



**City of Melbourne, Florida
Agenda
Planning and Zoning Board**

City Hall Council Chamber
900 E. Strawbridge Avenue
Melbourne, FL 32901

July 16, 2026, 6:30 p.m.

A. Opening

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes – July 2, 2026
4. Declaration of Conflict
5. Disclosures
6. Public Comment

B. New Business

7. **Site Plan Approval Request (PLAN2026-0004) Circles of Care Addition (2000 & 2020 Commerce Drive):** (Public Hearing) [Owner: Circles of Care, Inc.] [Applicant/Representative: Landon Scheer, P.E.] Site plan approval to construct a new, single-story, 9,048± square-foot building at an existing facility, on an overall 9.17± acre property zoned M-1 (Light Industrial District), located on the northwest corner of Commerce Drive and NASA Boulevard **[P&Z Final Approval]**.
8. **Subdivision Variance Approval Request (SDV2026-0001) Mosswood Townhomes:** (Public Hearing) [Applicant/Representative: Kim Rezanka, Lacey Rezanka] Subdivision variance to validate the existing lots without platting, pursuant to Appendix D, Chapter 8, for a 5.4-acre townhome development that has been divided into 40 parcels and common areas, zoned R-2(6.4) and R-2(8.5), located on the east side of Mosswood Road, south of Aurora Road, and north of Cannon Street:

C. Future/Additional Business (Staff)

D. Additional Board Member Comments

E. Adjournment

Note: More than one member of the City Council may be in attendance at the meeting and may participate in discussions.

City of Melbourne, Florida
Agenda – Planning and Zoning Board
July 16, 2026

Pursuant to 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by this Board, agency or meeting or hearing, he will need a record of the proceedings, and that for such purpose, affected persons may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Community Development Department at (321-608-7500), no later than 5:00 p.m., at least 48 hours prior to the meeting.



City of Melbourne, Florida Minutes — Planning and Zoning Board

City Hall Council Chamber
900 E. Strawbridge Avenue
Melbourne, FL 32901

July 2, 2026, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll Call.

Present:	Chris Adams	Chair
	Stefan Hartmann	Member
	Shannon Bailey	Member
	George Lebovitz	Member
	Leigh Hinton	Alternate Member
	Dan Liparini	Alternate Member
	Ethan Packey	School Board Representative
	Richard Broome	Deputy City Attorney
	Cheryl Dean	Planning Manager
	Samantha Buck	Recording Secretary
Absent:	Nancy Garmer	Member – Excused
	Carol Hudgens	Member – Excused
	Dr. Ray Shackelford	Member

3. Approval of Minutes – May 21 2026.

Moved **Lebovitz /Bailey** to approve the minutes from May 21, 2026, as presented.

Motion carried unanimously.

4. Declaration of Conflict

There were no conflicts of interest on this item.

5. Disclosures

None.

6. Public Comment

There was no public comment.

Deputy City Attorney Broome swore in Ms. Dean.

B. New Business

7. Site Plan Approval Request (PLAN2025-0011) Thrifty Dollar Car Rental (1620 South Harbor City Boulevard):

Ms. Dean summarized the request as detailed in the staff memorandum and confirmed that this item is subject to consideration only by the Planning & Zoning Board/Local Planning Agency, since the proposed commercial development is located on land less than one acre within the Downtown Melbourne CRA.

Based on the findings presented above, for the project consisting of a 0.41± acre property zoned C-C-2, located on the west side of South Harbor City Boulevard, north of Fee Avenue and east of Tangerine Street, (1620 South Harbor City Boulevard), the Community Development Department recommends approval of site plan PLAN2025-0011, based on the findings and conditions contained in the Planning & Zoning Board memorandum.

There were no comments or questions from the Board.

Chair Adams asked why additional approval by the Historic and Architectural Review Board (HARB) was required, and Ms. Dean replied that the building design must be approved by HARB as the property is located within the Downtown Melbourne Community Redevelopment Area (CRA).

Chair Adams asked the applicant if he wished to address the Board, and he replied that he did not.

As there were no members of the public present to provide public comment, Chair Adams closed the public hearing and brought the item back to the Board for final discussion and a motion.

