

DARYL MAX FORGEY AICP
LAND USE CONSULTANT & EXPERT WITNESS
236 SE 45th Street
Cape Coral FL 33904
max@forgeyplanning.com
239.560.5864

Max Forgey is an experienced land use planner with more than three decades of professional experience and success in administration of local government comprehensive planning strategies, land development and regulatory controls, governmental relations, and public policy communications. Clients include governmental organizations and private property owners. He is the sole proprietor of FORGEY PLANNING LLC, a planning consultancy which provides expert witness services in land use cases and is allied with LAND SMART LLC, a Florida-based consortium of land use professionals which provides a broad range of professional assistance to public and private sector clients.

His professional knowledge encompasses creating and developing community and small-area plans, urban design and architectural standards, land development entitlements, project management, and expert witness testimony. Max has worked on more than 35 cases across 25 Florida counties and municipalities, frequently teaming with some of Florida's most respected land use and administrative lawyers, appearing before local planning agencies, city and county elected bodies, hearing examiners, administrative law judges, and circuit court proceedings.

Max also actively participates in and leads speaking engagements at professional development conferences and symposia through the Promised Lands section of the American Planning Association Florida chapter, with the American Institute of Certified Planners, the Florida Planning and Zoning Association, and other organizations. He is currently collaborating with other planning professionals to craft a continuing education program, provisionally called Urban Planning Institute, to familiarize elected and appointed officials and local government staff with planning law and practice.

Qualifications

- LAND SMART LLC, Managing Member of a Cape Coral, Florida-based consortium
- FORGEY PLANNING LLC. Owner of an urban planning and land-use consulting practice.
- Master of Public Affairs (MPA) in Urban and Regional Planning, Indiana University.
- Member American Institute of Certified Planners (AICP).
- Member Florida Planning and Zoning Association (FPZA).
- Qualified as an expert witness in Lee County Hearing Examiner proceedings.
- Former Planning and Community Development Director in Charlotte County.
- Former Planning Commissioner (LPA), City of Cape Coral, Florida.
- Contract planner for the Town of Kenneth City.

Accomplishments

- Lead author of Kenneth City Evaluation and Appraisal Report (EAR) which was transmitted to the Florida Department of Commerce on October 21, 2024.
- Established FORGEY PLANNING, an urban planning and land use consulting practice.
- Developed a template for auditing the effectiveness of existing local governments comprehensive plans and zoning code for internal consistency of plan policy framework.
- Authored “The Platted Lands Challenge” report for the six-county area of Southwest Florida offering policy guidance for platted, scattered-lot properties.
- Development of implementation strategies which employ automation to create linked mixed media tools for restructuring and updating local government planning and zoning regulations.

Certification

AICP (American Institute of Certified Planners) Certification #051,330 Florida Chapter, APA Member in good standing since 1993. A national professional certification maintained by the American Planning Association. AICPs must first meet educational standards and then pass an examination covering all aspects of professional planning practice, and are expected to maintain their membership through a self-directed program of study that is monitored by the national organization, which includes regular training in law and ethics.

Professional Experience

Forgey Planning

Cape Coral, FL

Owner. 2008-present. A solo planning practice concentrating comprehensive planning work for Lee and Sarasota Counties, the City of North Port, the Captiva Community Panel, and the Town of Kenneth City, among others. Developed a template for auditing the effectiveness of existing local governments comprehensive plans which has been applied in Sarasota County and the City of North Port. An expert witness since 2013, working on more than 30 cases in 25 Florida counties and municipalities, appearing before planning commissions, city councils, county commissions, hearing examiners, administrative law judges, and circuit court. Qualified as an expert witness in Lee County Hearing Examiner proceedings and recognized as a lobbyist in Collier County.

Zoning Technologies

Cape Coral, FL

President. 2011-2017. A start-up subsection ‘S’ corporation that specialized in restructuring and updating local government comprehensive plans and developing implementation strategies which employ automation to create linked tools (e.g. application forms, automated worksheets, case reports, and adopting resolutions). The Zoning Technologies expert system prototype products were marketed statewide and were demonstrated at the American Planning Association (APA) national conference in Atlanta in 2014.

Osceola County, Florida

Kissimmee, FL

Planning Coordinator. 2005-2008. Authored key elements of the Osceola County Comprehensive Plan and most of the County's 2008 Evaluation and Appraisal Report.

