

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on August 7, 2014 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Robin Fisher	Vice Chairman/Commissioner District 1	Absent	
Chuck Nelson	Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Mary Bolin Lewis	Chairman/Commissioner District 4	Present	
Andy Anderson	Commissioner District 5	Present	

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi Judicial body when it hears requests for rezonings and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness testimony showing that the request meets the Zoning Code and the Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board, takes action on the request. Likewise, if a Commissioner has made a site visit, inspections, or investigation, the Commissioner must disclose that fact before the Board, takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes of rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

INVOCATION

The invocation was provided by Chaplain H. F. Hanson, Pastor of American Veterans.

PLEDGE OF ALLEGIANCE

Commissioner Andy Anderson led the assembly in the Pledge of Allegiance.

August 7, 2014

ITEM III.A.2. (14PZ-00033) – JOSEPH K. AND ANNETTE G. DITTMER – REQUESTS A CHANGE OF CLASSIFICATION FROM GU TO AU(L) ON 1.01 ACRES, LOCATED ON THE NORTH SIDE OF CARAWAY STREET, APPROXIMATELY 154 FEET WEST OF CHEROKEE AVENUE (3222 CARAWAY STREET, COCOA)

Cindy Fox, Planning and Zoning Manager, advised the Board that there are several Items on the Agenda that have received automatic tabling or a letter requesting tabling of the Item; and the applicant requested tabling to the September 4th meeting.

Kim Rezanka, Dean Mead, representative for Joseph K. And Annette G. Kittmer, stated she is requesting to table the Item due to Commissioner Fisher's absence, because the Item is in his District.

The Board tabled a request for a change in classification from GU to AU(L) on 1.01 acres, located on the north side of Caraway Street, approximately 154 feet west of Cherokee Avenue (3222 Caraway Street, Cocoa), to the September 4, 2014, Zoning meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.A.3. (14PZ-00021) – COCOA EXPO SPORTS CENTER, LLC – (SCOTT GLAUBITZ) REQUESTS THE FOLLOWING:

Cindy Fox, Planning and Zoning Manager, advised the Board a letter was received from the applicant requesting a tabling to September 4th.

The Board tabled request for a change of **Tax Parcel 516** (.53 acres) 1.) A change of classification from TR-1 to BU-1, with a Small Scale Plan Amendment (14S.02) to change the Future Land Use from NC to CC; 2.) CUP for Alcoholic Beverages for On-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the 75 foot required perimeter setback for athletic fields and ancillary improvements; 4.) CUP for a light source to exceed 50 footcandles; and 5.) Acceptance of a modified Binding Development Plan to include this property to the September 4, 2014, Zoning meeting.

The Board table request for a change of **Tax Parcel 502** (47.87 acres) 1.) CUP for a light source to exceed 50 footcandles; and 2.) Amendment to existing Binding Development Plan. (48.4 acres total) Located on the east side of Friday Road, approximately 490 feet north of S.R. 520 (Tax Parcel 516: 420 Friday Rd., Cocoa; Tax Parcel 502: 500 Friday Road., Cocoa), to the September 4, 2014, Zoning meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.A.4. (14PZ-00022) – COCOA EXPO SPORTS CENTER, LLC – (Scott Glaubitz) – REQUESTS THE FOLLOWING:

Cindy Fox, Planning and Zoning Manager, advised the Board a letter was received from the applicant requesting a tabling to September 4th.

The Board tabled request of **Tax Parcel 758** (2.36 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for a light source to exceed 50 footcandles; and 4.) Acceptance of a modified BDP to include this property to the September 4, 2014, Zoning meeting.

The Board tabled request of **Tax Parcel 762** (.86 acres) 1.) A change of classification from TR-1 to BU-1 and a Small Scale Plan Amendment (14S.03) to change the Future Land Use from NC to CC; 2.) CUP for Alcoholic Beverages for On-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 4.) CUP for a light source to exceed 50 footcandles; and 5.) Acceptance of a modified BDP to include this property to the September 4, 2014, Zoning meeting.

The Board tabled request of **Remainder of Tax Parcel 762** (4.5 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for a light source to exceed 50 footcandles; and 4.) Acceptance of a modified BDP to include this property to the September 4, 2014, Zoning meeting.

The Board tabled request of **Tax Parcel 817** (.48 acres) 1.) A change of classification from AU to BU-1 and a Small Scale Plan Amendment (14S.03) to change the Future Land Use on that portion with an NC designation to CC; 2.) CUP for Alcoholic Beverages for On-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or an area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 4.) CUP for a light source to exceed 50 footcandles; and 5.) Acceptance of a modified BDP to include this property to the September 4, 2014, Zoning meeting.

August 7, 2014

The Board tabled request of **Remainder of Tax Parcel 817** (1.76 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for a light source to exceed 50 footcandles; and 4.) Acceptance of a modified BDP to include this property to the September 4, 2014, Zoning meeting.

The Board tabled request of **Tax Parcel 760** (5.45 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for a light source to exceed 50 footcandles; and 4.) Amendment to an existing BDP. (15.5 acres total) Located on the northwest corner of S.R. 520 and Friday Rd., Cocoa. (Tax Parcel 758: 5120 Highway 520, Cocoa. Parcel 762: No assigned address. Parcel 817: No assigned address. Parcel 760: 335 Friday Rd., Cocoa), to the September 4, 2014, Zoning meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.B.2. (14PZ-00047) – JOHN E. AND LAURAY AITCHESON – REQUESTS A CHANGE OF CLASSIFICATION FROM RU-1-13 TO IN(L) ON 0.29 ACRE, LOCATED ON THE SOUTHWEST CORNER OF GREEN ROAD, AND FISKE BOULEVARD. (1003 GREEN ROAD, ROCKLEDGE)

Cindy Fox, Planning and Zoning Manager, advised the Board the Planning and Zoning meeting tabled the Item to September 4th.

The Board tabled request of a change of classification from RU-1-13 to IN(L) on 0.29 acres, located on the southwest corner of Green Road, and Fiske Boulevard. (1003 Green Rd., Rockledge), to the September 4, 2014, Zoning meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

August 7, 2014

ITEM III.B.5. (14PZ-00055) – MORTGAGE INVESTMENT FUND I, LLC – REQUESTS AN AMENDMENT TO EXISTING CUP FOR COMMERCIAL, ENTERTAINMENT, AND AMUSEMENT ENTERPRISES, TO INCLUDE RACING, SWAP MEET, CAR SHOWS, AIRBOATS, TRACTORS, TRUCKS, RIDING MOWERS, GO CARTS, AND ATVS, WITH SEATING, CONCESSIONS, AND GRANDSTAND, WITH 50 FOOT FROM REQUIRED 75 FEET SETBACK

Cindy Fox, Planning and Zoning Manager, advised the Board the Planning and Zoning meeting tabled the Item to October 2, 2014, Zoning meeting.

The Board tabled request for an amendment to an existing CUP (Conditional Use Permit) for Commercial, Entertainment, and Amusement Enterprises, to include racing, swap meets, and vehicle shows for cars, air boats, tractors, trucks, riding lawn mowers, go carts, and ATV's, with spectator seating, concessions, and a grandstand for awards and live music, with a waiver of 50 foot from the required 75 foot setback for a building, mobile home, trailer, vehicle, or maintenance equipment, in an IU zoning classification, on 21.84 acres, located on the south side of Eau Gallie Boulevard, approximately 410 foot west of Jones Road. (Tax Parcel 751: No assigned address. In the Melbourne area; Tax Parcel 753: 835 Paw Prints Avenue, Melbourne; Tax Parcel 766: No assigned address. In the Melbourne area), to the October 2, 2014, Zoning meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.A.1. (14PZ-00008) – LGH GROVE, LLC AND HARVEY'S INDIAN RIVER GROVES, INC. – (KEN FULMER/DEL AVERY) - REQUESTS A CHANGE OF CLASSIFICATION FROM AU AND BU-1 TO EU-2 WITH A BDP ON 111.03 ACRES, LOCATED ON THE NORTH SIDE OF HALL ROAD, APPROX. 1,020 FT. EAST OF N. COURTENAY PKWY

Chairman Bolin Lewis called for a public hearing to consider LGH Grove, LLC and Harvey's Groves, Inc. Request of a change of classification from AU and BU-1 to EU-2 with a Binding Development Plan (BDP) on 111.03 acres, located on the north side of Hall Road, approximately 1,020 feet east of N. Courtenay Parkway. (Tax Parcel 505: 320 E. Hall Road, Merritt Island; Tax Parcel 264: No assigned address. In the N. Merritt Island area; Tax Parcel 270: 4870 N. Courtenay Parkway, Merritt Island; Tax Parcel 274: No assigned address. In the N. Merritt Island area; and Tax Parcel 275: No assigned address. In the N. Merritt island area).

Commissioner Infantini stated she discussed this with Kim Rezanka.

Commissioner Anderson stated he has also spoken to Ms. Rezanka.

Commissioner Nelson stated he has as well, but they had a meeting, and he has all the names of those that were in attendance from the community and from the applicant's side, as well as staff; and he has provided that to the Board with emails and correspondence.