Moved by **Hartmann / Bailey** to recommend approval of PLAN2025-0011 based upon the findings and conditions contained in the Planning and Zoning Board memorandum.

The roll call vote went as follows:

Aye: Hinton, Bailey, Lebovitz, Hartmann, Liparini and Adams

Nay: None

Motion carried unanimously.

C. Future/Additional Business (Staff)

Ms. Dean confirmed that there will be at least two items for next meeting scheduled for July 16th. One item will require a final action by the Board, and the second will require a recommendation to City Council.

Ms. Dean reminded the Board that their annual Financial Disclosure Forms were due to be submitted the Florida Commission on Ethics by July 1st. She reminded the Board of the importance in submitted these forms in a timely manner.

D. Additional Board Member Comments

Mr. Packey reminded Ms. Dean of his request for a map of the Midtown Activity Center at the May 21st meeting.

Ms. Dean said that she will email an updated version of this map to the Board for their information.

F. Adjournment

E. The meeting was adjourned at 6:54 PM.

Cheryl A. Dean, AICP
Planning Manager

Approved by the Planning and Zoning Board



City of Melbourne
Community Development Department

ITEM NO. 7

PLAN2026-0004

FORMAL SITE PLAN

CIRCLES OF CARE ADDITION

Memorandum

To: Planning and Zoning Board
From: Cheryl A. Dean, AICP, Planning Manager
Re: **Site Plan Approval Request (PLAN2026-0004) Circles of Care Addition (2000 & 2020 Commerce Drive)**
Date: July 10, 2026

Owner/Applicant/Representative

- Owner – Richard Waters, Circles of Care, Inc.
- Applicant/Representative – Landon Scheer, PE

Proposed Action

The applicant is requesting site plan approval for a new, single-story, 9,048±-square-foot, assisted living facility building on a developed 9.17±-acre property zoned M-1 (Light Industrial District).

Based upon the threshold criteria for site plan review in Appendix B, Article IX, this plan will only require approval by the Planning and Zoning Board because it is less than ten (10) acres in an industrial zoning district.

Location

The property is located on the northwest corner of Commerce Drive and NASA Boulevard/Evans Road, in Township 27, Range 37, Section 31/Tax Account # 2729002 (2000 & 2020 Commerce Drive). The property is located within Council District 5.

History

Following is a summary of development activity on the subject property:

- 1982: City Council approved a site plan for the Scientific Systems Services office building on 15.91±-acres (SP-1982-15).
- 1985: City Council approved a building addition for Scientific Systems Services (SP-1985-18). The addition was never constructed and the site plan expired.
- 1987: City Council approved a building addition for a new business - Heritage Family Treatment Center (I-1987-13).

- 1989: Development changes from Heritage Health Family Treatment to Circles of Care.
- 1998: An Informal Site Plan is approved for a new, Circles of Care medical office and counseling building (IF-1998-38).

The property has an Industrial Future Land Use map classification.

Adjacent Property Information

Access: Commerce Drive, along the west and south property lines

To the East: Across NASA Boulevard, Wabtec Corporation

Zoning: M-1

Future Land Use: Industrial

To the North: Vacant Building

Zoning: M-1

Future Land Use: Industrial

To the West: Across Commerce Drive, undeveloped industrial land

Zoning: M-1

Future Land Use: Industrial

To the South: Across Commerce Drive, undeveloped industrial land

Zoning: M-1

Future Land Use: Industrial

The subject site is designated as Industrial on the Future Land Use Map.

Site Plan Issues and Considerations

City Code, Appendix B, Article IX, Section 6 establishes general standards to consider when evaluating the merits for a site plan approval request.

Existing Development: The property currently includes a single-story, 9,674±-square-foot medical office building and a single-story, 30,200±-square-foot convalescent/nursing care building, including parking, landscaping and stormwater retention.

Proposed Expansion: The project includes a new, single-story, 9,048±-square-foot detached assisted living facility building. The maximum proposed height of the new building is ±12 feet tall (48 feet is permitted). All structures exceed the setback requirements of the M-1 zoning district.

