

June 19, 2024

Titusville Planning and Zoning Commission
City Hall
555 S. Washington Ave
Titusville, FL 32780

RE: Policy basis for Denial and Fact -based Objection to SSA 3-2022, the associated rezoning and CPA 2-2024.

Planning and Zoning Commission,

We have reviewed the Agenda Package, Planning Department Staff Report and related public records for the Bristol Development Group, LLC's proposed Small-scale Comprehensive Plan Amendment SSA-3-2022, rezoning, Master Plan and Comprehensive Plan Amendment CPA 2-2024. On behalf of the Windover Farms Community, we submit these OBJECTIONS to the development as currently proposed by Bristol Development Group, LLC. Our specific objections are focused on aspects of the proposed land use and zoning revisions, and the Master Plan that are **not in compliance** with the City of Titusville Comprehensive Plan and Land Development Regulations as it is currently submitted, and the negative impact on our Community.

Project Summary: Bristol Development Group, LLC is proposing to change the future land use on 25.94 acres (Parcel I.D. No. 22-35-30-AV-*-65) from Commercial High Intensity and Conservation (CON) to Planned Unit Development (PUD) and change the zoning from Regional Commercial (RC) and Open Space and Recreation to Planned Development (PD) to develop 304-unit multifamily apartments in six four story (50 foot tall) buildings. Both direct access and secondary access to the development are proposed to be onto Windover Way, a local road. The Windover Farms Community will be the most directly affected by this proposed development will generate an estimated 1,404 trips daily with access on to Windover Way, defined in the City of Titusville's Land Development Regulations as a local road that was constructed as part of the subdivision plat specifically for ingress and egress for the Windover Farms Community. Windover Farms is a large lot (one acre minimum) rural residential community located adjacent to the proposed development on the south and east sides.

Objection Summary: Our fact-based objections and related identified inconsistency with the City of Titusville Comprehensive Plan Policies and LDRs are focused on the following issues, and each will be discussed in detail with supporting exhibits submitted in evidence below:

- **Bristol PD Master Plan has direct Access onto Windover Way, a local road, which is NOT in Compliance with City of Titusville LDR Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(1)(b) and Section 33-5(a)(2) and** Planned Development (PD) Standards require PD zoning developments be located with direct access on a collector or arterial road. The owner of the applicant's property has an existing easement across the adjacent Commercial property to the north that connects to an existing concrete driveway on the eastbound lane of S.R. 50.
- **The Bristol Traffic Impact Study and Summary Addendum reports have critical omissions** that make it impossible to factually assess impacts of the proposed PD development on adjacent local roads in residential areas from traffic, noise, and diminished quality of life. The proposed high density PD multifamily apartments are expected to generate 1,404 daily trips, yet the traffic study

excluded critical segments of adjacent local roads such as Windover Way south (turning right leaving the proposed Bristol driveway), and Windover Trail and other affected intersections were not included in the study at all. The Traffic Study assumed ZERO out of 1,404 expected daily trips turning right onto Windover Way and Windover Trail. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(3)*

- **Proposed 50' four story building height is inconsistent** with surrounding development east of Interstate 95 in the vicinity of the proposed development. There are no other buildings of this height in the vicinity of the project, and certainly none adjacent to rural single family homes. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(3) and Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(4)*
- **Removal of existing Conservation Land Use and OR zoning and low development density protection on ground-truthed wetlands five acres or greater** and application of PD zoning with 11.7 units per acre over whole 25.9 acres is not in Compliance with Comprehensive Plan Conservation Element Policies. If the rezoning is approved and the proposed development is not pursued, for whatever reason, the PD rezoning that allows the high development density across the whole 25.9 acres remains, including the wetlands. *Not in Compliance with Comprehensive Plan Conservation Element Strategy 1.6.3.2*
- **Other issues of non-compliance with the Comprehensive Plan and LDRs and insufficiency of submission, further reduction of Commercial land use within the City, and City position that there is currently enough Multifamily housing to meet the future growth demand, and other negative impacts to adjacent residential uses.**

Below is a detailed discussion of our objections, referenced City of Titusville Comprehensive Plan or LDR policies, and other relevant material facts obtained from public record requests attached and identified as exhibits.