Clay County, Florida

Green Cove Springs, FL

Senior Planner. 2003-2005. Authored the county's Interlocal Service Delivery Agreement Report (ISDAR) mandated by the Florida legislature, identifying all service overlaps between and among all local governments within Clay County.

Lake County, Florida

Tavares, FL

Planning Director. 2001-2003. Staff liaison to the Environmental Lands Management Advisory Committee, a citizen organization created by the Board of County Commissioners to study the creation of an environmental land program. Recommended policies were ratified in November 2002, when Lake County voters approved a one-third mil assessment for the acquisition of environmental lands.

Southwest Florida Regional Planning Council

Fort Myers, FL

Planner. 1997-1998. Reviewed local government plan amendments throughout the six-county area and authored "The Platted Lands Challenge" report.

Charlotte County, Florida

Port Charlotte, FL

Community Development Director 1995-1997; Planning Director 1990-1995. Early in his tenure, Gulf Development Corporation (GDC), the County's largest land subdivider, declared bankruptcy, shifting responsibility for completion of roads, bridges, drainage works, and utilities, to the public sector and forcing a host of development decisions upon the local government and public agencies. He had three memorable achievements during these seven years:

- Managed the research, preparation, and adoption of the County's Evaluation and Appraisal Report (EAR) and Comprehensive Plan. Aggressively negotiated with the Florida Department of Community Affairs (DCA) to remove the Plan's not-in-compliance finding.
- Led the staff team that rewrote the Charlotte County Comprehensive Plan and was the point person in the successful four-year effort to negotiate a stipulated settlement agreement between the Board of County Commissioners and the Florida Department of Community Affairs to find Charlotte County's Comprehensive Plan in compliance with Florida's Growth Management Act.
- Advocated against the rezoning of 42 parks (illustrated as such on GDC sales maps and the County's Future Land Use Maps) to residential uses. The Company's agents eventually relented on their policy position and donated 41 parcels to the people of Charlotte County.

City of Cape Coral

Cape Coral, FL

Deputy Planning Director. 1985-1990. Authored and supervised preparation of key elements of the 1988 Comprehensive Plan (the City's first plan under the 1985 Growth Management Act) and the City's 1989 Land Development Code.

Education

Indiana University

Bloomington, IN

Master of Public Affairs (MPA) from the O'Neill School of Public and Environmental Affairs, 1982. Concentration in Urban and Regional Planning.

Bachelor of Arts (BA). 1976. Undergraduate degree in English Literature and History.

Important Cases, Continuing Education, Writing & Teaching

- Subcontracted with Bruce Hoch of New Jersey-based CPG Corplan on the *Economic Development Plan for the City of Cape Coral*. The final report was presented to City Council on January 22, 2025.
- Co-presented a panel "*Sometimes a Word is Worth a Thousand Pictures: Communication Skills for Planners*" with Tony Palermo, AICP, and Doug Kelly, AICP, at FPZA annual conference in Charlotte Harbor, June 5, 2024. His segment "The Rhetoric of Planning" focused on the words that form a persuasive narrative.
- Program chair for APA Florida/ FPZA "*The Perfect Storm Eight Months Out: A Symposium for Professional Planners, Design Professionals, Plan Commissioners & Regular People*" at Charlotte County Event & Conference Center Punta Gorda May 12, 2023.
- Presenting a panel "*Incorporation, Annexation, and Disincorporation*" with Jim Studiale, AICP, and Luke Lirot, Esq. at APA Florida state conference on Orlando September 7, 2022.
- Co-presented a panel "*Legislative and Quasi-judicial: What Every Planner Needs to Know*" with Attorney Andrew Dickman, AICP, at annual conference of Florida Planning and Zoning Association on Captiva Island June 3, 2022.
- Program Chair for "*The Swamp Peddlers*", an APA Florida/ Florida Planning & Zoning Association symposium conducted on August 6, 2021 in Punta Gorda. Keynote speaker Jason Vuic and other presenters explored the legacy of land sales scams in Southwest Florida on the twentieth anniversary of the General Development Corporation bankruptcy.
- Designed and co-presented "*Land Use 101*", a seminar for planning commissioners, elected officials, and new planners, hosted by the City of Cape Coral on June 16 and July 14, 2021 with

co-presenters Vince Cautero, AICP, the City's Community Development Director, and Attorney Ralf Brookes.

