

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, August 3, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Jason Steele
Absent: Commissioner District 3 John Tobia

B. ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and 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, inspection, 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 for 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.

C. PLEDGE OF ALLEGIANCE

Commissioner Steele led the assembly in the Pledge of Allegiance.

F.1. Approval, Re: Transportation Impact Fee Deferral Contract for the Orchid Lake Multifamily Development

The Board approved the Transportation Impact Fee Deferral Contract for the Orchid Lake Multifamily Development, in accordance with Section 62-815 of the County's Code of Ordinances; authorized the County Attorney's Office to record the Notice of Assessment which constitutes a lien on the property for the deferred balance of \$127,383.50; and authorized the Chair to execute the Contract.

Result: Approved
Mover: Jason Steele
Second: Rob Feltner
Ayes: Pritchett, Goodson, Feltner, and Steele
Absent: Tobia

G.1. Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra J. Douglas (Brittany LeCun) Request a Change of Zoning Classification from IU-1 to BU-2 (23Z00023) (Tax Account 3010512)

Chair Pritchett called for a public hearing on a request by Charles Steven Douglas and Debra

Kay Douglas, Trustees, and Sandra J. Douglas for a change of zoning classification from IU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, stated Charles Steven Douglas and Debra Kay

Douglas, Trustees, and Sandra J. Douglas request a change of zoning classification from IU-1 to BU-2; application number is 23Z00023, tax account 3010512 located in District 3; and he has a prepared statement from Commissioner Tobia's office to be read into the record.

Chair Pritchett thanked Mr. Ball and stated if she remembers correctly this is one that Commissioner Tobia sent back because they wanted a different Binding Development Plan (BDP) than what Planning and Zoning had agreed upon.

Mr. Ball responded that is correct. He read the statement, "At the July 13 Zoning meeting I gave the option to Ms. Lecun to either accept the recommended BDP or table the Item and contact my office to speak with me further regarding her issue. I had not heard from Ms. Lecun until July 24, 11 days after when she emailed me wanting to follow up and ask if I had any questions regarding her request. She then emailed me on July 31, asking for a meeting at which I had no availability to meet before the August 3 meeting. Therefore I have no additional information since the last zoning meeting. My stance remains the same, Ms. Lecun has the option to accept the BDP as suggested by the Planning and Zoning Board or choose to table her Item until the next meeting and contact my office to schedule a meeting before the next zoning meeting." He advised the next zoning meeting is September 7, 2023.

Chair Pritchett asked if the applicant was in attendance; and she stated that makes it a little more complicated.

Commissioner Feltner stated he thinks without the applicant or Commissioner Tobia in attendance he would make a motion to table to the next planning and zoning meeting.

There being no comments or objections, the Board tabled the request by Charles Steven Douglas and Debra Kay Douglas, Trustees, and Sandra J. Douglas for a change of zoning classification from IU-1 to BU-2, to the September 7, 2023, zoning meeting.

Result: Approved

Mover: Rob Feltner

Secunder: Jason Steele

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

Morris Richardson, County Attorney, stated there has been a change in statute and just to clarify when the Board moves something to a future meeting now, it is supposed to announce each time the date, time, and location of future meetings; and he asked Mr. Ball to do that for this Item.

Mr. Ball advised September 7, 2023 at the Board or County Commission Chambers.

Attorney Richardson finished by saying in Viera at 5:00 p.m.

Mr. Ball reiterated at 5:00 p.m.

G.2. Jonathan Mark and Emily Ann Schoolfield Request a Change of Zoning Classification from GU to AU (23Z00037) (Tax Account 2443960)

Chair Pritchett called for public hearing on a request by Jonathan Mark and Emily Ann Schoolfield for a change of zoning classification from GU to AU.

Jeffrey Ball, Planning and Zoning Manager, stated Jonathan Mark and Emily Ann Schoolfield request a change of zoning classification from GU to AU; application number is 23Z00037, tax account number is 2443960; and it is located in District 1.

There being no comments or objections, the Board approved the request by Jonathan Mark and Emily Ann Schoolfield for a change of zoning classification from GU to AU.