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1. **Proposed Access for PD onto Windover Way, a local roadway, is NOT CONSISTENT with Titusville LDR Section 33-5(a)2 and** *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(1)(b).*

- The applicant is requesting a rezoning from Regional Commercial (RC) and Open Space and Recreation (OR) to Planned Development (PD). The applicants submitted Master Plan, the Traffic Study, and the Staff report state that the proposed direct access for the multifamily development is onto Windover Way, a local road. (See, **Exhibit A-1** Bristol Master Plan). **This is not consistent with City of Titusville LDR Section 33-5(a)(2)**. Access for a development in PD zoning is required to have direct access onto an arterial or collector roadway. (See **Figure 1. and Exhibit A-2**) Titusville LDR Section 33-5(a)(2). It is perplexing that the **City staff report failed to include** recognize that locating access points for a development project with PD zoning on a local road **was not in compliance with LDR**

Figure 1. Standards for PD City of Titusville LDR 33-5(a)2

“2. A Planned Development SHALL BE so located with respect to ARTERIAL STREETS, COLLECTOR STREETS and other transportation facilities, as TO PROVIDE DIRECT ACCESS to such PD WITHOUT CREATING or generating TRAFFIC along LOCAL STREETS in residential areas or clusters outside the PD”. (See also - Exhibit A-2)

Section 33-5(a)2 and failed to identify that the Windover right-of-way actually shrinks down even further to sixty (60) feet wide from the subject property to S.R. 50. Especially since initial correspondence from the City Community Development Director did in fact notify the applicant that access would need to be located on an arterial or collector roadway (See **Exhibit A-3** Email correspondence between Brad Parrish and Bristol)

- **Windover Way IS classified as a local roadway** according to the City of Titusville Roadway Classification in Titusville LDR Development Review Procedures Manual Section 9.4 (See **Exhibit A-4** Titusville LDR Roadway Classification List). Windover Way’s right of way width is eighty (80) feet wide in proximity to the platted residential homes to accommodate wide swales to provide stormwater drainage. However, from the northeastern boundary of the Bristol property to S.R. 50, Windover Way’s right-of-way is reduced to sixty (60) feet wide. (See **Exhibit A-5** Windover Farms Unit 6 Plat Map, **and Exhibit A-6** 2022 Boundary Survey of Adjacent Commercial Lot). The City of Titusville LDR DRPM Section 9.5 states the minimum right-of-way width for a collector roadway shall be no less than ninety feet (90) and the minimum right-of-way for an arterial roadway shall be no less than one hundred and twenty (120) feet. (See **Exhibit A-7** Titusville LDR Section 9.5). The majority of Windover Way is located in Brevard County, where it is also classified as a local road.
- **The applicant has an established sixty-six (66) foot wide EASEMENT across the adjacent property 6.98 acre property to the north providing direct access to S.R. 50**, an arterial roadway. (See **Exhibit A-4** Titusville LDR Roadway Classification List, **Exhibit A-8** Parcel Map, **Exhibit A-9** 2022 Boundary Survey depicting Easement from Bristol property to S.R. 50, and **Exhibit A-10** Official Record of Easement). It is clear the property owner was aware even back in 1998, that it was important to maintain an access connection to S.R. 50. It is important to note that the easement connects to an existing improved concrete driveway (See **Exhibit A-11**

Photos of Existing Driveway on S.R. 50 with an existing concrete and turn lane). This existing driveway was historically used as an access point for semi-trailers as a truck stop operated on the property where the easement is located. (See **Exhibit A-12** Historic Aerials of property used as truck stop). The applicant notified the City that they had an easement with access to S.R. 50 that could be used if required (See **Exhibit A-13** Bristol Concurrency Application). Yet, the existence of this easement is also inexplicably completely omitted from the Staff Report and background materials included for your review.