- Expert witness for client West Villagers for Responsible Government (WV4RG), a citizen organization which challenged the annexation of the 8730-acre non-contiguous West Villages subdivisions into the City of North Port. The City Commission rejected the Villagers' challenge by a unanimous vote, but following appeal presented by attorney Luke Lirot, the Twelfth District overturned the City's order denying petition for contraction in *West Villagers for Responsible Government v. City of North Port*.
- Moderated a panel for law credit at the September 9, 2020 Zoom-facilitated American Planning Association's Florida state conference. Co-presenters were attorneys Karen Consalo, Thomas Hawkins, and Andrew Dickman. "*The Rules are Very Different Here: How to Reform Florida's Land Use Decision-making Process*" surveyed the inconsistencies among local governments' handling of land use decision-making and proposed a new Environmental Land Management Study (ELMS) to improve those processes.
- Attended and participated in American Planning Association Florida chapter's 18th annual *Public Policy Workshop* at Florida State University, Tallahassee February 2020.
- Drafted update of Town of *Fort Myers Beach Sign Ordinance* to reflect SCOTUS *Reed v. Gilbert* opinion for Weiler Engineering Fall 2019-Winter 2020.
- Program chair for "*Planners in Peril: Law, Legislation, and Ethics for Design Professionals*," an APA Florida Promised Lands section symposium December 6, 2019 at Bonita Springs City Hall.
- Program chair for "*How High is the Water, Ma?: Rising Sea Level on the Florida Gulf Coast and what we can do about it*," sponsored by Friends of Boca Grande Community Center, March 22, 2019 at the Boca Grande Community Center Auditorium.
- Member, *Faith Presbyterian Affordable Housing Board*, a not-for-profit corporation which aspires to offer quality housing for low- and moderate-income persons in Cape Coral. Appointed 2018; appointment ended December 2020.
- Received 2018 American Planning Association Florida Chapter, Promised Lands section's first-ever *Wayne Daltry Award for Planning Programs* for developing professional education symposia.
- Prepared *policy audit of Town of Fort Myers Beach Comprehensive Plan* for Weiler Engineering, Summer 2018.
- Program chair for American Planning Association symposium "*Warped Tour '18: Land Use Law for Planners*" March 23, 2018 in Punta Gorda.

- Attended and participated in the hurricane-shortened APA Florida chapter annual conference in Daytona Beach September 4-6, 2017. Led panel with Greg Beliveau, AICP and Jane West Esq. entitled *"How to Build a Better Client."*
- Program chair for Captiva Community Panel/ Florida APA symposium *"Now in My Back Yard: Rising Sea Level on Florida's Gulf Coast and what can be done about it"* January 13, 2017 at South Seas Resort on Captiva Island.
- Co-authored article with Karen Consalo, Esq. *"Best Practices for Local Government Land Use Decision-making"* in Summer 2016 edition of *Florida Planning*.
- Speaker at American Planning Association Florida Chapter Annual Conference in Tampa, September 9, 2016. *"A Pre-tirement Guide for Perplexed Planners: Making the Transition to Solo Practitioner."*
- Attended and participated in CLE International's annual *Land Use Law symposium* in Tampa, August 18-19, 2016, and August 6-7, 2015.
- Speaker at University of Central Florida 2016 Public Administration Research Conference April 8, 2016. Topic: *"What's the Big Idea: New Software that Aids Land Use Decisions."*
- Attended and participated in *APA Florida chapter annual conference* in Hollywood, Florida September 10-13, 2015.
- Coordinator and presenter for daylong FAPA-sponsored symposium *"Everything You Ever Wanted to Know about Florida Land Use"* in Cape Coral May 16, 2014.

Jurisdictions - Expert Witness Work

Bonita Springs	Miramar
Bradenton	Monroe Co (2, incl ALJ)
Cape Coral (5)	North Port
Charlotte County (2)	Orange County
Collier County (4)	Ormond Beach
DeSoto County	Pasco County (2)
Fort Myers Beach (4)	Palm Beach County (ALJ)
Hardee County	Polk County (C court)
Hendry County (C Court)	Punta Gorda (2)
Hernando County	St. Johns County (4)
Highlands County	Sarasota County
Hillsborough County (4)	Sumter County

Hillsboro Beach
Lantana
Lee County (8)

Suwannee County
Venice

DARYL MAX FORGEY, AICP
LAND USE PLANNER & EXPERT WITNESS
max@forgeyplanning.com
239.560.5864

April 28, 2025

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 stylized with a cursive, flowing script.

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