Kim Rezanka, Dean Mead, representative for LGH Grove, LLC and Harvey's Indian River Groves, Inc., stated this is 111 acres that the applicant wishes to rezone; some is commercial, some is AU; and the applicant wishes to go to EU-2, with a Binding Development Plan, limiting it

August 7, 2014

to two units per acre, and an ingress and egress off of Courtenay Parkway. She added Courtenay Parkway will be the main entrance, and the secondary entrance will be off of Hall Road. She advised they were before the Board on May 29, 2014, and they showed the conceptual plan for 211 lots; as the Board can see, there is an entrance on Courtenay Parkway that is 600-700 feet long, it is landscaped, it is going to be the primary entrance; and there is a secondary out as Brevard County requires access for emergency purposes off of Hall Road. She went on to say she has explained the need for EU-2, with the Binding Development Plan, and the need for flexibility and design, because of the lowness of this property, and the strange angles of the property. She noted there was discussion about density, and some of the residents desire to have one unit to the acre, and the EU-2 with the Binding Development Plan was consistent with the Comprehensive Plan Residential Density of RES-2. She advised Keith Pendall, the expert planner, was there to discuss compatibility. She noted the maps show that their request goes with the surrounding densities; she went over maps and the way North Merritt Island was zoned. She noted on May 29, 2014, they discussed the County staff report, which was the same as it is today; the County staff report says that this rezoning is consistent with the land use regulations, it maintains an acceptable level of service for traffic and school, and most importantly, this area along North Courtenay Parkway is predominantly characterized with single-family homes on parcels of one-half acre or more. She stated at the meeting Commissioner Infantini raised issues about traffic and travel over the barge canal, density, and a lack of transition, however, the applicant believes this is clearly disputed by the expert testimony of Keith Pendall that this is the proper transition from the Sun Islands Manufactured Home communities going to the east; Commissioner Nelson asked for this item to be tabled to review a few issues; those issues were drainage, traffic, shared access with Veteranarian Dr. Sonya Pierson; and he suggested another community meeting. She went on to say on July 3, 2009, representatives of Titan, along with Larry Harvey, met with Sonya Pierson; and her representative Mike DiChristopher; she stated she would only be in favor of the project if it utilized her existing entrance; two diagrams were prepared using her existing entrance and provided to her representative; and to date, despite repeated attempts, they have not returned emails or phone calls regarding whether that would be acceptable. She pointed out Titan is prepared to work with her, they are prepared to release the easement as she has requested once the construction begins. She stated on July 9, 2014, there was a community meeting at the Central Area Service Complex at the MIRA conference room; they prepared the notice and Commissioner Nelson attended, along with John Denninghoff, Public Works Director, and Ernie Brown, Natural Resources Management Director; they mailed the notice to 61 residents; the same were mailed for the zoning meetings; and the list of attendees and the notices are found in Tab 3 in the packet she provided to the Board. She noted of the 61, only 10 residents attended; and one was Mr. Snake who is not a resident of North Merritt Island and the other one was Chris Cook who lives in Pine Island Road and is the President of North Merritt Island Homeowners Association. She stated she provided to the Board, she believes from Commissioner Nelson's Office, the agenda of what was discussed at that meeting, the meeting went on for two hours. She stated in Tab 4 is part of a PowerPoint presentation that was given by Mr. Denninghoff and Mr. Brown, and it talked about the drainage and traffic improvements; this was done due to Tropical Storm Fay; this shows the improvements that have been undertaken by Brevard County, specifically Hall Road; and this is a very low area. She noted there is a picture on Hall Road that shows the pump that is currently being used; Mr. Denninghoff and Mr. Brown detailed that pump and the levy system, what is done when the water gets high; and it is a very complex system. She pointed out the last picture in the packet is the Pine Island improvements the County has done to greatly assist with any water problems; the drainage improvements in this area have been over \$5 million since 2008; they discussed the traffic improvements of Hall Road and Courtenay Parkway, which were over \$2 million of improvements at that intersection; and most importantly, staff stated this project would not negatively impact transportation or drainage in this area. She asked the Board to look at the elements of 62.115(c); she discussed the character, the changing and condition of the land being considered, the impact on public facilities, compatibility, and the appropriateness. She

August 7, 2014

stated Tab 5 is a memorandum from Robin Sobrino, Planning and Development Director, dated August 4, 2014, talking about staff's undertaking to find out if there was indeed something that said that this area should be Residential 1; and staff could find nothing. She stated it is Residential 2 zoning now. She stated they have searched high and low to find out why North Merritt Island thinks there should be one unit to the acre; she found in the North Merritt Island Homeowners Association Bylaws, which is found in Tab 6 of the Board's packet; those Bylaws that were adopted in November 2011, on page two their purpose is to endeavor to limit density on all planned zoning to no more than one unit to the acre; and that is where that statement comes from in her opinion because she cannot find it in any County records. She advised the Board the issues raised by citizens and the Board were several, and she wants to address those; there was opposition, and a few in favor, many of the letter writers do not live in the area, and they were speculative regarding drainage and traffic; and the three in favor indicated there was a petition drive against this, that they wanted the growth in the area, and thought it would be good for the community to have an increased tax base. She pointed out one of the issues was emergency vehicles; she contacted the fire department and found out that Station 40 is the station that services this area; it is north of the Barge Canal; it has a fire engine with a paramedic; it can undertake advanced life support and cardiac care; and the only thing it cannot do is transport as it does not have an ambulance. She stated if the Barge Canal Bridge is blocked, they can get an ambulance from Parrish, Kennedy Space Center, or if it is trauma, a helicopter from Holmes Regional Medical Center. She went on to state Station 41 near Target has an ambulance, and that is what is generally used; and they can make arrangements if necessary to put an ambulance on the south side of the Barge Canal as they did when the SR 528 bridge was destroyed. She stated people complain there have been delays at the Barge Canal Bridge; they contacted Florida Department of Transportation (FDOT); under Tab 7 is the Coast Guard Regulations about operation of this bridge; that provides that the bridge can open on signal from 6:00 a.m. to 10:00 p.m., except from 6:15 a.m. to 7:45 a.m. and 3:30 p.m. to 5:15 p.m. where the bridge is not allowed to open; and anything from 10:01 p.m. and 5:59 a.m. there has to be a three-hour notice for the bridge to open. She advised the Veteranian clinic does not need to hook up to sewer; Titan will work with the Doctor to do anything they can to have an acceptable proposal; but FDOT will be the final law on any driveway entrance. She noted under Tab 8, there is a photo of the Doctor's property, looking to the north there is a substantial tree buffer, and that will be maintained at least at 18 feet; and she will have a buffer from what is only an entranceway. She stated the staff report indicated there is a large amount of traffic capacity available; it is currently below 40 percent; and it is definitely within levels of service. She went on to say there is 222 units proposed, and common sense would tell a person, they will use Courtenay Parkway as the main exit. She stated they have met the criteria of 62-1151(c); they have proven the project is consistent with County Comprehensive Plan; the burden now shifts to opponents to prove the existing zoning accomplishes a legitimate public purpose; and they must do that with substantial, competent evidence. She requested rezoning of EU-2 with a binding development plan.

Commissioner Nelson stated Ms. Rezanka mentioned during the early part of the discussion the access to Hall Road, and she referenced it as emergency access; and he inquired if it is intended to be emergency access or regular access. Ms. Rezanka responded it is intended to be a regular access, but the Code requires a secondary access for emergencies, and that is what she intended to say.

Commissioner Infantini stated she disagrees with Ms. Rezanka in that she does not believe it has been proven that this complies with the Section 62; she does not believe this shows the transition she was looking for; and she is not comfortable with the density change on the north and east. She stated that is not a decent buffer.

Sharon Burrige stated just because homes on small lots exist on North Merritt Island, it does not make it compatible with the North Merritt Island she has lived on for most of 50 years. She

August 7, 2014

provided photographs of her yard during the flooding. She pointed out they have been flooded three times where the water came up to the home; they built to County specifications back in the early 80's; and they are carrying a lot of water on their land when flooding comes. She stated the County specifications require new homes to build much higher, and gravity will naturally send the water to the lower homes such as hers; they are impacting the water level when the zoning is changed; when a lot of dirt is brought in, the neighbor carries the water; but one home maximum per acre is what she is comfortable with.

Peter Burrige stated he has lived on Pine Island Road for the last 22 years; he has been in countries where he was waist high in water due to irresponsible development; he has found a very nice place to live in Brevard County; and he feels with this density the applicant has put forward, it looks to him like Palm Bay development where there are three to four homes per acre. He stated all of the dirt that has to be hauled in will flood Hall Road residents. He stated the land can be developed and it could be a watershed decision; he chose Merritt Island because it is one of the prettiest places on earth to live; and he expressed his appreciation to the Board for approving the pumps at the end of Pine Island Road. He stated traffic density is going to be higher; and he strongly objects to this plan.

Theodore Balke stated they own a home on East Crisafulli Road; and they object to this rezoning. He stated there are technical issues that will be provided by following speakers.

Richard Shoar stated the proposed development is also adjacent to the River, which will be adversely affected by this proposed development, which is already a fragile flood zone area; today he has proposed to present two vital areas of concern, which will reveal data on the saturation of residential dwellings as it relates to population and severe traffic implications; and it currently occurs and will only magnify. He stated he reviewed currently active sales of real estate properties; statistics of August 3, 2014, of single-family town homes and condominium dwellings; there are currently in the general area over 3,138 available single-family homes, town houses, and condominiums for sale; and he did not include in that figure any of the rental properties. He went on to say Merritt Island's population is 34,743 souls, and with City of Palm Bay at 103,000 residents, which is over 2/3 of the Merritt Island population, and yet the Island supports at present nearly 274 properties compared to 533 for Viera, nearly a 2:1 ratio; he inquired why a population of less than 1/3 of Merritt Island supports housing availability of less than 1/3 of the population of Viera and nearly twice the housing; stated it makes not sense; and it saturates the already burdened market. He pointed out a summary of traffic in the effected area for a 30-month period reflect 115 total accidents; on average it reflects an accident a week; and with an area of less than a mile or mile and one half it is disasterous. He noted Florida residents experience horrific storms during the months of April through November; and exiting from these areas with blacktop with backups both north and south traveling to SR 520 to I-95 is full of hazzards, including the problems associated with Barge Canal functions, which are going to increase. He summarized by saying he always reflect by those difficult decisions to do so with wisdom and prudence, guided by their own integrity as to render judgment relying on truth and severity of these issues; covering the land with cement, asphalt, and pipes the roadway can never retrieve the beauty of the land and its environmental impact on people's lives; he is reminded of people who pushed to erode the New York landscape, and now there is Central Park, which is preserved forever; and the leader in Savannah, Georgia, saved 18 of the parks in the center of that city against the will of developers, and today that city is visited by people all over the world. He explained mere actions reflect the character of these leaders; and he asked the Board not to rush to judgment.