Parking requirements have been met for the building addition. With the proposed new assisted living facility building, a total of 177 parking spaces are required, including six handicap-accessible spaces. The applicant is providing 182 parking spaces, including eight handicap-accessible spaces. Parking calculations are based upon two or three categories: medical office, which is calculated at one space per each doctor plus eight spaces per each doctor; assisted living, which is calculated at two spaces for each three units and employees on the largest shift; and assisted living (intermediate care), which

is calculated at one space per each three beds, plus 1.5 spaces per employee, plus one space per each doctor plus eight spaces per each doctor.

Access: The addition will utilize the existing driveways (two along the south side of the property and one driveway to the west) onto Commerce Drive (a 2-lane, local roadway maintained by the City of Melbourne).

Other Code Required Standards. The project will be required to meet the landscaping requirements of Appendix D, Chapter 9, Article XV during construction plan review. Changes to the proposed stormwater management systems will be required to meet City Code, Chapter 50.

Environmental Impact Analysis:

The project is exempt from the requirements for providing an Environmental Impact Assessment, as the property is already developed and maintained as a medical office and convalescent/nursing home campus.

As with all development projects, applicable permits will be required prior to construction plan approval.

Water and Sewer Concurrency

The City's Ten-Year Water Supply Facilities Work Plan indicates that adequate potable water supplies are available to serve the subject site. Sanitary sewer service is also available from the City.

Transportation/Mobility

This site is located within Mobility District A (Melbourne International Airport area). Based on information furnished by the applicant, the project will generate approximately 35 new automobile trips per day. The applicant will be responsible for providing one mobility improvement or making a payment in lieu of constructing the improvement. The payment in lieu of amount for this project is \$7,260 (based on an intermediate care ACLF use).

Joint Planning Agreement (JPA) Comments

The property is not located within the Joint Planning Agreement area (JPA).

Findings for the Site Plan

1. The requested Site Plan is consistent with the property's Industrial Future Land Use designation and the goals, objectives, and policies of the City's Comprehensive Plan. The adopted Future Land Use Map contains and identifies appropriate locations for the future land use categories. The maximum densities/intensities for each category are identified in the Comprehensive Plan. The zoning map and land development regulations may impose more restrictive densities and intensities of development based on height requirements, land coverage standards, setbacks, minimum lot size requirements, traffic and circulation standards, landscaping and breezeway requirements, and other such dimensional and development criteria. The subject property is zoned M-1 which permits an assisted living facility use. The applicant has submitted a site plan that meets City Code requirements.

2. The site is already developed with a Circles of Care medical office and counseling building. The applicant is proposing an assisted living facility use within an industrial/commerce park area that is zoned M-1. The M-1 District permits the consideration of assisted living facilities. The site has access to I-95 from Commerce Drive via NASA Boulevard and Ellis Road.
3. The applicant has submitted a site plan that complies with City Code and the proposed lot coverage, building setbacks, off-street parking requirements, retention and landscape areas, and other performance standards for this use meet the requirements of the City of Melbourne Zoning Code and Land Development Code. The proposed assisted living facility will not change the general character of the neighboring area since the subject site is located in an industrial/commerce park area along NASA Boulevard.
4. The proposed Site Plan is compatible with surrounding uses and to other uses permitted in the area. The site is already developed with a Circles of Care medical office and counseling building. A treatment facility has been approved on this site since 1987. The applicant is proposing the construction of a new assisted living center building on the developed site.
5. The proposal is specifically consistent with Goal 1 of the Future Land Use Element. The purpose stated in this Goal is to meet the needs of population growth through public and private development and redevelopment, and through the appropriate distribution, location, and extent of land use, consistent with adequate levels of service, efficient use of facilities, and protection of natural resources and environmental lands. The proposal is located in a commercial and industrial area and is consistent with adjoining development patterns.
6. Adequate transportation facilities are in place to serve the subject property. The site has access to a local roadway (Commerce Drive) at NASA Boulevard. The average annual daily traffic count in this area is 16,850 vehicles per day (2024) on NASA Boulevard (the nearest arterial roadway).
7. The proposal will support the public health, safety, welfare, economic order, and quality of life of the community as it will allow for the establishment of a use that will not create excessive noise, fumes, dirt, or dust, and will not damage area properties or be detrimental to the environment. The proposed use is compatible with the surrounding area.
8. The applicant shall demonstrate, prior to construction plan approval, the financial and technical capacity to complete any improvements and the mitigation necessitated by the development as proposed, and has made adequate legal provision to guarantee the provision of such improvements and mitigation.
9. The proposed project has been evaluated for water and sewer capacity being available for the proposed project. The City's Ten-Year Water Supply Facilities Work Plan indicates that adequate potable water is available to serve the subject site. Adequate sanitary sewer service is also available from the City.

