely impact public facilities and is supported by existing infrastructure. All necessary utilities—water, sewer, and stormwater—are available at the site frontage. A 12-inch water main along US 19, an 8-inch water main on Pinehurst Drive, and a 10-inch force main serve the property and will be extended internally to each parcel. Stormwater will be captured and treated in accordance with County and SWFWMD criteria via a centrally located retention facility. This system has been sized and designed as part of the PDP master plan and can accommodate the full build-out scenario of the project. Traffic generation from the development is within acceptable thresholds for an urban infill site served by two arterials. All driveways have been conceptually reviewed by FDOT and the County and include improvements such as turn lanes and tapering as required. There are no projected impacts on school capacity, parks, or emergency services. Solid waste and fire access will be provided through the shared internal drive system and existing County systems.

7. COMPATIBILITY WITH NEIGHBORING USES

Florida Statutes define “compatibility” as follows: “(9) ‘Compatibility’ means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.” [Ch. 163.3164(9)]. The proposed land use pattern—i.e. conventional uses along two existing commercial corridors—would constitute a continuation of the conventional commercial and professional business patterns that already exist. There will be no drastic intensification of use which might happen if, say, multi-story commercial activities were imposed on the edge of single-story residential or commercial uses, or big box operations with

outdoor storage were introduced in close proximity to small-lot commercial or professional uses. Coexistence with neighboring uses over time is assured in this situation. This application assures compatibility via site planning techniques, including 2.5 acres of preserved open space buffering residential uses to the north and placement of traffic-generating activities away from residential boundaries. The proposed uses are entirely compatible with existing and anticipated uses, as compatibility is defined in Florida Statutes, and it is entirely reasonable to assume that they will continue to be in the future. The proposed use therefore meets the test established in Ch. 163.3164(9).

8. CONSISTENCY WITH LAND DEVELOPMENT CODE

The proposed **PDP(GC) zoning** satisfies both the general and specific criteria for commercial planned developments per Hernando County's Land Development Code.

- **Setbacks and Buffers** (Appendix A, Article VIII): The proposed 50-foot setback along US 19 is consistent with PDP(GC) standards where design alternatives are permitted through the PDP master planning process. Variances for menu boards and interior buffers are minimal and mitigated by distance, design, and retained vegetation.
- **Compatibility and Mitigation** (§163.3164(9), F.S.): See paragraph 7, above.
- **Design Standards** (Code Article III): The architecture and signage proposed meet Hernando County's Commercial Design Standards, which promote a consistent visual identity, scale, and materials palette in harmony with the streetscape.
- **Traffic & Access** (LDC and FDOT Coordination): All access points connect directly to arterial roads (US 19 and Spring Hill Drive), consistent with LDC requirements. The site exceeds the standard of two independent vehicular access points and minimizes conflict with adjacent residential streets.
- **Pedestrian and Multi-Modal Standards**: The internal circulation plan promotes connectivity and walkability across parcels, consistent with LDC expectations and Comp Plan directives for Centers and Corridors.

- **Intensity and Massing:** At 24,000 sq ft on 11 acres, the project's floor area ratio (FAR) is approximately 0.05—well below thresholds for intensity concerns. Height will be capped at one story, buffered, and stepped back from residential zones. Massing is broken up across multiple pads, which ensures visual rhythm and reduces scale impact.

This analysis demonstrates that the application is not only consistent with the Comprehensive Plan and Land Development Code, but also purposefully designed to withstand scrutiny related to compatibility, intensity, and infrastructure adequacy. These are the common areas of challenge in quasi-judicial proceedings, and the proposed plan includes ample mitigation and design response to meet—and exceed—those standards.

9. RECOMMENDED FINDINGS OF FACT JUSTIFYING APPROVAL OF APPLICATION

Based upon the competent substantial data and analysis presented in this expert report and in the testimony presented by and on behalf of Meridien Development LLC, the Hernando County Board should approve this proposed rezoning based upon the following findings of fact:

Finding 1: Consistency with the Comprehensive Plan. The application as proposed is consistent with Goal 1.04, Strategies 1.04(A)1 and 1.04(A)2. The subject property is designated "Residential" on the Future Land Use Map of the Hernando County Comprehensive Plan. The proposed PDP(GC) zoning is specifically consistent with FLUE Strategy 1.04A(3), Objective 1.04B, and Strategy 1.04B(1); Objective 1.04G and Strategy 1.04G(1); Objective 1.06B and Strategy 1.06B (2); Objective 1.06A and Strategy 1.06A(2).

Finding 2: Supports Infill Development Principles. The project constitutes an infill commercial development by utilizing existing infrastructure and providing accessible services within a designated commercial corridor. This approach promotes efficient land use and avoids sprawl.

Finding 3: Compliance with Hernando County Land Development Regulations. The application complies with Appendix A of the Hernando County Code (Zoning) and Article VIII (Planned Development Projects), including submission of a master plan, narrative, site circulation plan, and request for limited and justified variances.

Finding 4: Compatibility with Adjacent Development. The project is compatible with existing development along US 19 and Spring Hill Drive. The proposed uses (fast food, coffee shop, medical office, etc.) align with nearby commercial uses and are buffered appropriately from

adjacent residential zoning districts, satisfying the compatibility standard under Florida Statutes §163.3164(9).

Finding 5: Adequate Infrastructure and Public Services. The project will be served by existing water and sewer infrastructure and complies with SWFWMD stormwater management requirements. Transportation impacts have been mitigated through the design of access points and turning lanes approved by FDOT. No impacts are anticipated to school, park, or emergency services.

Finding 6: Variance Requests Are Justified and Minor in Nature. Requested deviations to setbacks and buffer spacing are modest, typical of PDPs, and necessary to accommodate modern commercial building formats. These deviations do not compromise compatibility or performance standards.

Finding 7: Public Purpose and Community Benefit. The proposed development introduces needed commercial services, promotes walkable access, and improves visual and functional aspects of a long-vacant site. It supports the local economy, employment, and tax base while aligning with the stated intentions of the Comprehensive Plan.

Finding 8: Conforms to Legal Requirements of Quasi-Judicial Proceedings. This application meets the evidentiary burden of competent substantial evidence required for quasi-judicial proceedings under Florida law. Testimony and exhibits provided by the applicant, including this expert report, provide a factual basis for approval by the LPA and Board of County Commissioners.

Respectfully,

A handwritten signature in black ink that reads "Max Forgey". The signature is written in a cursive, flowing style with a large, stylized 'M' and 'F'.

Max Forgey, AICP
Certification #051,330

Attachments: Resume of Daryl Max Forgey, Expert Witness Documentation

cc: Mark Keschl
James Conroy
Kyle Benda, Esq.
Tom Slaughter
Jordan Hester