Result: Approved

Mover: Jason Steele

Second: Rob Feltner

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.3. David C. Ramage Trust and Cynthia R. Ramage Trust Request a Small Scale Comprehensive Plan Amendment (23S.07), to Change the Future Land Use Designation from RES 4 and CC, to all CC (23SS00007) (Tax Account 2113469)

Chair Pritchett called for public hearing on a request by David C. Ramage Trust and Cynthia R. Ramage Trust for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 and CC, to all CC.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.3. and G.4. are companion applications; he will read them together into the record, however he will need the Board to make separate motions for each; Item G.3., is David C. Ramage Trust and Cynthia R. Ramage Trust request a Small Scale Comprehensive Plan Amendment, 23S.07, to change Future Land Use designation from RES 4 and CC to all CC; application number is 23SS00007, tax account is 2113469; and located in District 1. He continued by saying Item G.4., is David C. Ramage Trust and Cynthia R. Ramage Trust request a change of zoning classification from AU and BU-1, to BU-2; application number is 23Z00041, tax account number 2113469, also located in District 1; and he believes the applicant is in attendance to ask for clarification on one of the Binding Development Plan (BDP) conditions. He mentioned in the motion from Planning and Zoning was to state that RV and boat storage was to the rear of the property; and he thinks the applicant would like some clarification to state that it be behind the building.

Shawn Demers stated he is the younger and taller version of Jack Kirshenbaum, and he asked him to say that tonight; he is there on behalf of Mr. Kirshenbaum; he actually appeared at the Planning and Zoning on this so he is a little more familiar; they represent the Ramages and what happened was they had come before the Board previously and at that time the applicant was seeking a zoning change to allow for the construction of the mini storage facility; the Board granted the application with a BDP; unfortunately, due to no fault of staff or anyone else, there was an anomaly in the advertisement and it had to be readvertised; and therefore they were before the Board again. He mentioned there was a unanimous recommendation from the Planning and Zoning Board to go forward with this; as for clarification on the issue for storage in the back for the outside, he drew a plan for zoning, and it is going to be most likely U-shaped, and if not the storage units will abut the road and in the rear is where any outside storage will be; and it will not be seen from the road, nor an impact on the road. He mentioned he lives near one where it is in the back and people cannot see it; that was the clarification; and

he knows Planning and Zoning asked about that.

Chair Pritchett advised that is perfect as it saves her from having to request it; and she is good with it.

There being no further comments or objections, the Board adopted Ordinance No. 23-16, setting forth the fifth Small Scale Comprehensive Plan Amendment of 2023, 23S.07, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Tom Goodson

Second: Jason Steele

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.4. David C. Ramage Trust and Cynthia R. Ramage Trust Request a Change of Zoning Classification from AU and BU-1, to BU-2 (23Z00041) (Tax Account 2113469)

Chair Pritchett called for a public hearing on a request by David C. Ramage Trust and Cynthia R. Ramage Trust for a change of zoning classification from AU and BU-1, to BU-2.

There being no comments or objections, the Board approved the request by David C. Ramage Trust and Cynthia R. Ramage Trust for a change of zoning classification from AU and BU-1, to BU-2, with all outdoor storage being behind the building.

Result: Approved

Mover: Jason Steele

Second: Rob Feltner

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.5. Ian S. Lightholder and Teylor M. Locky Request a Change of Zoning Classification from RR-1 to AU (23Z00040) (Tax Account 2405130)

Chair Pritchett called for public hearing on a request by Ian S. Lightholder and Teylor M. Locky for a change of zoning classification from RR-1 to AU.

Jeffrey Ball, Planning and Zoning Manager, stated Ian S. Lightholder and Teylor M. Locky request a change of zoning classification from RR-1 to AU; the application number is 23Z00040, tax account number is 2405130; and it is located in District 1.

Chair Pritchett stated RR-1 really is a good fit there; she sees what he is doing and she thinks it is going to be fine; she is just going to request because there have been some issues in the past with something, that Mr. Lightholder would be willing to do a voluntary Binding Development Plan (BDP) just saying that he is not going to have any overnight business lodging.

Ian S. Lightholder inquired as to overnight business lodging.

Chair Pritchett responded yes.