- **The applicant could have chosen to locate the direct PD access via their easement onto an existing and historically established Commercial driveway on S.R. 50, an arterial roadway consistent with Titusville LDR Section 33-5(a)2.** On page 33 of the The Bristol Traffic Impact Study a site plan version was included that depicted use of this this easement for access (See **Exhibit A-13** Traffic Impact Study Site Plan using Easement) . Placing the primary access on S.R. 50, an arterial road, instead of Windover Way would both eliminate one inconsistency with the Titusville LDRs Section 33-5(a)(2) and alleviate one of the major impacts on the adjacent Windover Farms Community due to traffic and traffic related negative impacts on Windover Way and Windover Trail, both local roads. The Bristol Traffic Impact Study shows a much higher per unit trip generation from the 304 multifamily residential units as compared to the existing trips generated by Windover Farms single family homes. During peak times, the buildout was expected to **more than double the exiting traffic**. (See Traffic Study detailed discussion and exhibits below).

2. **The April 6, 2023 Bristol Traffic Impact Study FAILED TO INCLUDE key adjacent segments of Windover Way to the right of the proposed driveway and omitted Windover Trail completely.** It is incomprehensible that the Traffic Impact Study included ZERO of the 1,404 daily trips turning right out of the PD development’s proposed driveway, even though the Master Plan clearly shows the driveway apron for right hand turns onto Windover Way. (See **Exhibit A-1 Master Plan Driveway and Exhibit B-1 Bristol Traffic Study Peak Trips AM and PM**). The only way the applicant could avoid admitting there will be substantial increased traffic and noise impacts on the adjacent Windover Farms residential community was **by intentionally excluding** these roadway segments within the Windover Farms Community from the traffic study completely. These roadway segments will be frequently used and will negatively impact adjacent residential uses by the significantly increased traffic and associated noise from the anticipated 1,404 daily trips generated by the proposed development. The number of trips is more than double the existing number of trips generated from the Windover Farms single family residences.

The PD zoning review criteria in Titusville LDR Section 33-8, purpose is to ensure the proposed rezoning and PD development does not negatively impact the quality of life of adjacent residential uses (See **Figure 2 Titusville LDR Section 33-8(a)(3)(a)**). Without evaluating impacts from right hand turns onto Windover Way or impacts on Windover Trail (both local roads) it is impossible to factually assess impacts of the proposed PD development on the Windover Farms Community and compliance with Titusville LDR Section 33-8(a)(3)a, or other traffic related concurrency policies.

Figure 2. PD Review Criteria City of Titusville LDR 33-8(a)(3)(a)

- (3) External Compatibility:
- a. The proposed development **SHALL NOT negatively impact the quality of life for any adjacent residential uses**. Negative impacts can include a decrease in property values and any substantial increase in noise or traffic. Any traffic impacts shall be demonstrated with a traffic analysis and the developer, in accordance with the Comprehensive Plan, shall mitigate the impacts.

In total, **the Bristol Traffic Impact Study failed to include analysis of major road segments** that are directly adjacent to the development and clearly will be impacted by the Bristol PD development including: (See Exhibit B-2 Impacted Road Segments Omitted from Impact Study)

- Complete omission of analysis of Windover Way turning RIGHT out of Bristol (toward the residential neighborhood);
- Complete omission of the analysis of the ENTIRE Windover Trail (going in/out toward Walmart/Home Depot/Target area);
- Complete omission of the analysis of the U-Turn on SR-50 out of Windover to go East on HW50 towards Orlando (Starbucks area);
- Complete omission of the analysis of the U-Turn on SR-50 and SR-405 to go East on HW50 towards Orlando; and
- Complete omission of the analysis of the SR-405 and Windover Trail intersection by Walmart/PetCo/Burger King/Home Depot.

The problem with reliance on model outcomes in decision making is the devil is in the details of the model and what parameters and metrics that were included in the modeling, and what was excluded and why. The Bristol Traffic Impact study included ZERO trips exiting the proposed development turning right on Windover Way into the Windover Farms Community to access Windover Trail to take the shortest and fastest route towards Walmart/Home Depot/Target common commercial shopping destinations. The Bristol Traffic Study also included ZERO trips entering Bristol from Windover Way (and Windover Trail) coming from Walmart/Home Depot/Target area. This is simply not reality of traffic impacts of the proposed development.