10. The proposed project has been evaluated for consistency with the City's mobility standards. Transportation Element Objective 3.1 states that the City of Melbourne shall support mobility within six mobility districts throughout the City with strategies that address alternative modes of transportation by providing context-appropriate sidewalks, bikeways, transit facilities, parking management and improvements that will contribute to specific and identified mobility needs within the City. The subject site is located within Mobility District A (Melbourne International Airport area). The applicant will be responsible for providing one (1) mobility improvements or making a payment in lieu of constructing the improvements. The payment in lieu of amount for this project is \$7,260 (based on an intermediate care ACLF use).

Recommendation

Based upon the findings presented above, for an existing developed 9.17±-acre property zoned M-1 and located on the northwest corner of Commerce Drive and NASA Boulevard/Evans Road, the Community Development Department recommends:

Approval of PLAN2026-0004, site plan approval for a new, single-story, 9,048±-square-foot, assisted living facility building at an existing Circles of Care campus, prepared on a 2-sheet plan by Landon Scheer, P.E., Scheer Engineering, LLC, Melbourne, Florida, Project Number 250924, with a signed and sealed date of June 30, 2026, and pursuant to the following conditions:

- a. Changes to the Site Plan will require reevaluation by the City Engineering Department and Community Development Department.

Any substantial change to the Site Plan as outlined in Appendix B, Article IX, Section 6 (E), will require review and approval City staff, the Planning and Zoning Board, Local Planning Agency, and/or the City Council, as applicable.
- b. Appropriate environmental permits must be obtained as part of the construction plan review process, especially as it relates to the wetland permitting, consistent with Appendix D, Chapter 9, Article IV, prior to construction plan approval.
- c. The proposed building shall be substantially consistent with the rendering submitted by the applicant.
- d. Appropriate environmental permits must be obtained as part of the construction plan review process, consistent with Appendix D, Chapter 9, Article IV, prior to construction plan approval.
- e. The stormwater design shall meet the requirements of Chapter 50 and the City of Melbourne "Technical Provisions for the Construction of Streets, Paving, and Drainage Systems" during construction plan review.



City of Melbourne
Community Development Department

ITEM NO. 8

SDV2026-0001

SUBDIVISION VARIANCE

MOSSWOOD TOWNHOMES

Proposed Action

The applicant is requesting a Subdivision Variance to allow the Mosswood Townhomes development to be considered conforming with the City Subdivision Code without platting through the subdivision process (Appendix D, Chapter 8).

Location

The property is located on the east side of Mosswood Drive, south of Aurora Road and north of Cannon Street, in Township 27S, Range 37E, Section 17. This property is located within Council District 2.

History

Following is a brief zoning and development history of the property:

- 1981: City Council approved rezoning a portion of the property from R-1A to R-3 (Z-256/Ordinance No. 1981-38).
- 1984: City Council denied a request to rezone the property from R-3 to R-2 (Z-358).
- 1988: City Council approved the establishment of Medium Density Residential Future Land Use on the Comprehensive Plan Future Land Use Map.
- 1990: City Council approved rezoning the property from R-3 to its current zoning of R-2 (8.5) (One-, Two-, and Multiple-Family Dwelling Medium Density District with a density cap of 8.5 units per acre) (Z-639/Ordinance No. 1990-39).
- 1995: City Council approved a formal site plan for Mosswood Townhomes, a 22-unit townhome-style multi-family project on 2.6± acres (SP-1995-13).
- 1996: Construction Plans approved for SP-1995-13, with 22 units and three phases on 2.6± acres, including Unit 17.
- 1998: City Council approved Phase 2 of the Mosswood Townhomes in conjunction with re-zoning, modifying the original site plan to create a 40-unit townhome-style multi-family project with an additional 2.8± acres (5.4 acres overall) (Z-1998-815/SP-1998-09).
- 2021: City Council approved a Preliminary Plat (PLAT2021-0001 to allow a 40-lot townhome subdivision, on a 5.4±-acre partially developed property zoned R-2(6.4) and R-2(8.5); and Subdivision Variance (PLAT2021-0011) for the following:
 - A request to not provide a cul-de-sac at the end of the Tract A right-of-way (per Appendix D, Chapter 8, Section 8.6 (b)(4)k.).
 - A request to provide a 3-foot-wide sidewalk and not within the road right-of-way (per Appendix D, Chapter 8, Section 8.6(b)7).
 - A request for a 24-foot wide right-of-way (50 feet required) (per Appendix D, Chapter 8, Section 8.6(b)(4)a.).
 - A request for a 21-foot wide pavement width (24 feet required) (per Appendix D, Chapter 8, Section 8.6(b)(4)c.).
 - A request for a reduced corner radius of 7.5 feet (25 required) (per Appendix D, Chapter 8, Section 8.6(b)(4) j.3.).
 - Request to allow PRM monuments to be other than a concrete monument (per Appendix D, Chapter 8, Section 8.5(4)g.).

- Request to not allow lots and lot dimensions to comply with the requirements of the City's Zoning Ordinance as to width, depth and area (per Appendix D, Chapter 8, Section 8.5(4)g.)

2022: The Zoning Board of Adjustment approved the following variances (VAR2022-0005):

- Variance of 2.5 ft. to allow a 17.5 ft. front yard setback (all lots).
- Variance of 7.5 ft. to allow a 0 ft. side yard setback (all lots).
- Variance of 25 ft. to allow a 0 ft. rear yard setback (all lots).
- Variance of 9 ft. to allow a 71 ft. lot depth (lots 1 thru 4).
- Variance of 6.5 ft. to allow a 73.5 ft. lot depth (lots 18 thru 22).
- Variance of 14 sq. ft. to allow a 1,786 sq. ft. lot area (lots 2 and 3).
- Variance of 22% to allow 82% maximum lot coverage (all lots).
- Variance of 4 trees per lot to allow 0 trees per lot (all lots).
- Variance of off-street parking standards to allow parking spaces to back into a right-of-way.

The property currently has Medium Density Residential Future Land Use Map classification.

Adjacent Property Information

Access: Mosswood Drive, along the west property line
Frontage: Stewart Avenue, along the east property line

To the East: Single Family homes
Zoning: R-1A
Land Use: Medium and Low Density Residential

To the West: Across Mosswood Drive, Crane Park
Zoning: I-1
Land Use: Recreation

To the North: Aurora Palms Apartments; Automobile Dealership
Zoning: C-C-1; C-2
Land Use: Mixed Use

To the South: Single-family homes (Railroad Addition to Eau Gallie Subdivision, PB)
Zoning: R-1A
Land Use: Medium Density Residential

Development of Mosswood (SP-1995-13 and SP-1998-09)

The 5.4±-acre Mosswood Townhomes is a two-phased, multi-family residential project, approved as a formal site plan; prepared by RK Engineering, of Indialantic, Florida, and approved by City Council in 1995, with Phase 2 approved in 1998 (SP-1995-13 and (SP-1998-09). The site plan was designed to comply with site plan standards for a

multiple-family residential project on a single property. To date, all except two remaining buildings (12 townhomes) have been built including all of the infrastructure to support the entire development.

Unbeknownst to the City until approximately 2019, all of the multi-family units and land were conveyed by metes and bounds to consumer purchasers, which is a violation of the Subdivision Code. The sale of a condominium unit along with the underlying land is not permitted pursuant to City Code, as it does not meet the requirements of the Subdivision Code (Appendix D, Chapter 8). Unfortunately, property may be subdivided through the Brevard County Property Appraiser's office without regard to a jurisdiction's zoning or subdivision regulations. In 2019, the builder applied for building permits for the remaining two buildings (12 townhomes), which were denied, due to the Subdivision Code violations.