Norman Feil stated he moved to Merritt Island 30 years ago; he has traveled quite a bit and he has been in many nice places; every time he comes over the bridge in Merritt Island, he thinks how lucky he is to live there; and he would not trade it for any other place on Earth. He stated he does not think they can stop other people from coming there; if this housing project is built

August 7, 2014

with 122 homes, the people can feel sad; if the developer would build 100 nice homes on 111 acres, buyers would see how nice the homes in the surrounding communities are and the price would be no object; and the developer would be happy and make money, the buyers would be happy and proud, the surrounding property owner would be happy, and how sweet it would be for everyone. He stated he hopes that Larry Harvey has a fine development and he hopes it will benefit him and all the rest of the residents to make it a better place in North Merritt Island.

Robert Scolah stated his is in opposition to the rezoning; they were promised nothing north of Hall Road would be allowed on a lot smaller than one acre; if this allowed on one acre lots, roads and retention ponds are put in, the lot size will be between 3/4 and 1/2 acre; if 1/2 acre lots are allowed, then the lot sizes would be closer to 1/4 acre; and this property already drains toward him since pumps no longer run. He went on to say he has water coming to him from four directions now because of development and no drainage; he cannot take any more run off; and he requested the Board vote to deny this Item.

Barbara Birkefeld stated she lives within Island Lakes Manufactured Homes Community; she would like to see one home per acre due to sewer and storm runoff; and she wants Harvey and the developer to absorb the impact fees. She went on to say she worked at Publix for 10 years on the morning shift; it would take her longer to get to Publix than to get to her other job at Port Canaveral due to traffic; and she can get to Walmart and Publix on Clearlake Road in Cocoa faster than the Publix on North Courtenay Parkway and Walmart on the Causeway. She pointed out she has a ditch behind her and one side of her which have drain pipes from the road; when they purchased their home in 2002, she was told by the resident manager that the drainage ditch was put in due to poor drainage and to help with flooding; Tuesday, July 29, 2014, her husband and brother thought they heard a tractor running behind their home in the grove; Wednesday, July 30, 2014, the ditch was drained behind her and it has never been that low; the ditch on the side of her had no water at all; and both ditches have not been that way for 12 years. She stated the ditches have been a health hazard for years. She asked the Board to take into consideration the impact of the developing this grove into single unit housing without regarding the issues such as new FEMA flood plans, mapping and wildlife to include mapping Florida Scrub Jay occupancy; and to please consider all of those who inhabit Merritt Island north of the Barge Canal.

Sam Frattaroli stated he wants to provide the Board with petitions signed by 69 residents of Osprey Village, Woodstark Village, and residents of East Hall Road all opposing this development. He stated at the last meeting in May, it was said that 18 inches of fill was going to be required to cover this area; they have consulted with people and they think it will be more; assuming it is 18 inches, one acre would take approximately 2,400 cubic yards of fill, which equates to 120 truck loads; and for 100 acres, that is 12,000 truck loads coming in and out of that property. He stated in the second packet he provided the Board, it specifically says that his habitat for protected species Scrub Jay occupancy; on the second page the Natural Resources Management Office said prior to doing any planning permit submittal's, they must obtain necessary permits for clearance letters from the U.S. Fish and Wildlife Service; and he does not know if that was ever done. He stated he has no record of any letters.

Betty Kennedy read aloud a letter from a resident who was unable to attend tonight; "I am writing and opposing the rezoning of 14PZ-00008 of the Grove of Harvey Indian River Groves. As a resident of Island Lakes manufactured home community directly affected by the above mentioned development request, I would like to make you aware of the following: between 1993 and 1996 this community began development towards becoming what it is today as a 301 55-plus manufactured community, legally sanctioned by the State and federal status only housing in the United States where discrimination is federally sanctioned. Our ownership of this community has changed hands four times, as noted in Brevard County's property taxes authority online information. Between 1996 and 1997, the community grew to 301 Florida

August 7, 2014

resident occupant homes. Eighty percent is retired and 20 individuals represented are over 40 years old. No one is under 18 years old; the younger individuals need is living condition as also place by the community. We have two families in a residence at this time. It is done for one reason. We look after each. Do them no harm. They are safe for physical harm for outside while living there community in our gated community. The community makes a financial impact of our long-term yearly and living our lives in a daily basis. Each original purchase of our home in this community is 60K to 110K into Florida, Brevard County. Each owner is assessed and impacts the fees as well. Each resale brings revenue to Brevard County taxes, fees yearly. All properties taxes are passed on or passed through to the 300 residents each year, this is the first-hand knowledge based on our CRF communities. Two years and Island Lake community, five years part-time. We support the tax basis on this community parcel. I include all major purchase includes cars, furniture, major home repairs external and internal, roofing, heating, and air. All the essentials to keep the home in good repairs. That we have vital part of Merritt Island. All of our retired incomes been saved, invested, and bought in Brevard County. We have supported this community for 28 periods. Our voice has a right to be heard. We have the right to be heard and our opinions taken serious. Above the negative impact and development of Orange County grove. Every Orange County. Every Orange grove owner has to know that Merritt Island is watching and waiting to tell you as a body always this issue on 7th of August 2014. I have the mercy of all the creatures small, great, and small regarding above the barge canal. Inclusion the statement we made by the grove owners development and legal advisor in this land use change. Our statement as many within the last 95 days, there are already a high impact development in this area of Island Lake, or kind of fuzzy-logic that places others high impact developments smacked up against the first one back-to-back. Statements sorts from the *Florida TODAY* and the *Orlando Sentinel*, I wouldn't be present on the 7th of August but felt it was more important to monitor a HOA meeting here at Island Lakes, to see the panic and fear of our home and communities to not run rampant. Many retirees there are 80, will feel very insecure, and threatened with the decisions that I know will come about from the floor of this meeting. Thank you and it's done by Barbara Goodwin."

Darleen Hunt asked the Board to deny the zoning request because of flooding. She pointed out all canals and drainage retention ponds are full right now and if there is a storm, no matter what has been done to mediate that, it will not work right now; there is limited road access; Merritt Island is a barrier island bordered on the east by the Banana River, the west by the Indian River Lagoon, the south by a barge canal, and the north by Kennedy Space Center (KSC) a restricted area; there is one four-lane road to get on and off her part of the island; and in addition to the 8,000 residents, that road is a main artery for employees and tourists traveling to and from the KSC. She added, the only bridge is mechanical and those are subject to failure; it is opening for boats, sailboats, and barges; she had heard that Port Canaveral is planning to increase barge canal traffic; and that will impact the traffic flow greatly. She added, she shared the Merritt Island citizens resource group' small area plan in 1992; everything imaginable was discussed about the area; the Future Land Use Policy at that time had several references to agricultural lands; under Policy 6.3, and an Implementation Plan that stated "The Comprehensive Planning and County extension divisions should coordinate in the preparation of a study on the unique agricultural lands in Brevard County. The Study should identify these unique agricultural lands and evaluate methods for protecting these lands." She advised she has a paragraph to read aloud from the citizens resource group from January 31, 1992, page 23, "The United States Department of Agriculture classifies the area on Merritt Island that are in Citrus Groves, as unique farmlands. Unique farmland is defined as having a special combination of soil quality, location, topography, growing season, and moisture supply necessary to produce high-yields of specialty crops like fruits, vineyards, and vegetables. Since unique farmland cannot be relocated agricultural uses of these lands should take precedence over other land uses." She stated her husband and her have maintained a small grove since 1977; trees have died from age and disease, but they replanted them, and in addition, they have planted other things avocados, mangos, bananas, leaches, and there are lots and lots of things that will grow on

August 7, 2014

north Merritt Island, not just citrus. She noted other groves have replanted with crops, such as the dragon fruit farm, blueberry, palm trees, and there are four plant nurseries located on Merritt Island; and she asked the Board to not zone away the unique agricultural lands.

Joseph DiLiberto stated he is opposed to the change being made; he provided the Board with a copy of a map with a blowup of the main exit and entrance of Hall Road; Hall Road is a one lane road; there are many families living on Hall Road; Osprey Village has 150 families, each with cars; and 220 more families each with cars and more cars to the area. He went on to say Hall Road is a tight road and is very difficult during rush-hours to get around; the new lights in the area are helping; but adding the new traffic is going to give real problems. He stated the main entrance is a dangerous entrance; Courtenay Parkway is a nice road with speeds of 35 miles-per-hour and 40 miles-per-hour, but when reaching N. Courtenay Parkway, the speed is 50 miles-per-hour; and he has estimated the speeds by the time one arrives at Hall Road and people are exceeding speeds from 50 miles-per-hour to 70 miles-per-hour. He stated all of the sudden there is an entrance where cars will be exiting to the right onto Hall Road, getting into the speeding way; what is worse are the cars making a left turn, coming across the opening to get to the entrance; it is a dangerous situation; and he has past experiences in traffic safety.

Clark Sanders provided the Board a handout of a petition signed by 34 people in his community who are opposed to this zoning change; he stated the lidar elevation data shows the property in a low elevation area; the profile view shows exactly where they want to build the development, which is in a bowl; and a million tons of dirt would have to be used to fill in that area. He showed the Board pictures of the drainage ditches along Hall Road now, how narrow Hall Road is, and how there is no shoulder along the roadway; Cedar Creek Life Center has 53 residents there and they all need assistance; if there is any kind of emergency or flooding, he does not know how the emergency vehicles are going to get in to help; and down Hall Road towards the Savannahs, there is a ministry that has 200 to 300 teenage children at a time that are staying at the ministry while they wait to go overseas to minister, and that is another added issue with those additional people there. He advised he is totally against this whole thing; he feels the Board should respect all the people that live in the area; and there is no other excess out because Hall Road is a dead end.