Of course, trips generated by the proposed development would enter and exit both directions onto Windover Way and use Windover Trail and doing so will create substantial negative impacts on adjacent residential uses with a more than doubling the increase in traffic (trips generated) on Windover Way, and the associated noise affecting their quality of life and property values. The Staff Report makes the statement, “There are no adverse impacts on Windover Way” repeatedly but the fact is, critical segments of Windover Way adjacent to the proposed development were never even looked at. The bias created by the Bristol Traffic Study findings, due to exclusions of critical segments of Windover Way and Windover Trail then gives a false representation of the negative impacts for adjacent residential uses from the substantial increase in trip generation, noise, loss of privacy and diminished property value.

It is important to note, Windover Trail was not designed to accommodate traffic approaching from the north (S.R. 50 with the required tight extremely sharp switchback thirty-five-degree turn (See Exhibit B-3 Windover Trail Traffic Impact Study Omission).

The April 9, 2023, Traffic Study Addendum (Technical Memorandum) was solely put together to cherry pick the information from the original Traffic Impact Study provided in the Agenda package for decision makers to review. This was used to create a false narrative to distract from the non-compliance issues with the Bristol PD proposed multi-family development, as submitted and depicted on the Master Plan. The goal was to distract from the multiple non-compliance issues, such as trying to put PD direct access on a local roadway and negatively impacting an adjacent residential community's quality of life by creating a false "either or" scenario comparison. The Traffic Study Addendum compares the applicants proposed PD high density multifamily trip generation and impacts to a 2008 (16-year-old) RC zoning site plan for large square footage retail and a restaurant for the subject property **PLUS** another approximately 7 acres of adjacent commercial property. This is the definition of comparing apples and oranges. In addition, the LDR Section 32-315 requires all RC zoned development to have a minimum of 200 feet of access (frontage) on an arterial roadway. The referenced 2008 site plan was for larger combined properties necessary to obtain the required frontage, not just the subject property, and more importantly ultimately was never built and long ago exceeded the site plan duration.

A quick look at the LDR Section 28-54 use table for RC zoning makes it is clear the 2008 proposal is more of a worst-case scenario from sixteen years ago than a likely development as a permitted use under the existing RC zoning. Permitted uses under RC zoning include things like art studios, hair salons, copy centers, auto sales and repairs, bicycle shops, boat sales, car sales and rentals, a bakery or deli, a bank, professional offices, and grocery stores. Under the RC zoning, most of the permitted principle uses are lower intensity, would generate far fewer daily trips, wouldn't result in incompatible height and visual blight, would be more compatible with the adjacent residential area and would not further erode the percentage of land dedicated for Commercial use in the City of Titusville. RC zoning would still have to have direct access frontage on an arterial roadway so they would not be creating increased traffic on Windover Way.

The applicant is attempting to infer a smaller impact from the proposed PD development all around by focusing in on only a comparison of the number of trips generated between the proposed Bristol project and a 2008 defunct and larger multi-property development site plan. It should be no surprise the larger project generates more trips. However, it does not negate the fact that the trips generated by the proposed Bristol PD development would be going directly on a local road with as little as a sixty (60) foot right of way between the development and S.R. 50, and impact the adjacent residential uses which is inconsistent with the City of Titusville LDR for PD zoning.

The *Titusville LDR Section 34-12(c)* states it is the applicant's responsibility to provide evidence that their proposed rezoning and development is fully compliant with the LDRs and Comprehensive Plan policies. Neither the Bristol Traffic Impact Study nor the cherry-picked Traffic Study Addendum included any factual data or analysis or modeling of projected trips generated by the projected development on the very roadway segments most likely to negatively impact adjacent residential uses and their quality of life, increased traffic, noise, and decreased property value.