(PLAT2021-0001 and PLAT2011-0011)

The applicant pursued platting the project in 2021 to correct the Subdivision Code violations and be able to complete the remaining 12 townhomes. This plat application created some unique issues relative to the Subdivision Code and the Zoning Code that required approval of both subdivision variances (approved by City Council) and variances to the Land Development Code (approved by the Zoning Board of Adjustment). A final plat was submitted; however, due to the inability to obtain some of the required final plat signatures from all applicable mortgagees, the applicant is requesting the subdivision variance as an alternative to platting.

Applicant Response to Subdivision Variance standards:

City Code, Appendix D, Chapter 8, Section 8.8, describes the five standards that must be addressed when requesting a variance. Regarding the five standards:

(1) The applicant perhaps did not create the circumstances or conditions that would substantially limit the applicant in the reasonable use of the land.

Mosswood Townhomes received site plan and construction plan approvals on May 21, 2003, from the City. Parcels were deeded out and 28 of the parcels received building permits and constructed townhomes. A Townhome Association was created and a Declaration of Covenants was recorded to provide for management of the 40 parcels and the related common areas. Twelve of the parcels went undeveloped for a time due to reasons unrelated to the City, and when the Developer sought to obtain building permits for the undeveloped parcels, the permits were denied. The City deemed the entire Mosswood Townhomes Development to be nonconforming due to Code changes, and declined to issue any further building permits.

The Developer has attempted to Plat the entirety of the Mosswood Townhomes Development, but has been unable to obtain the mortgage holders' joinders. During the platting process, the Developer has obtained certain variances from subdivision regulations in Appendix D, Chapter 8, in Final Order for PLAT2021-0011, dated April 22, 2022. Those variances include:

- *Not provide a cul-de-sac at the end of the Tract A right-of-way (per Sec. 8.6 (b)(4)k.);*

- *Provide a three-foot-wide sidewalk and not within the road right-of-way (per Sec. 8.6(b)7);*
- *Provide a 24-foot wide right-of-way (50 feet required) (per Sec. 8.6(b)(4)a.);*
- *Provide a 21-foot wide pavement width (24 feet required) (per Sec. 8.6(b)(4)c.);*
- *Provide a reduced corner radius of 7.5 feet (25 required) (per Sec. 8.6(b)(4) j.3.);*
- *Allow PRM monuments to be other than a concrete monument (per Sec. 8.5(4)g.);*
- *Not allow all lots and lot dimensions to comply with the requirements of the City's Zoning Ordinance as to width, depth and area (per Sec. 8.5(4)g.).*

Also during the Platting process, the Developer obtained Board of Adjustment Variances, contained in VAR2022-005, dated June 27, 2022, including:

- *Variance of 2.5 ft. to allow a 17.5 ft. front yard setback (all lots);*
- *Variance of 7.5 ft. to allow a 0 ft. side yard setback (all lots);*
- *Variance of 25 ft. to allow a 0 ft. rear yard setback (all lots);*
- *Variance of 9 ft. to allow a 71 ft. lot depth (lots 1 thru 4);*
- *Variance of 6.5 ft. to allow a 73.5 ft. lot depth (lots 18 thru 22);*
- *Variance of 14 sq. ft. to allow a 1.786 sq. ft. lot area (lots 2 and 3);*
- *Variance of 22% to allow 82% maximum lot coverage (all lots);*
- *Variance of 4 trees per lot to allow 0 trees per lot (all lots);*
- *Variance of off-street parking standards to allow parking spaces to back into a right-of-way.*

However, the Applicants need variances to validate the existing parcels and common areas, to make the entire Townhome Subdivision “conforming”, such variances including the requirements of a subdivision under Sec. 8.3, and of securing approval of a subdivision, Sec. 8.5.

(2) The variance may be necessary for the preservation and enjoyment of a substantial property right.

This variance will allow the applicants to have parcels that comply with the requirements of the City.