Shelley Carnell stated she is against this proposed development; she read aloud her attachments, "Attachment No. 1, is competent and substantial evidence marked as Attachment No. 1, which is the Brevard County Stormwater Management criteria documenting the one percent 100 year event, and when the extra stormwater should be restored on property; Attachment No. 2, is competent and substantial evidence marked as Attachment No. 2, which is the Federal Emergency Management Agency (FEMA) floodplain map as of 1989 reflecting that the Harvey Grove was not in a floodplain; Attachment No. 3, is competent and substantial evidence marked as Attachment No. 3, which shows that as of March 17, 2014, the FEMA floodplain map shows that the Harvey Grove is in a floodplain; and Attachment No. 4, is competent and substantial evidence marked as Attachment No. 4, which is the lidar map profile of Hall Road." She stated she put the approximate location of Island Lakes, the Harvey Grove, the Cedar Creek, the Teen Missions, and the Savannahs; the Harvey Grove is going to be draining into a bowl; the engineers had said at a recent meeting that that is where they intend to drain, into the slough which is the bowl; the black dots represent people who live in the bowl; and the red lines represent high density living. She added, there are a lot of people in Cedar Creek that are in the bowl; there is a nursing home in the bowl; and all of Harvey Groves is going to be draining in the bowl. She read aloud "Attachment No. 5, is competent and substantial evidence marked as Attachment No. 5, which is the proof of rainfall that occurred on July 8, 2014, of .81 inches of rain; Attachment 6, is competent and substantial evidence marked as Attachment No. 6, which is a picture of the four foot culvert in front of her home and moving east; Attachment No. 7, is competent and substantial evidence marked as Attachment No. 7, which is another four foot culvert with .81 inches of rain does, and showing what it does to the

August 7, 2014

drainage on Hall Road; Attachment No. 8, is competent and substantial evidence marked as Attachment No. 8, which is the effect of .81 inches of rain on July 8, 2014; Attachment No. 9, is competent and substantial evidence marked as Attachment No. 9, which shows that one cannot see the top of the culvert because it is underneath the water; Attachment No. 10, is competent and substantial evidence marked as Attachment No. 10, showing map of Brevard County for the Tropical Storm Fay that had 16.93 inches of rain in five days; and Attachment No. 11, is competent and substantial evidence marked as Attachment No. 11, that is the Southeast Regional Climate Center data showing in 1899 there was 18.12 inches of rain. She went on to say Attachment No. 12, is competent and substantial evidence marked as Attachment No. 12, is a review of Southeast Regional Climate Center data showing there is a 39 year gap of rainfall recording data on North Merritt Island"; and there is not complete data to show how often there is one percent 100-year storm event.

Mike Hirkala stated the density presented by the engineers and builders is misleading; good planning does not give two houses per acre, it gives a 20,000 square foot half-acre lot or a 40,000 square foot one-acre lot; with his building and planning and zoning experience the amount of acreage is taken and built into a plan accordingly to the amount or acreage that is under that particular zone; and then deduct the infrastructure which is what is built on. He advised there will be big problems with drainage after this development is put in; from a good planning standpoint one has to plan for tomorrow, not today; there was no land use study done to tell what can or cannot be put on this land; and he thinks this project is going to have big problems with runoff because the water has to drain somewhere.

Tom McFarland stated he had served on the North Merritt Island Special District Advisory Board, since its inception; the North Merritt Island Special District made a recommendation that was a compromise between what the homeowners in the area had requested to keep it as Agriculture, with two and one-half acres for one home; he made a motion for the developer to develop a plan of one unit per acre, that was a compromise motion to provide adequate development for a good return on their investment on the property; and he recommended for the Board to deny the request and recommend that the developer come back with a smaller density to satisfy the neighbors.

James Walsh stated he is opposed to the rezoning; he agrees with the competent and substantial evidence presented; and he believe that all of that evidence supports his opposition. He advised that he was unaware that the property had an exit onto Courtenay Parkway; it will make the Hall Road intersection become a nightmare; and he asked the Board to deny the request.

Steve Smith stated he has three letters to read into the record demonstrating the impacts of adding a development of this density. He read aloud "Dear Commissioners, I'm writing about Larry Harvey's proposal to build 222 homes on 111 acres, north of Hall Road on Merritt Island. I own 5.9 acres south of Chase Hammock Road, which abuts the north edge of the 111 acres proposed to be developed. My late father James F. Gregory purchased this additional acreage in 1955. Despite many purchase offers my father resolutely refused to sell this acreage, because he wanted me and brothers David and Jeff Gregory to move together on the 10 acres west of mine, to inherit this land. This was expected to be my retirement savings and this proposal will have significant impact on my financial future. My property is currently on the market for sale. Mr. Harvey's high density housing development proposal and a planned discharge of stormwater system next to my property has significantly decreased my property's value and I have been forced to expedite the sale, to avoid further loss. The current high density proposal of two units per acre represents threat to my property and its value. I respectfully request this Commission to approve one unit per acre, installing adequate drainage to minimize the impact on my land, as well as others. Also, please consider a buffer either structural or vegetative between Harvey's development surrounding property. Thank you for

August 7, 2014

your consideration. Sincerely, Laura E. Gregory, 1455 Mount Woodmen Court, Colorado Springs, Colorado." He read aloud, "To whom it may concern, I'm a licensed Realtor who is representing Ms. Laura Gregory as her listing agent. She is selling 5.9 acres that abuts the property that Mr. Larry Harvey is proposing to develop. Her property value has been directly impacted by the proposed intent to put 222 homes on 111 acres. In order for Ms. Gregory to sell her property with this proposed development, she must significantly reduce the price, and hope for a quick sale. Concern for several buyers that have decided not to purchase her lot was high density and flooding. Even with proper planning there is still a chance that her property will be directly impacted by flooding. There's other communities in this area that were approved and developed had impacted surrounding properties with flooding. I don't believe property drainage can be achieved with 222 homes on 111 acres. A better density plan would be 50 to 60 homes on 111 acres, leaving the remaining land as an area for percolation of standing water, and perhaps ponds and drainage pipes directing the water properly. I'm not opposed to development, if done properly. Most developers want to get as many lots as possible on as little land as possible. I feel this is not the best plan for the land and the owners of the land surrounding it. Regards, Caroline Rowe." He read aloud, "I am in opposition to this rezoning and agree with competent and substantial evidence presented here, in support of development opposition, and please vote to deny this request. Thank you, Ms. Joy Wagner of 5795 Eagle Way, Merritt Island." He stated he lives at 5390 Judson Road and his concern is adding 222 houses into a rural area; 222 is not a small number and the addition of that number of houses is going to reduce his property value; it is going to take a lot more fill than was projected on this land to deal with the drainage; he would like to see the drainage plan; and he asked the Board to deny the proposal.

Kim Smith stated according the May 29th minutes, the developer for this property stated that the 222 houses on 11 acre density of this proposed development would a "Very consistent with the other communities in the area"; "and "In general, the North Merritt Island community." She added, Commissioner Infantini stated her concerns about increased traffic and current residents having "Moved in with an understanding that the property that surrounds them has this density" of one house per two and one-half acres; and that this rezoning would not meet "That transition rule, that the Board consistently looks for." She advised her research turns out that Commissioner Infantini is right; she stated all the figures are substantial evidence from Brevard County; and she provided the Board with a handout of figures for the 11,146.1 acres of North Merritt Island, total, private, and buildable land, not government land; only 9.3 percent has a zoning density of more than one house per acre; and 90.7 percent of the land on North Merritt Island has only one house per one-acre or greater. She added, the majority of the high density approvals occurred in the 1970's and 1980's; there are eight neighborhoods on North Merritt Island that are over 40-acres; they were approved well before the flooding problems were known from the increased building; the last neighborhood approved to build was in 2000; and there is one other parcel with a density greater than one unit per acre that was approved by the Board since 2005 hurricane Wilma, that is 5.7 acres. She went on to say as building density has increased on North Merritt Island, flooding historically is becoming worse; the short-term benefits of an increased tax base are now being outweighed by the long-term costs of \$6.2 million since 2008, that does not include fuel, salaries, or future floods of only North Merritt Island flooding mitigation of residences and businesses, and that the taxpayers have paid and will be have to pay more in future storm seasons; and this rezoning density will increase tax costs for residents. She advised this rezoning density is not consistent with surrounding neighborhoods; and because building is possible, it does not make it fair and just to the surrounding communities.

The Board recessed at 6:30 p.m. and reconvened at 7:30 p.m.

Bob Geddes provided the Board with a copy of the Island Lakes community that he lives in; he stated the highlighted areas are four lots that are the closest to the ditch; the second page

August 7, 2014

provided to the Board is an aerial view of his home, showing the ditch line, and the property in question; and 4631 Goldfinch Lane is his house and right behind it is the ditch and Harvey's Grove. He went on to say picture number one on the following page is a picture of his house showing it being located seven feet away the ditch and the landscape timbers he installed; picture number two is the extent of his efforts to help hold the land up, because in the last five years he has lost two foot of land into the ditch; he built raised flower beds to help hold the soil in; picture number three shows the wall that he built and the backside of the raised flower beds; and if half-acre lots are put in with 222 homes on 111 acres, the ditch cannot handle the runoff drainage from the fields as it is right now. He stated the elevation is going to be raised that will fix the drainage problem, but no one will say that his home will not be flooded when it rains; and his home is close to the ditch and the stench, bugs, and weeds coming from the field and nasty water makes it hard to be outside. He suggested for the Board to visit the property in question, to get an idea and better understanding of what residents are talking about; he stated he has never heard a pump running, but he is told that they are running; and he inquired if the pumps are running why is the ditch behind his house and other houses lakes full for the five years he has been there. He stated last year the ditch was dry twice last year and got permission from Harvey's Grove to weed eat and mow the other side of the ditch because he does not like to look at weeds; the water is nasty; 222 homes is totally not right and the ditch cannot handle the water as it is right now with just an orchard there; and he inquired how the ditch is going to handle those additional homes.