3. **Proposed 50' four story building height is inconsistent with surrounding development east of Interstate 95** in the vicinity of the proposed development. The proposed development height is out

of character and compatibility with the surrounding areas. There are other areas in Titusville that would be more suited for an apartment complex of this overall size, height, and density. The *Titusville LDR Sec 33-6 (a)4* states for PD developments, "Maximum building height. Building height must comply with any design standards or other plans or policies provided for in the area of the development or **must be compatible with the surrounding existing development patterns in the area.** In all instances, the maximum building height shall be fifty (50) feet."

Bristol Master Plan is to build six (6) apartment buildings that are four (4) stories/50 feet high. Two to three stories higher than adjacent properties and one full story taller than vegetation could possibly shield. The proposed development is NOT compatible with the surrounding existing development patterns regarding building height. This would be a dramatic change for this area. Development in the immediate vicinity of the Bristol PD development includes:

- Interstate 95 is the western boundary of the Bristol Property. West of Interstate 95 are a cluster of hotels that are four stories however there are no adjacent residential homes, much less low density rural single family large lot residential areas. And there are no buildings four stories in height;
- South of the property is Conservation land use and OR zoning that includes a large retention pond and open field used by Moonport Modelers for model airplane flying
- South and East of the property is the Windover Farms Community a rural large lot single family platted subdivision; and
- North and Northeast of the property there are no buildings more than 2 stories. These include, **1-story** abandoned gas station and field (directly adjacent), 1 story Gas stations Shell and BP, Chevron, Circle K, restaurants. Dunkin Donuts, Starbucks, Lowes, Home Depot, Car washes, Target/Marshalls/Petco shopping plaza. North and Northeast is also the 2-story hotel Best Western and Ramada Inn. (See EXHIBIT C Development in the Vicinity of Proposed Bristol PD development)

The Staff Report claims the proposed PD multifamily apartments with six fifty (50) foot tall walls of concrete, nearly a full story above what any tree height can screen "*could* be considered" a transition between commercial and Windover Farms low-density large lot single family residential as opposed to the existing Regional Commercial. A four-story high-density multifamily apartment complex with 304 units next to rural single-family homes is not a transition, its abrupt and incongruent. It will negatively impact the quality of life for the adjacent single-family homes, including traffic, noise, privacy and property values. Even the Bristol representative at the first Community engagement meeting admitted he personally would not want to live next door to his proposed development with fifty-foot-tall apartments looking down into his back yard.

4. **Removal of existing Conservation Land Use and OR zoning and low development density on ground-truthed wetlands and application of PD zoning with 11.7 units per acre over whole 25.9 acres including the wetlands.** It is a concern that placing a high development density zoning on wetlands under PD zoning may encourage their development over time. Future Land Use Policy 1.16.2 states ground-truthed wetlands do not have to be placed in the Conservation Land Use if it is part of a conservation easement in a PD. This policy seems to run in conflict with other Comprehensive Plan wetland protection policies such as Comprehensive Plan Conservation Element Policy 1.6.3.2 which states, "At a minimum, wetlands 5 acres or more in size shall be designated as a conservation land use and wetlands less than 5 acres will be subject to review to determine what protection, if any, they should receive from development". The concern is that by applying an blanket

high development density over the whole 25.9 acre parcel of land, the City has removed the low density protection of the conservation land use back stop and is solely relying on a St. Johns River Water Management District conservation easement to protect the wetland from incompatible development activity. It seems to work to incentivize wetland development, particularly now that St Johns River Water Management District conservation easement can be removed at any Governing Board meeting so long as some equivalent area is protected somewhere else, which does nothing to protect the functional value of wetlands within the City. This is particularly of heightened concern for this project, because Mr. Cole Oliver who is represented himself as a land use attorney for the developer Bristol Group, LLC. at the June community engagement meeting, LLC., is also an appointed Governing Board Member of the St. Johns River Water Management District (See SJRWMD Board <https://www.sjrwmd.com/2023/11/district-governing-board-announces-new-officer-and-continuity-in-leadership-for-third-consecutive-year/#:~:text=15%2C%202023%20%E2%80%94The%20St.,Island%20as%20treasurer%3B%20and%20J.>).