Mr. Lightholder asked Chair Pritchett to clarify what that means.

Chair Pritchett advised it is not going to be a campground, or anything like that where he is going to be charging people to stay there overnight.

Mr. Lightholder stated he would not charge anybody to stay there overnight as he has no desire to do any of that.

Chair Pritchett advised if he will do that with the things he has outlined she will be comfortable with it; she does not think it will hurt the residential; and she reiterated if he were to do that she would be very comfortable with it.

Mr. Lightholder stated no overnight lodging, he is good with that.

Chair Pritchett stated that is good, it can be read it into the record with a motion.

Mr. Lightholder inquired if this is going to be clarified, outlined on what specifically overnight lodging is.

Chair Pritchett stated any business overnight lodging, therefore, any time he would do something to create income with people staying there overnight, he will not be doing that.

Mr. Lightholder replied no.

Mr. Ball explained what he can do is have his staff contact the applicant and go over the process for the BDP and review the language for him to approve; and at such time it will come back for the Board for its recommendation.

Chair Pritchett asked if she can approve it tonight.

Mr. Ball stated part of the Board's recommendation would be to approve the request pending a BDP to limit the business overnight stays on the property.

There being no further comments or objections, the Board approved the request by Ian S. Lightholder and Teylor M. Lockey for a change of zoning classification from RR-1 to AU, pending a BDP to limit the business overnight lodging on the property.

Result: Approved

Mover: Jason Steele

Second: Rob Feltner

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.6. Star Rush, LLC (Sean MacLaurin and Hamilton Williams) Requests a CUP for Trailer and Truck Rental in a PUD Zoning Classification (23Z00033) (Tax Account 3018275)

Chair Pritchett call for a public hearing on a request by Star Rush, LLC for a Conditional Use

Permit (CUP) for trailer and truck rental in a Planned Unit Development (PUD) zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Star Rush, LLC requests a CUP for a trailer and truck rental in a PUD zoning classification, 23Z00033; tax account number is 3018275; and it is located in District 4.

Commissioner Feltner advised he just wants to clarify a couple of things; in the meeting he had with the applicant it was agreed that parking for rentals would be limited to the western parking spaces, that gives the applicant a little more flexibility; and the hours of operation are limited to store hours so there will not be drop-offs of rental equipment outside of store hours.

Sean MacLaurin responded affirmatively.

There being no further comments or objections, the Board approved the request by Star Rush, LLC for a CUP for trailer and truck rentals, in a PUD zoning classification with parking for rentals limited to the western parking spaces and the hours of operation limited to the store hours.

Result: Approved

Mover: Rob Feltner

Second: Jason Steele

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.7. Cirrus Properties, LLC; and Donald C. and Julie M. Herndon (Bruce Moia) Request a Small Scale Comprehensive Plan Amendment (23S.06) to Change the Future Land Use Designation from NC and CC to all CC (23SS00004) (Tax Accounts 2602468, 2602464, 2602466, & 2602467)

Chair Pritchett called for a public hearing on a request by Cirrus Properties, LLC and Donald C. and Julie M. Herndon for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC to all CC.

Jeffrey Ball, Planning and Zoning Manager, stated Cirrus Properties, LLC, Donald C. and Julie M. Herndon request a Small Scale Comprehensive Plan Amendment, 23S.06, to change the Future Land Use designation from NC and CC to all CC; application number is 23SS00004; tax account number is 2602468, 2602464, 2602466, and 2602467, located in District 4; the companion zoning application is Cirrus Properties, LLC, and Donald C. and Julie M. Herndon request a change of zoning classification from GU and BU-1 to BU-2; the application number is 23Z00034; tax accounts are 2602468, 2602464, 2602466, and 2602467, located in District 4; and the applicant has provided staff with a proposed Binding Development Plan (BDP) which should be in the Board's packet for review.