Mary Sphar stated she has lived on Merritt Island for over 30 years; she is aware of the flooding and drainage issue problems abutting North Merritt Island; she served on the Floodplain Working Group; the group was assured by Ernest Brown, Natural Resources Management Department Director, that compensatory storage cup-for-cup could be required for the estuarine and isolated floodplain's; Mr. Brown told the group that the floodplain protection Ordinance requirements and the Comprehensive Plan allows the County to require cup-for-cup compensatory storage for the two types of floodplain's; and she would like for the cup-for-cup compensatory storage requirement to be written into any Binding Development Plan (BDP). She stated according to Ms. Rezanka, they are going to have to put a lot of dirt into this project; it does not make sense that the planned development stormwater system will be able to keep the property from getting any wetter; and the consultant indicated at the North Merritt Island board meeting on March 13th that the Harvey's property has pumps and stated, "The pumps are there for the grove. Groves are typically pumped, so they can control the water for optimum orange tree growth. So when we are done with this project, we would not have to pump drainage, and the pumps would be gone. I am assuming the pumps pump into ditches right now, but we won't be able to do that with a residential project when we're done." She stated that is telling her that to keep the water level as it is now, even cup-for-cup compensatory storage will not do the job; cup-for-cup keeps the water level where it is now, not counting the pumping; if water can be pumped out of the property now, but not with a proposed development, it looks to her that the flooding potential will increase; and this does not take into account the possibility for increased non-pumped drainage entering the ditches that may end up in the Indian River Lagoon (IRL). She went on to say she does not know if the applicant has figures out where his stormwater system will discharge yet, but on March 13th the applicant said, "I believe that I will be required after treatment of the lakes to either outfall at this corner of this site into the wetlands or into the Hall Road system, or into the Hall Road ditch system"; at the May 29th Board of County Commissioners meeting, Commissioner Nelson mentioned the County plans to put a pump to the south, but the study has not been done; this pump would mean more stormwater eventually entering the IRL; the IRL is in crisis; and she does not want to increase the North Merritt Island drainage system unnecessarily and stress the IRL even further because there is no need for developments that will increase the stormwater following into the IRL, or large pumping systems that will enable such large development. She concluded she is opposed to the requested zoning of two units per acre because it is a bad idea; she sees this project

August 7, 2014

resulting in more flooding problems even if a cup-for-cup compensatory storage requirement is written into the BDP; and she wants the Board to limit the damage that could be done.

Tanya Kneppman stated she lives at 2255 Chase Hammock Road, which has a limestone bluff, and when it rains she has a lot of standing water; she does not understand where all the water is coming from; and she is opposed to the rezoning of Harvey's Grove.

Ron Taylor stated he is conflicted on this because he is a businessmen and he owns 12 acres of residential property that he is planning to build a home on in North Merritt Island; if the high density is put in, it will put a burden on the homeowners; he believes Harvey's Grove can come up with a plan to have a viable business on one acre; but with the added density and the issues that the citizens of North Merritt Island are bringing forward have a big downside to them, which is why he is leaning on the side of density at one acre; and another thing for the Board to consider is the choke point on Courtenay Parkway that cannot be underestimated, and the choke point Christa McAulliffe Bridge. He added, there are things going on at Port Canaveral, that are going to have a very big influence on the Canaveral Barge Canal; the barges are the size of a football field; this is going to have an enormous impact on the choke point; this is just the beginning; once a situation is set up like this and the momentum gets going for more and more barges to go through the Canaveral Barge Canal and it impacts the choke point, the estimates for traffic on the roads goes right out the window; he goes to North Merritt Island every day; he has been at the choke point, which is a problem below Courtenay Parkway because there is a lot of traffic in the area; and he saw projections of future growth in North Merritt Island, where more houses and population are going to go into North Merritt Island. He advised the Board that it is a necessity to put in a restriction of one house per one acre.

Susan Smith stated she is in opposition to the rezoning request; she agrees with competent and substantial evidence presented today; she did not receive one of the 61 letters that were supposedly mailed out; and she is wondering how many of those letters went to the direct resident's off of Hall Road. She disputed three main points that the requester has made; compatibility to density, in addition to what has been presented today the Mission Estates neighborhood that was approved at the end of Hall Road, right up against Kars Park, they were declined their initial zoning request of a higher density by the County; and was approved at one how per one acre. She went on to say the drainage improvements have decreased the water problem; there is still a problem high water levels rising; the character of Harvey's Grove land has changed; Mission Estates is now an abandoned neighborhood that has a negative impact for the character of the surrounding area; and with the economy, there is no assurance that this new neighborhood would be another abandoned neighborhood affecting the character of the rural community. She requested the Board to deny the rezoning request and to keep it at one house per one acre.

Priscilla Anderson read aloud the definition of land from Wikipedia, "Land referred to as dry land, is the solid surface of the Earth that is not permanently covered with water." She stated the proposed home sites will be half under water and not on the land, called private drainage easements; the public street will be part of the lot and that cannot be had on North Merritt Island with the low lying, bowl shaped flood prone properties; the State and County will have to follow certain guidelines; and she referred to a berm breaking in a subdivision on Chase Hammock Road during Tropical Storm Fay, and flooding residents for three weeks which was a grove with not one home built there yet. She went on to say much work has been done; there is still flooding issues for that citrus grove and not one home has been built yet; 220 homes is completely unreasonable; the recommendations of the North Merritt Island Advisory board needs to be followed; and most of everyone present tonight had other things to do than drive here in a very bad storm to speak. She added, those present tonight are here because they believe this density is too high; she did have a grove, but it is dead now, she has grass fed local certified animal welfare livestock, which has a huge market right now, people want that, and she

August 7, 2014

would help those people get started by leasing land to a rancher or a farmer; and North Merritt Island has some of the best farmland in the world and a perfect climate for growing pasture or crops.

Chris Cook stated he has lived on Pine Island Road for over 24 years; he is the President of the North Merritt Island Homeowners Association and a member of the North Merritt Island Special Advisory board; he is proud of all of his neighbors for attending and speaking tonight; they love their area; and it is felt that one unit per acre is a good compromise, to still develop the property with a rural character. He stated the lot size for two units per acre is one quarter acre and is not rural in character; he expressed his thanks to Natural Resources Management Director Ernest Brown, Public Works Director John Denninghoff, and Commissioner Nelson for the hard work done with financial and environmental constraints; and any one of them can tell the Board that if there is a major rain event, there will be flooding. He stated Hall Road is approximately two miles long from S.R. 3, until it dead ends; on the other side is about one-half mile to North Tropical Trail; all the roads funnel into S.R. 3, but the trouble is it all goes down to the chock point of Christa McAulliffe Bridge; and is considered by engineers to be a single-point-failure. He added, there are no medical facilities in the area; they do have a Volunteer Fire Department that has been there since the 1950's; and if Christa McAulliffe Bridge fails, help is 45 miles away at Jess Parrish Memorial Hospital. He went on to say Florida Department of Transportation is currently doing a corridor study of the intersection at S.R. 3; he is trying to get Hall Road to be included in the study; a flyover study was proposed several years ago, but was forgotten about due to enormous costs; and he is trying to get the intersection of Hall Road to be added to the study because the entire intersection needs to be evaluated and fixed. He advised that all the people entering Sea Ray Drive from Arnott Inc., Sea Ray Boats Inc., and Hatteras Boat have to go across Christa McAulliffe Bridge, make a u-turn, and then go back across Christa McAulliffe Bridge to get out; Tingley's Marina has sketches to have condominiums all along the Barge Canal there will have to get access to their property, by going across Christa McAulliffe Bridge, make a u-turn, and then go back across Christa McAulliffe Bridge to get into the units; and the United States Air Force currently allows NASA badge contractors to enter through its south gate of Cape Canaveral. He went on to say due to space and commercial space security concerns, they are at some point in time going to deny access to NASA people using that for access to Kennedy Space Center (KSC); all those people are going to have to go across Christa McAulliffe Bridge to KSC; Commercial Space Park is in the initial place of the development; and when the barge is going down the Barge Canal, even during rush-hour, the Christa McAulliffe Bridge is going to go up, and the barge activities will not stop.

Dr. Sonia Pearson stated she is the owner of Space Coast Veterinary Hospital; the representative's attorney has said some things that she would like to clear up; she met in January with Mr. Fulner and Mr. Mayer about her entrance, because the original proposal was to do away with her driveway, get rid of her corridor on North Courtenay, and more it north in front of their property; she came up with a proposal, that she would allow them to use her entrance and corridor, and could come off of that to go into their property; they gave her two proposals and one was similar to what she requested which would be fine if it was only 111 homes; but 222 homes using her entrance is an overburden. She added, they had no problem getting a hold of her when they wanted a meeting, but for them to say they could not get a hold of her after multiple attempts after their meeting is misspoken; there are plenty of ways to get in touch with her through her clinic, personal cell phone, or her location; and no attempts were made. She advised she is willing to compromise as long as she can keep her corridor, but if she cannot do so, she is opposed to this project; they had two proposals; one uses her corridor, the other one was an entrance in front of the property they have along North Courtenay Parkway; there is no corridor located there; they are going to present these two plans to the Florida Department of Transportation (FDOT), while any layman can see that the second proposal is not going to fly; and with no corridor, all those people would need to go north to the

August 7, 2014

next corridor and then back south to get to downtown Merritt Island. She added, until she knows that her corridor is not going to be effected, she is totally opposed to this proposal.

Carolyn Alvord advised Stone Lake abuts 50 feet into her property from the rains; water does not retaining in the subdivision; she agreed with all her neighbors; she moved to North Merritt Island to get away from the city-way-of-life; it is not that she does not want to share her bit of paradise; but she does not want it ruined with overpopulation or flooding. She stated one unit per acre would give a new resident a case of what the residents are trying to preserve a piece of real Florida.

Chris Minerva provided the Board a handout of pictures of east Crisafulli Road from Tropical Storm Fay and Hurricane Frances; there has been a lot of work done on the water; there is very little that can be done if the rivers rise higher than the drainage; and he asked the Board to approve Mr. McFarland's suggestion of one house per acre. He stated he moved to the area because he liked the rural feeling of the community; all the people here chose this less density area; they pay taxes; and he is hopeful that the Board keeps the peoples choice in mind when making its decision. He stated a lot of the orange groves had water pumped off the land; he provided the Board with a *Florida TODAY* article about chocking growth; and he suggested for the Board to approve one house per acre.

Nancy Minerva stated she is in opposition to the rezoning; she agrees with one house per acre; the community is beautiful and has great potential for farming; there is no need for more vacant properties because it is unknown of how many people will move here; there are 51 properties for sale in north Merritt Island; there are many alternative plans to satisfy the groves; and she wants the developers to be considerate of the people who have lived in the area for 20-plus years.

Jack Smink stated his concern is he is seeing a trend; eight years ago was the boom of people buying houses; smart growth was talked about when Commissioners Nelson and Bolin Lewis ran for office; he admired Commissioner Nelson, because he was one of the people that stood up for smart growth; and he thinks smart growth is actually what got him elected. He stated he has a recording of Commissioner Nelson speaking about smart growth in a forum; he asked if he would be allowed to play the recording.