5. The Additional Identified Deficiencies and Failure to Comply with the City of Titusville Comprehensive Plan and LDRs.

- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the proposal further reduces the amount of Commercial land use in the City of Titusville, which is already below twenty (20 %). This is inconsistent with Comprehensive Plan Future Land Use Element Objective 1.9.
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the applicant failed to demonstrate compliance with Planned Unit Development policies *in Comprehensive Plan Future Land Use Element 1.19.1, 1.19.3, 1.19.5, 1.19.6, 1.19.7, 1.19.9 and 1.19.10.*
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because it is not in compliance with Comprehensive Plan Conservation Element Strategy 1.6.3.2 which requires wetland 5 acres or more to be placed in conservation land use.
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the EXISTING ZONING IS CORRECT. The applicant failed to provide any evidence that there has been any change in the existing development patterns in the area surrounding the subject property to support the requested zoning change to PD. Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(2) states, “*The existing zoning, if deemed consistent with the Comprehensive Plan, shall be presumed correct unless substantial change in the area has occurred since the original zoning*”. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(2).*
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because proposed access is onto Windover Way, defined by the City of Titusville as a local road and does not meet the minimum standards for a collector or arterial road way as defined in Titusville LDR DRPM Section 9.5 with right-of-way from development property boundary to SR 50 is only 60 feet wide and NOT an arterial or collector as required for PD development. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(1)(b)*

- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the applicant **failed** to provide any specific information that demonstrates how the project protects the health, safety and welfare to a greater extent than the standard code. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(5) and PD Criteria Chapter 33-5(a)(1).*
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the applicant **failed** to provide adequate buffering to prevent negative impacts to adjacent residential uses. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section 34-40(a)(6).*
- SSA-3-2022, its associated rezoning and Master Plan should be DENIED because the proposed PD master plan **failed** to include a variety of residential designs. *Review Criteria Titusville LDR Chapter 34, Article II, Division 1, Section. 33-8(a)(2)(c).*

Conclusion:

Based upon the above identified **failures** of the applicant to provide evidence necessary to demonstrate their request is in compliance the City of Titusville Comprehensive Plan, and Land Development Regulations and in consideration of the supplied material facts, SSA-3-2022 the associated rezoning and binding master plan, and Comprehensive Plan Amendment CPA 2-2024 should be denied. Modifications, such as, moving the direct access to S.R. 50 utilizing their easement and the existing improved driveway would alleviate several non-compliance issues.

It is telling that the best the Planning Department Staff could say was the application was “generally in compliance”. Sort of in compliance, somewhat in compliance, or almost in compliance is not the standard required by the City’s adopted Comprehensive Plan or LDRs policies. A proposed request is either in compliance or as in this case it is NOT in compliance. The staff report included some of the many, but not all, additional instances where the Bristol Development Group, LLC’s proposed SSA 3-2022, its associated rezoning request and the Master plan were non-compliant or failed to provide required evidence to demonstrate compliance. Inexplicably, even with multiple instances of blatant non-compliance the Staff still recommended approval.

If the City of Titusville is not going to require full compliance with its policies, it would be deliberately acting in violation of its own policies and setting a very dangerous precedent. How will the public or future applicants know what determines which policies an applicant must follow and which they and staff can just ignore? Or does it depend on who the applicant is? The Comprehensive Plan and LDRs were adopted with public participation and in a public hearing process. These policies are intended to ensure a level playing field and establish a rule book agreed to guide compatible development with citizen input with a larger long range Community view that all are supposed to follow. The City must uphold its policies and not approve developments identified as non-compliance with the Comprehensive Plan and LDRs.

Please review the attached exhibits, deny SSA-3-2022, its associated rezoning and Master Plan and hold developers accountable to the policies established in the Comprehensive Plan and LDRs. We will be happy to answer any questions during the public hearing after our comments.

Sincerely,



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