Bruce Moia stated he is representing the applicant; what he has before the Board are two requests; one is the change of Land Use to CC; as can be seen from the Land Use Map that is probably in the Board's package, this is basically an island surrounded by community commercial, therefore, he believes it is compatible and consistent; should that be approved, then they would want to ask for the zoning to be changed to BU-2 with the applicable zoning BDP; they have done quite a bit of work on this one for an area that is already commercial; they have designated the proposed use, limited the building height, addressed the proposed lighting, addressed noise, traffic, and even added a west buffer with an opaque barrier; and in addition, if the Board can see the way this is laid out, there is a vacant right-of-way between what is residential, even though it is in a commercial land use, it is residential use and their parcel, they are withdrawing the request to rezone the parcel that is west of that right of way so that everything they are going to do will be east of a 50-foot right-of-way that separates the

commercial from the residential. He added he believes they have adequately addressed any issues for having commercial next to a residential area; and they are hoping for Board approval. He noted he can answer any questions the Board may have.

Commissioner Feltner advised he is happy with the BDP; a couple of the neighbors are in attendance; he met with them; and he thinks the Board should hear from them.

Chair Pritchett advised she would hold the rest of Mr. Moia's time to address anything.

Richard Munson stated he is quite pleased with the withdrawal of the application for the properties that butt up against his property; he really appreciates finally getting some transparency because the Planning and Zoning meeting that he attended, all the neighbors who attended felt completely blind-sided; there are some people who have lived out there for over 20 years and all of a sudden they are being told they are not in a residential area; they were there a lot longer than most of those businesses even thought about being out there; and he is just pleased to hear some transparency because it does lead to confidence. He reiterated to come in blind-sided is not the right approach; hopefully there are some lessons learned by some of the parties; and he thanked the Board for its time.

Commissioner Feltner inquired if Mr. Munson is satisfied with the BDP.

Mr. Munson responded affirmatively.

There being no further comments or objections, the Board adopted Ordinance No. 23-17, setting forth the fourth Small Scale Comprehensive Plan Amendment of 2023, 23S.06, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501, entitled, Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled the Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date; and approved the Future Land Use designation from NC and CC to all CC.

Result: Adopted

Mover: Rob Feltner

Secunder: Tom Goodson

Ayes: Pritchett, Goodson, Feltner, and Steele

Absent: Tobia

G.8. Cirrus Properties, LLC; and Donald C. and Julie M. Herndon (Bruce Moia) Request a Change of Zoning Classification from GU and BU-1 to BU-2 (23Z00034) (Tax Accounts 2602468, 2602464, 2602466, & 2602467)

Chair Pritchett called for a public hearing on a request by Cirrus Properties, LLC and Donald C. and Julie M. Herndon for a change of zoning classification from GU and BU-1 to BU-2.

There being no comments or objections, the Board approved the request by Cirrus Properties, LLC and Donald C. and Julie M. Herndon, for a change of zoning classification from GU and BU-1 to BU-2 with the Binding Development Plan.

Result: Approved
Mover: Rob Feltner
Seconded: Jason Steele
Ayes: Pritchett, Goodson, Feltner, and Steele
Absent: Tobia

K. PUBLIC COMMENTS

Charles Tovey stated he placed on his card, property status; the electric company is out there today should be finished trimming trees and that will free him up for moving his trailers and starting to disassemble things; they will be done today or tomorrow; it was Slim and Andrew with Pike Electric; they are out there right now; and it is a procedure, he has to wait on other people in order to move forward. He mentioned the number one fear of people is public speaking and number two is change; he is a product of his environment; he asked the Board to excuse him while he pulls himself back together and gets with society and the rest of the things; he does not want to go on too much longer; he has been barricaded in his property for ages; every time he undoes it, things happen; he un-barricaded and now he is going to do it again because he had to redo it; and he reiterated that will be done, they are doing the trees so he will be moving forward and disassembling. He noted he has an artesian well, but he does not want to use it; he has wetlands and springs there also; it is all relative to what he speaks about; that is the community and the environment; he stands by what he says and he has documents, photographs, witnesses, and other resources available; he comes here and shows up when there are no meetings just to have the opportunity to speak; he cannot afford things, and he cannot afford to waste them because they are not his to waste; they belong to God and the communities, and everybody else; everyone shares this life together; he asked the Board to excuse him again for his disposition as he is a product of his environment, it is not his doing; and he commented he will get better. He thanked the Board for its patience.

Upon consensus of the Board, the meeting adjourned at 5:25 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the Board on September 12, 2023.