Commissioner Nelson responded affirmatively; and stated he will explain what smart growth is if it is not understood.

Mr. Smink advised the recording will not play; he thinks it is a mistake to go with two homes per acre; and he is all for one home per acre.

Sandra Pesce stated she is in opposition of the zoning request change to EU-2 allowing two units per acre; she supports the North Merritt Island Advisory board's recommendation to approve rezoning this to RR-1; a north Merritt Island resident wrote a letter to the *Florida TODAY* in 2005 entitled 'Vote on rezoning request based on sound reasons'; and she read aloud "*Florida TODAY'S* recent article regarding a zoning request that I supported for the Pine Island Road area in north Merritt Island, neglected to mention several facts. This 30-acre parcel was zoned (GU) General Use, which is considered a holding zoning until someone requests a zoning change. A request for a change to (AU) Agricultural zoning was heard before the North Merritt Island Special Advisory board and after a careful review that board gave its unanimous approval for that rezoning of this property. AU zoning allows one unit per two and one-half acres, which gave the Bluffs Development Corporation approval for 12 homes to be built on the 30-acre site. And the majority of the people who spoke against the North Merritt Island Special Advisory board's recommendation lives miles away from Pine Island Road and some don't even live on North Merritt Island. I believe 12 homes on 30-acres is a reasonable request and that is

August 7, 2014

why I supported the board's decision, the North Merritt Island Special Advisory Planning and Zoning board, is an elected body, and I support their decision." She added, the letter was signed by Ron Pritchard in 2005 District 2 County Commissioner, Merritt Island. She went on to say the North Merritt Island Special Advisory is limited to residents of north Merritt Island, elected by their neighbors; they study all the facts of each rezoning request by listening to the applicant and the speakers before making a decision; in light of current knowledge of the topography of this unique area, past flooding and safety issues during rain events animus predictions of future severe weather, and expensive equipment and labor intensive efforts required by Public Works, to protect the citizens in that area; and she feels RR-1 zoning is a safe and fair decision for all. She advised she strongly supports; and RR-1 is a safe and fair decision for all; she strongly supports the elected North Merritt Island Special Advisory board's recommendation; and she encouraged the Board to do so as well.

Maureen Rupe stated in the 30 years she has lived in Brevard County, this scenario has played out so many times; it seems to be an ongoing problem that is never really fixed; Port St. John is on septic; the State came out with having to be two feet from the middle of the road; the new houses are two feet higher from the old houses; and they flooded out. She stated if the State's ordinance says that one must do this, there is also a County Ordinance that says one cannot flood an adjacent neighbor; she does not know how this would work because that Ordinance is in place for anybody in Brevard County, who's home is flood by the adjacent property; and whether this could lead to legal complication, she does not know; but she does know it came before the Local Planning Agency (LPA) in April because she spoke. She added, it was tabled by the Board for some kind of solution to this; she think the Board still does not have a solution; and she inquired if there is no solution why does the Board keep approving building that the Board knows will flood. She supports the residents and their efforts because she is tired of all the flooding.

John Schantzen stated his home is bordered by groves on three side that are owned by Mr. Harvey; Mr. Harvey owns more than 363 acres of north Merritt Island, not just 112 acres, and including the groves around his house on Briar Oak Dr.; Mr. Harvey holds these properties under various titles such as Leonard Grove LLC, LGH Grove, LLC, Island Mist Grove LLC, Gemini Grove LLC, and Harvey's Indian River Groves Incorporated; and he inquired where will the Board draw the line if this zoning request is granted to build two houses per one acre parcels, because Mr. Harvey has 363 acres. He stated it is conceivable that all of Mr. Harvey's holdings on north Merritt Island could be granting zoning to allow up 726 houses in the rural community; lot sizes would be much smaller than one-half acre as required infrastructure such as green space, landscaping, roads, right-of-ways, and water retention remove much of the buildable land. He pointed out the expansion at the Port is going to raise the Barge Canal Bridge a whole lot more; Florida Power and Light Company is going to have a couple of barges a week just to maintain the power plant because they have a request for a gas pipeline to feed that power plant; and until that power plant gets its gas in greater quantities, they are going to have to burn diesel fuel, and that diesel fuel comes by barge just as the heavy oil used to come to that plant. He went on to say the bridge opening causes gridlock; as it becomes more frequent it will cause even more gridlock; the citizens will be crying and yelling; and then all of the sudden it is going to be like the Palm Bay experience where they had such gridlock, that the County had to buy land, and build a highway to eliminate some of the chock. He stated the Archimedes' principle is if there is a thousand tons of dirt, asphalt, concrete block, and other material in a floodplain, a thousand tons of water has to be displaced; it is a scientific fact; if science cannot convince the Board, he does not know what does; and he requested that the Board honor these requests that it be no more than one house per acre.

Richard Webb stated he is a two decades resident of North Merritt Island; this is not a not-in-my-backyard problem; there is not an issue with Mr. Harvey and the inevitable development; he does not want a precedent set that would overburden North Merritt Island; this is not about this

August 7, 2014

one development, it is about this Commission keeping its decades of promises to the people of north Merritt Island for no more than one unit per acre; and he asked the Board to deny the density and permanently cap all of North Merritt Island at one unit per acre. He provided the Board with an abstract of an article from *Florida Bar Journal* that speaks to the flooding and the law requiring that properties handle upstream runoff; that is not done correctly in Brevard County; the drainage cases highlighted in yellow is case law more than 20 years old, says that a property has to handle the upstream runoff; and that topographical of Harvey's Grove being in the bowl. He stated when they fill the bowl not only are they not allowed to run water onto their neighbors, but they are still going to be required by case law to handle the water that has always flowed in that direction, from what are currently the upland neighbors; and he advised the Board to review the provided handout. He went on to say it flows from natural rights in common law and he thinks it is quite conclusive what is said in the handout; Ron Jones and he has been fighting flooding issues on his property for years; it is proclaimed that application of the stormwater management criteria for Brevard County is controlled by its reference in County Building Code Section 62, that makes the stormwater management a sub-set of the Code; the Building Code is supposed to implement the stormwater management criteria and is required by Florida law to be part of the Comprehensive Plan, but referencing the stormwater management in the Code is inconsequential, it does not limit the Code to just the parts that reference it; and it is supposed to implement fully, the stormwater management criteria. He added, it is going to take a long time for the Natural Resources Management Director to correct the many transgressions of Mr. Jones; his property floods every rain because Mr. Jones allowed the lowest property in his neighborhood, to fill the property above his, and block his drainage; he is going to have to sue, to remedy that problem; and he inquired if the Board wants to force the residents to sue to solve their flooding problems.

Mary Hillberg advised she has a few comments regarding Ms. Rezanka's presentation, she attended and recorded the community meeting held at the Merritt Island Complex; Mr. Denninghoff spoke at length about his efforts to keep the pump going, that is required to move water around in North Merritt Island during rain events; she was told by staff that the water just goes in a circle, and it cannot go uphill; and Mr. Denninghoff had said he would never do anything to hurt the residents, she did not hear him, and he is not on the recording ever saying that he would cause no flooding in the surrounding area if this was approved. She stated the comments regarding the North Merritt Island study that resulted in the flume two units per acre in the parcel; Darlene Hunt was the chairman of that study; and she provided the Board with an overhead view of the map from the study dated September 1991, Map 13, and is from Ms. Hunt's study. She added, she was sent a map from Commissioner Nelson's office explaining what the Future Land Use Map was from the study; and she provided the Board with an overview of both maps for a comparison because there is a difference in the two. She pointed out the East Central Florida Regional Planning Council map was provided to the Board; it talks about flood damage from Tropical Storm Fay; the path of the storm did not come over North Merritt Island but did come just outside of North Merritt Island; and the inset shows exactly where the heaviest flooded areas were, which is exactly where the parcel in question is located. She pointed out the additional map she provided the Board with is the North Merritt Island's Tropical Storm Fay evaluation; it is an enormous effort that was brought to the Homeowners Association by Mr. Brown; on page six it shows Chase Hammock Road and the bowl; and Chase Hammock Lakes is located at the bottom of the bowl that drains south under the road, and into the same slough that will backup. She stated the 1989 FEMA map has nothing around the yellow outline of anything more than one acre per unit, except the Island Lakes; the residents have been told there is no choice about this because the developer will sue; there is always a choice; and the Board can choose to do the right thing because the residents deserve to be protected. She reiterated the property is in a flood zone; the 1989 FEMA maps changed in March 2014; and the Board would be approving building density in a flood zone, which is very serious.

August 7, 2014

Daniel Woodard stated he has lived on Chase Hammock Road for over 20 years, his family was attracted to Merritt Island because of its rural character, and its natural beauty; shortly after he moved there the Water Management District and the County attempted to utilize things for water treatment and runoff from a development; and the residents were told repeatedly that development is going to happen and there is nothing they can do to stop it. He added, the residents did not want to see the most beautiful part of their community destroyed; he expressed his thanks to *Florida TODAY* for getting the residents voices heard; stated over the years more and more of Merritt Island has been developed; 20 years ago his property was the home to endangered species like indigo snakes and gopher tortoises; and today those are gone, with increased traffic and higher housing density. He stated the character of Merritt Island is not improved by development; the reason for zoning law is to maintain the quality of the community; if the philosophy was anyone can do anything they want, then zoning laws might as well be eliminated; but when a developer comes forward, it seems the rules change to suit them. He stated the Board represents the residents in the community, not the real estate industry, builders, or developers; each time the development rules are changed the values and reasons for coming to the community have changed; he thinks the rezoning of the grove will have all sorts of derogatory damaging affects; and there is no way to maintain the quality of the community unless the population density and zoning limits are maintaining the natural greenery and the wildlife. He went on to say there is an enormous amount of undeveloped land in Brevard County that is much less environmentally sensitive; there is a lot of property that is not lived in; and there is no way to say if hundreds of people want to move to Brevard County, that they have to move to an area that contributes to the value of the community most, and by remaining what it is open land.

Rich Charbonneau stated he will try to play a recording from January 4, 2006; but the recording did not work.