(3) Whether the granting of the variance will be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

Because of the existing, approved infrastructure, the Townhome Association’s maintenance of common areas and the already approved variances, the unplatted Development is not detrimental to the public welfare or injurious to other property. The existing conditions meet the intent of the City’s Code to: ensure orderly layout and appropriate use of land; provide safe, convenient, and economic circulation of vehicular traffic; provide suitable building sites which drain properly and are readily accessible to emergency vehicles; assure the installation of improvements; and help conserve and protect the physical, environmental and economic resources of the City.

(4) Compliance with the requirements in this code causes a practical difficulty.

Most of the 40 parcels are owned by separate parties and 70% contain residential structures. The attempt to plat the property by City and State requirements became impossible as the lenders for 12 of the parcels either ignored or refused to execute joinders to the final plat.

(5) The variance must be consistent with the Melbourne Comprehensive Plan. In granting the variance, City Council shall prescribe only conditions that it deems necessary to or desirable for the public interest and when determining this shall take into account the nature of the proposed use of the land and the existing use of land in the vicinity.

Several policies related to subdivisions are found in the Future Land Use Element, Housing, and Infrastructure Elements. Specifically, the Housing element states:

Objective 1.1: - Housing Supply. Assist the private sector to provide additional units to satisfy the projected demand of approximately 51,628 dwelling units of various types, sizes, and costs by 2035 and 53,101 by 2040, which will be needed to house the City's anticipated population through the planning horizon.

- *Policy 1.1.2: The City shall continue to provide land use designations and zoning districts on the Future Land Use and the Official Zoning Maps, to ensure a variety of housing types including single family, duplex, and multi-family are allowed within the City.*
- *Policy 1.1.3: The City shall continue to utilize local government partnerships with the private sector in order to improve the efficiency, and expand the capacity of the housing delivery system.*
- *Policy 1.1.4: The City shall continue to provide information, technical assistance and housing data to the private sector in order to maintain sufficient housing production capacity. Technical assistance includes, but is not limited to, assistance meeting the development review requirements of the City and other regulatory agencies; referral to appropriate agencies for information, assistance in meeting infrastructure standards and requirements imposed by the City; and provision of data regarding housing needs and conditions.*
- *Policy 1.1.9: The City shall promote mixed-use developments that include provisions for a wide variety of housing types and prices.*

The Comprehensive Plan's intent is to facilitate and eliminate barriers to the private sector developing a variety of housing options. The regulations for subdividing land cannot be met due to the unusual circumstances surrounding Mosswood Townhomes Development.

The subdivision variances, as requested, will allow for the validation of the existing division of land while assuring that the minimum standards and requirements are met for appropriate development, consistent with good planning practices. The City's Code anticipates that there are times when the strict application of the requirements may cause hardship, and projects will need the ability to deviate from those requirements. This application presents one of those

instances where the strict application of the subdivision requirements is not necessary, and will preclude development of 12 lots that were contemplated in 2003 with the approval of the site plan and construction plans. Imposing those standards would be inconsistent with the City's Comprehensive Plan. Therefore, since all 40 parcels are served by street/driveway access, all have shared infrastructure and each remaining parcel will have to receive building plan approval, approval of these subdivision variances would be an action consistent with the Comprehensive Plan.

Staff Analysis

Staff has reviewed the request and can support the subdivision variance, for several reasons.

Zoning standards are met. The subdivision variance request will allow for the existing lots within the development to be consistent with the approved engineering construction plans. The lots were created around the development plan which will not change as a result of the subdivision variance and the Board of Adjustment variances allow the lots/site to be in conformance.

The property has the ability to be developed. Currently, the remaining 12 lots have access to city water and sewer, along with the necessary frontage abutting the internal access driveway. Without the subdivision variance, the remaining 12 lots would not be built and the constructed lots would continue to be non-conforming lots with limited abilities to redevelop. There is a practical difficulty in obtaining plat-required items.

There is already an established Homeowners' Association for the creation and maintenance of the shared driveway, and stormwater ponds.

Intent of the Comprehensive Plan is intact: Allowing the existing lots without platting will not change the intent of the Comprehensive Plan. The future land use is Medium Density Residential, which allows for the development of townhome lots. Most policies related to subdivisions are found in the Future Land Use Element and Infrastructure Element. The subdivision variance, as requested, will allow for development of the remaining 12 townhomes, meeting the minimum standards and requirements for appropriate for development and consistent with good planning practices.