Joe Mayer, Titan Civil Engineer, advised this property has access to Courtenay Parkway and Hall Road; Code requires two entrances; the entrance at Courtenay Parkway is expected to be the main entrance; FDOT and staff will be scrutinizing the entrance about safety concerns raised; Dr. Pearson had mentioned her median opening; and they reason he has tried reaching out to her, is FDOT is going to control this process, he is confident that FDOT prefers a joint-entrance, that is convenient, and safe for all parties; and her mentioning of that median is not hers, its FDOT's median, and in its right-of-way which is why it will control the process. He went on to say when he met with Dr. Pearson and she had indicated that he did not try to reach back to her; that night when he met with her, she had indicated that she was very busy, and she wanted him to coordinate through her representative, Mike DeChristopher; and he did reach out to Mr. DeChristopher on several occasions by sending him drawings, but got not response back. He advised there will not be thousands of loads of dirt coming down Courtenay Parkway to the site; he expects all of the projects dirt to be obtained from the on-site lakes, that will be dug to take care of stormwater retention; there is now a drainage program in place that will help drainage in north Merritt Island for when major storms occur; there is no one on him team that is disputing that there are drainage problems in north Merritt Island; and once the project is developed and permitted properly, it is not going to negatively impact the drainage situation that is there now. He went on to say one his team is fully aware of the flood protection Ordinance and its requirements, and are prepared to meet those; he is fully aware that the design is for a 100 year storm; they are prepared to meet all Codes, regulations, and Ordinances; and if approved tonight, they could not do anything because they have to get permits before they start. He added, they are fully aware of having to go through Florida Fish and Wildlife Commission, United States Army Core of Engineers, St. Johns River Water Management District, and Natural Resources Management Department for environmental scrutiny that may be present on the property; and will have to meet all Codes and regulations in order to develop the property.

August 7, 2014

Christine Lepore, Assistant County Attorney, advised she wanted to offer Ms. Rezanka, to look at any of the documents that have been provided today; she knows some of them have been shown on overhead; but some have not.

Ms. Rezanka replied she saw most of it, but the last three she had not reviewed; she expressed her thanks to Board; she asked the Board to follow the law; she stated the developers have never said they are going to sue the County; and she thinks the Board knows that she does not do that. She noted they are prepared to do what they need to do; this is Quasi Judicial and need to object to the testimony; and she does so with respect and does not mean to offend anyone, because if she does not do it, she waves certain rights. She stated two Members of the North Merritt Island Advisory board are on the Board and are officers on homeowner associations; they have obligations as officers to support their bylaws, which require they support only one unit to the acre or more; and they also testified here before the Board tonight, which is believed to be objectionable and bias. She went on to say the drainage requirements mentioned will be monitored by the County; the Board knows the law and it has been sited tonight several times; the developer and the owner of the property will follow the law; it is subject to be monitored, Code Enforcement action, and Mr. Mayer, who is the only qualified engineer here before the Board tonight said they will do what is required; and Commissioner Nelson heard it on July 9th at the community meeting, and Mr. Cook, who is President of North Merritt Island Association, knew about the meeting. She opined the presentation was amazing by Mr. Brown and Mr. Denninghoff; she added, they showed how they have changed the whole drainage of the way the water moves since Tropical Storm Fay; and all of the information about Tropical Storm Fay, is not competent evidence for the Board to consider because that is not the situation that is before the Board today. She pointed out the evidence provided to the Board today is speculation about what will happen because its from people who have flooding problems and needs to take action, because it is the law in Brevard County; Ms. Smith talked about the transition rule and how Commissioner Infantini was correct; she does not believe that Commissioner Infantini meant to look at the bulk of information had; and the transition is generally moving from a higher density to a lower density, which is exactly what this project does. She talked about being surprised by all the residents present tonight of Sun Island Lakes opposed to this; they have 40 foot lots with complete lot coverage of four units to the per acre; and her client's transition is two units to the acre; and this zoning is not going to cause a precedent because it is unique, next to four units to the acre, and properly located in RU-2 Comprehensive Land Use designation; she is not asking for a comprehensive change; and is simply a zoning change and the Comprehensive Plan is to be developed through the Land Development Code because RU-2 is there all ready. She went on to say Mr. Mayer talked about the system and the program that the County has in place; Mr. Geddes talked about concerns about standing water and no one monitoring it; it is monitored daily and hourly, pending on the rain; Mr. Cook talked about a volunteer fire department that may exist, but Station 40 with paid employees exists for the area and has all emergency protocols of life support and cardiac care north of the Barge Canal; Ms. Rupe talked about this being tabled for more information about drainage and has not been given that information; but she herself did receive it from County staff at the July 9th meeting. She advised the Barge Canal Bridge is two miles from this property; the current zoning allows 1,641 trips per day with commercial zoning; this adds possibly 400 more additional trips per day; and the Barge Canal Bridge is something the County, FDOT, Coast Guard, or the Port will have to address because it is far enough away from the zoning that it should not be in the consideration, especially with the limitations on hours. She asked the Board to approve the rezoning to EU-2, with a BDP.

Commissioner Nelson inquired if staff was able to look at the two maps shown of what occurred and what the differences were in 1992. Robin Sobrino, Planning and Development Director, responded she has not been able to examine those.

August 7, 2014

Commissioner Nelson inquired if he may have a moment to review those two maps to see what the difference is.

Commissioner Infantini replied reviewing those will not affect her decision.

The Board recessed at 8:07 p.m. and reconvened at 8:14 p.m.

Ms. Sobrino stated the first map presented by Ms. Hillberg shows the residential densities that existed in the Comprehensive Plan back when the Small Area Plan was initiated by County staff; the map depicts the boundary of the study area; the map shows that the residential density in the study area having a wider crosshatching reflects two units to the acre; and the darker crosshatching reflect a density of four units to the acre. She added, the second map presented by Ms. Hillberg shows one of two Comprehensive Plan amendments that are the subject of the study area; one was 92B.5.13, that is in the heavy boundary and changed the Comprehensive Plan density from two units to the acre to one unit to the acre; it excluded all of the darker crosshatching area; and it included the u-shaped area. She pointed out the subject property is in Section 35 and was not part of Comprehensive Plan amendment 92B.5.13; there was a Comprehensive Plan amendment that encompassed this property as part of the Small Area Plan, showing the area designated residential to four units per the acre, and by virtue of this Comprehensive Plan amendment it became two units to the acre; and the subject property is in Section 35 and is the shaded piece pertaining to the Comprehensive Plan amendment for the subject property in 1992.

Commissioner Nelson inquired if it is RES-2. Ms. Sobrino responded affirmatively.

Commissioner Infantini advised she would like to approve the Item for one unit per acre.

Chairman Bolin Lewis believed approving that, is not legal because it is either a yes or no on what is proposed to us.

Motion by Commissioner Infantini to deny the request.

Commissioner Nelson inquired if the applicant would accept one unit per acre. Mr. Mayer responded no.

Commissioner Anderson stated what we just presented was pretty telling; he reminded the Board of when Commissioner Infantini and he were first elected, that period from November 2008 through 2011, this Board spent a lot of time in Executive Sessions, with decisions made by past Boards to deny housing developments or developments of any kind based on issues that were not competent and substantial evidence; a lot of settling was done; he urged the Board to use caution when a few Commissioners leave in November, a couple of Commissioners are still here for a couple years; he stated that it costs all taxpayers of Brevard County a lot of money to fight those; and it is not fiscally responsible to put all of the taxpayers on the hook, if the Board is forced by law, State Statute, and Code to approve things. He added, he feels for the residents there; the Board should not do anything that can endanger them or increase flooding; in his District, he has dealt with Lamplighter Village and Deer Run for years, which were bad developments that were built in holes; it cost the taxpayers money, to pump water out of Deer Run, everyday this week because there are pumps to protect those homes, because some Board a long time ago thought creating a little New Orleans was a good idea; and he just wanted to put that out there as a word of caution and to see where the discussion goes.

August 7, 2014

Commissioner Nelson stated eight years ago this would have been a request for Residential 4; he wished Mr. Smink would have been able to play his recording, because everyone has a right to develop their property and it should be based on what has been previously approved; the Board was giving away a lot of increased zonings for condominiums where they did not belong; and when the applicant first came in, they were asking for what they are entitled to since 1992, and that is hard for him, because he wants to follow the rules. He advised he has struggled with this one through all of the numbers and he worried sometimes that formulas do not capture everything on roads; Hall Road is less than 50 percent of capacity, even with the increase; the issue with drainage is one is not allowed to create flooding; and the Board is not the permitting agency dealing with that issue, it will be the State, Army Corps of Engineers, and St. Johns River Water Management District that makes that determination. He went on to say he thinks they are not going to get 220 units, only because by the time they do all of their drainage calculations, they are just not going to be able to get there; he wants to make something clear, when the meeting was held in July, it was bringing the Community up to date on County efforts; the pumps were going in long before this project was ever even talked about on Hall Road; they are still going to go in and there will still be a modeling study of a lot of issues that were brought up regardless of the vote tonight; and those pumps were and are going to go in, so that is a given. He added, the improvements at the intersection of Hall Road were on the books when he was elected and it has nothing to do with this; he inquired what Commissioner Infantini's competent and substantial evidence is, because it is their right to litigate if they so choose; he stated a Findings of Fact will have to be done; and it would be helpful if she would lay out for what her beliefs are.

Commissioner Infantini believed it does not meet the transition rule; there is property on the southwestern part of the property abutting very dense property which is fine; but the northernmost part of the property is bordered on three sides by property that is not dense; only this parcel is abutting densely populated property; and that lot should be blocked off for one unit per acre. She stated she has never shied away from a lawsuit; she will not shy away from this one; she feels that when property is surrounded on three sides by other land that is not densely populated, that that meets the legal definition; she has been the first one to go through and approve smart growth; she has been the one that will go through and make decisions because it's the law; right now this is not the law based on the way she interpreted it; the way she interpreted it is, it does not meet that definition reason; and for that reason she will not be voting in favor of this zoning change.

Commissioner Anderson inquired the process of Future Land Use map changes. Ms. Sobrino responded affirmatively; she explained Future Land Use map changes, such as this one being discussed today are considered to be Large Scale Amendments; these Comprehensive Plan amendments were generated as a result of the North Merritt Island's Small Area Plan that was commissioned by the Board; after doing an extensive public outreach, it was concluded that certain reductions in density were recommended to the Board; and in order to achieve those reductions, the Board authorized Comprehensive Plan amendments to lower the densities. She went on to say Large Scale Amendments are a two-step process; first is a transmittal process, where the Board will send up to the State, after conducting public hearings, the proposed changes to the Comprehensive Plan; they are reviewed by the State and many State agencies in order to determine that they were consistent with State's goals and objectives; and upon receiving comments, it gets returned back to the Board, to consider for adoption. She added, the adoption process is a second set of public hearing; at that time the Board will then transmit the adoption to the State of Florida; it will become effective; and it takes approximately four months with extensive public hearings through the Local Planning Agency and the Board.

Commissioner Anderson advised that was his point; maybe the Comprehensive Plan should have been changed at that point; this whole issue is that the Future Land Use Map shows two units per acre; now the owners of the property put in an application with the expectation that

August 7, 2014

they are following the Future land Use Map; and now it seems all things done in the past was just a suggestion, but that is not how it works. He added, he has been involved with Comprehensive Plans since 2000; he thinks the Board's hand is forced on this; the fact is maybe something was missed, but now they are permitted to move ahead with that zoning as the Future Land Use Map shows.

Chairman Bolin Lewis advised as Commissioners they make a lot of hard decisions, and she concurred with Commissioner Anderson; this is what it is zoned at; it is at expectation; however, as Commissioner Nelson has stated, there is going to be a lot of safety-valves along with this process, and it will be watched very carefully to make sure everything is done correctly; she does have a motion on the floor for denial; and she inquired if she has a second.

Motion failed due to the lack of a second.

Chairman Bolin Lewis passed the gavel to Commissioner Nelson.

Commissioner Nelson advised he hates this Item and he is going to make a motion after this motion, to deal with this circumstance on north Merritt Island, because there was discussion about precedent; he thinks it is not creating a precedent, but has a process needing to be reenergized to look at the rest of the properties up there; he feels compelled to follow the law; he does not want a judge making the decision because in a couple cases, it happened, and the outcome was worse than if the Board would have made the decision; and he is supportive of a Binding Development Plan.

There being no further objections heard, the Board approved a request by LGH Grove, LLC and Harvey's Indian River Groves, Inc., to change classification from AU and BU-1 TO EU-2 with a BDP on 111.03 acres, located on the north side of Hall Road, approximately 1,020 Foot east of N. Courtenay Parkway.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Mary Bolin Lewis, Chairman/Commissioner District 4
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

Commissioner Nelson passed the gavel back to Chairman Bolin Lewis.

Commissioner Nelson stated he would like to initiate a small area study for north of the Barge Canal for North Merritt Island, to resolve this issue; it gives the property owners who still have undeveloped land the ability to be a part of that process; Mr. Harvey has grown oranges and done well for a long time; citrus greening and a lot of other things have caused that to change; and if that is what the desire of the community is, then they need to be a part of it.

There being no objections, the Board directed staff to do a small area study on the area north of the Barge Canal on north Merritt Island.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.B.1. (14PZ-00050) – ALEXANDER J. AND PATRICIA B. MONTMINY – REQUESTS A CHANGE OF CLASSIFICATION FROM AU TO SR ON 0.81 ACRES, LOCATED ON THE EAST SIDE OF LAKE POINSETT ROAD, APPROXIMATELY .14 MILE SOUTHWEST OF S.R. 520 (5145 LAKE POINSETT ROAD, COCOA)

Chairman Bolin Lewis called for a public hearing to consider a requests a change of classification from AU to SR on 0.81 acres, located on the east side of Lake Poinsett Rd., approximately .14 mile southwest of S.R. 520 (5145 Lake Poinsett Road, Cocoa).

There being no objections, the Board approved a change of classification from AU to SR on 0.81 acres, located on the east side of Lake Poinsett Road, approximately .14 mile southwest of S.R. 520 (5145 Lake Poinsett Road, Cocoa), as recommended.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT:	Robin Fisher

ITEM III.B.3. (14PZ-00054) – GERALD E. WOODCOCK, TRUSTEE - (Darron Dobson) – REQUESTS A CUP FOR ALOHOLIC BEVERAGES (BEER AND WINE ONLY) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT IN A BU-1 ZONING CLASSIFICATION, ON 1.29 ACRES, LOCATED ON THE EAST SIDE OF N. COURTENAY PARKWAY, APPROXIMATELY .19 MILE NORTH OF CRISAFULLI ROAD. (6100 N. COURTENAY PARKWAY, MERRITT ISLAND)

Chairman Bolin Lewis called for a public hearing to consider request of a CUP for Alcoholic Beverages (beer and wine only) for On-Premises Consumption in Conjunction with a Restaurant in a BU-1 zoning classification, on 1.29 acres, located on the east side of N. Courtenay Parkway, approximately .19 mile north of Crisafulli Road. (6100 N. Courtenay Parkway, Merritt Island)

There being no objections, the Board approved the request for a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant in a BU-1 zoning classification, on 1.29 acres, located on the east side of N. Courtenay Pkwy., approx. .19 mile north of Crisafulli Road. (6100 N. Courtenay Pkwy., Merritt Island), as recommended.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Trudie Infantini, Commissioner District 3
SECONDER: Andy Anderson, Commissioner District 5
AYES: Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT: Robin Fisher

ITEM III.B.4. (14PZ-00052) – EDWARD STOCKER – REQUESTS TO REMOVE A BINDING DEVELOPMENT PLAN IN A PUD ZONING CLASSIFICATION, ON 0.72, LOCATED ON THE NORTHWEST CORNER OF BRANDYWINE LANE AND RANCH ROAD (2500 RANCH ROAD, MELBOURNE)

Chairman Bolin Lewis called for a public hearing to consider request to remove a Binding Development Plan in a PUD zoning classification, on 0.72 acres, located on the northwest corner of Brandywine Lane and Ranch Road (2500 Ranch Rd., Melbourne).

There being no objections, the Board approved the request for removal of a Binding Development Plan in a PUD zoning classification, on 0.72 acres, located on the northwest corner of Brandywine Lane and Ranch Road. (2500 Ranch Rd., Melbourne), as recommended.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Chuck Nelson, Commissioner District 2
AYES: Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT: Robin Fisher

ITEM III.B.6. (14PZ-00068) – BREVARD COUNTY - (SOLID WASTE DEPARTMENT) - REQUESTS A CUP FOR A SOLID WASTE MANAGEMENT FACILITY IN A GML-H (GOVERNMENT MANAGED LANDS - HIGH-INTENSITY) ZONING CLASSIFICATION WITH CUP'S, ON 240 ACRES +/-, LOCATED ON THE WEST SIDE OF ADAMSON ROAD, APPROXIMATELY 1.23 MILE NORTH OF S.R. 520 (2250 ADAMSON ROAD, COCOA)

Chairman Lewis called for a public hearing to consider Solid Waste Department request of a CUP for a Solid Waste Management Facility in a GML-H (Government Managed Lands - High-Intensity) zoning classification with CUP's, on 240 acres +/-, located on the west side of Adamson Road, approximately 1.23 mile north of S.R. 524 (2250 Adamson Road, Cocoa).

Commissioner Nelson inquired what the nay vote is for. Commissioner Infantini replied the nay is because she thinks that spending \$5 million to build a whole new transfer station is a waste; and she thinks all that needs done is adding one more set of scales.

Commissioner Nelson advised this is a zoning issue; and he is not sure what Commissioner Infantini is referring to.

Commissioner Infantini stated they are changing the zoning so that they can build a weight station for \$5 million.

There being no other objections heard, the Board approved the request for a CUP for a Solid Waste Management Facility in a GML-H (Government Managed Lands - High-Intensity) zoning

August 7, 2014

classification with CUP's, on 240 acres +/-, located on the west side of Adamson Road, approximately 1.23 mile north of S.R. 524 (2250 Adamson Road, Cocoa), as recommended.

RESULT: ADOPTED [3 TO 1]
MOVER: Chuck Nelson, Commissioner District 2
SECONDER: Andy Anderson, Commissioner District 5
AYES: Chuck Nelson, Mary Bolin Lewis, Andy Anderson
NAYS: Trudie Infantini
ABSENT: Robin Fisher

ITEM III.C.1 (13PZ-00110) SECTION 22, TOWNSHIP 20G, RANGE 34, SUB #AI, BLOCK 7, LOT 1, ON 20.57 ACRES; AND SECTION 35, TOWNSHIP 20, RANGE 34, PARCEL 3, OWNED BY STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION - 18.3, LOCATED ON THE WEST SIDE OF I-95, BETWEEN GANDY ROAD AND HIDDEN LAKES (IN THE MIMS AREA. NO ASSIGNED ADDRESS)

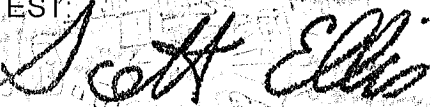
Chairman Bolin Lewis called for the public hearing to consider approval of Section 22, Township 20G, Range 34, Sub. #AI, Block 7, Lot 1, on 20.57 acres; and Section 35, Township 20, Range 34, Parcel 3, owned by the State of Florida (DOT) - 18.3 acres, located on the west side of I-95, between Gandy Road and Hidden Lakes (In the Mims area. No assigned address).

There being no objections, the Board approved Section 22, Township 20G, Range 34, Sub. #AI, Block 7, Lot 1, on 20.57 acres; and Section 35, Township 20, Range 34, Parcel 3, owned by the State of Florida (DOT) - 18.3 acres, located on the west side of I-95, between Gandy Road and Hidden Lakes (In the Mims area. No assigned address).

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Chuck Nelson, Commissioner District 2
AYES: Chuck Nelson, Trudie Infantini, Mary Bolin Lewis, Andy Anderson
ABSENT: Robin Fisher

Upon consensus of the Board, the meeting adjourned at 8:37 p.m.

ATTEST:



SCOTT ELLIS, CLERK



MARY BOLIN LEWIS, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the Board on 10-7-2014