Summary

Staff reviewed the "approved 1995/1998" site plans in conjunction with the previously approved variances, and the current subdivision variance request. Since lot lines are not visible from adjacent properties or the right-of-way, the developed site would look like other similar residential projects in the City. The continued concern by staff is the safe ingress/egress of emergency vehicles and large delivery trucks/garbage trucks within the development. Since the drive aisle widths and the road pavement widths are considerably less than required by City Code, staff has placed a condition of approval to prohibit on-street parking and install "no parking" signs within the street rights-of-way.

With the approved Board of Adjustment variances for the ingress/egress and parking, etc., there are no other significant impacts on the health, safety or welfare of the public

to approve the subdivision variance. Staff can support the subdivision variance request, since the site was always intended to be developed together and the division of land does not visually change the character of the intended development. Conditions of approval will ensure that all other applicable platting requirements of Chapter 8 have been met from previous subdivision variances and variances from the Land Development Code.

The applicant attempted to complete the platting process; however, several finance companies refuse to sign the required final plat documents to proceed with the final plat. Rather than the last 12 townhome parcels sit undeveloped for an unknown additional amount of time, if at all, approval of this request will acknowledge the parcels as buildable, permits may be issued for the remaining 12 townhome parcels, and make the existing 28 lots conforming. Staff can support a finding that practical difficulties exist for the applicant to comply with the Subdivision Code, given the due diligence attempts to have mortgagees consent and join to the final plat have failed.

Findings for the Subdivision Variance

1. The subject site is designated as Medium Density Residential on the City's Future Land Use Map and is zoned R-2 (8) and R-2 (6.4). Previous variance approvals allow the townhome lots to exist without being non-conforming. Since the site is already partially developed with 28 townhomes, including access, utilities and stormwater already in place, the overall character of the development will not change. The proposed subdivision variance will allow the Mosswood Townhomes development to be conforming without platting through the subdivision process. The subdivision variance will also allow the applicant to complete the project by constructing 12 new townhomes that are consistent with the character of the existing development. Accordingly, the proposed subdivision variance is compatible with surrounding development patterns.
2. The subject site is located on the east side of a local road (Mosswood Drive) in an area that is generally residential in character. This proposal concerns a partially developed townhome development and the proposed subdivision variance does not visually change the character of the surrounding area. The proposed subdivision variance has been reviewed and has been found sufficient from an engineering perspective.
3. The granting of the subdivision variance on this property will not be detrimental to the public welfare or injurious to other properties in the area since the property already includes townhome lots that are compatible with the surrounding area. The site is already partially developed with townhomes and is bordered by single residential uses to the east and south and by a multiple family use to the north.
4. The proposed subdivision variance will allow for the applicant to preserve the use of the property with development restrictions imposed by City Land Development Regulations. The completion of the remaining 12 townhomes can be constructed once the subdivision variance is approved.
5. Practical difficulties exist for the applicant to comply with the requirements of the City Subdivision Code, as well as state law, that are outside of the applicant's control.

6. The proposal is consistent with the goals, objectives and policies of the City's Comprehensive Plan. Specifically, the Future Land Use Element contains policies relating to the development of residential properties within the City. The proposed development is compatible with surrounding land use patterns in the City of Melbourne.
7. The proposed development is consistent with the property's land use and zoning classifications. Potable water service and sewer service are available from the city and the lots have access to adequate roadway facilities.

Recommendation

Based upon the findings presented above, for the 5.4± developed property, zoned R-2(6.4) and R-2(8.5), located on the east side of Mosswood Drive, south of Aurora Road and north of Cannon Street, the Community Development Department recommends:

Approval of SDV2026-0001, Subdivision Variance to validate the existing Mosswood Townhome lots without platting, (pursuant to Appendix D, Chapter 8), including the following conditions:

- a. Permits for newly constructed townhomes shall be restricted to the 12 remaining undeveloped lots.
- b. On-street parking shall be prohibited within the development, and "No Parking" signs shall be installed on both sides of the street in order to maintain the integrity of the traffic flow within the development and provide to provide for safe emergency access within the development.