

July 9, 2020

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, July 9, 2020

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:00 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Bryan Lober, Commissioner District 3 John Tobia, Commissioner District 4 Curt Smith, and Commissioner District 5 Kristine Isnardi

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 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.

B. MOMENT OF SILENCE

Chair Lober called for a moment of silence.

C. PLEDGE OF ALLEGIANCE

Commissioner Tobia led the assembly in the Pledge of Allegiance.

G. PUBLIC COMMENTS

Charles Tovey stated he wanted to speak about the lagoon and his property; he referred to wearing masks; when he went to the Philippines for the first time, everybody had masks on; he could not figure out why; he first thought it was because of pollution; there was no law mandating citizens to wear masks, yet it is the one of the most heavily populated areas in the world; the citizens are voluntarily doing these things; the reason mandates are not necessary there and necessary here is beyond him; and then he referenced roadkill. He mentioned there was a raccoon and a Sandhill crane, and although they are populace in other places, they are not so populace here; he said all lives matter, especially his; he went on to explain that the Sandhill crane and the raccoon passed away, but his neighborhood does have new woodpeckers; and then he referenced the lagoon. He reported he was going to reveal his secret technique; if anyone has ever had a well dug or driven in the ground for him or her, it comes up dry a lot of times; what a person has to do is prime the well to get the water to flow; he said his work is perpetual and necessary, but all the things people are getting credit for is because of what he has done. He went on to say that it is good, because it enhances their jobs and things; he will reveal the rest of his secret technique another time; he thought he would get five minutes to speak, but it was okay; he was used to having to change his rules; and then he referenced his property. He explained that the police allowed someone to take a bulldozer,

which he has on video, to bulldoze his property, cut down his trees, and dig up his pet cemetery; the police told him they could not do anything, because it is a civil matter and told him he could not step on the neighbor's property or he would be arrested, Baker-acted, or shot for trespassing; the police want to enforce the law on him, but he does not want to go over there; and meanwhile, the man is bulldozing his property. He stated that the back of his property is still messed up, because the man had used weed killer on all his plants and everything else; he is a horticulturist so he always lets everything grow high; everything has grown high so the man is not spraying his foliage anymore; he said he would take care of that; his driveway is done; he will be doing the rest of it along with the front, but not the back; and he is in a situation where he does not know what he means to the government, the United States Constitution, Brevard County, or nightmare on Palm Shores.

H. PUBLIC HEARINGS

Eden Bentley, County Attorney, inquired if Commissioner Smith was on the telephone line.

Commissioner Smith confirmed he was.

Attorney Bentley inquired if Commissioner Smith could see and hear the Commissioners.

Commissioner Smith replied yes.

Attorney Bentley inquired if Commissioner Smith could see the screen behind the Commissioners.

Commissioner Smith responded affirmatively.

Attorney Bentley informed the Board that members of the public that would be speaking and presenting documents, that are not already in the record, should place the document face up on the table next to the lectern so that the document will be displayed on the screen behind the Commissioners in order for the public and Commissioner Smith to see the document.

Chair Lober informed the Board that there was a lot to cover, so he would try to work as efficiently as he could to get the Board to the one and only item that he thought would be controversial this evening while at the same time trying to maintain a good, legal record; if everyone works with him, it could go smoothly; he pre-recorded the introductions for items H1 through and inclusive H13 to be read into the record; he requested Attorney Bentley to briefly restate the PZ number for item 10; and he pointed out there may have been a typo on the agenda since he read it verbatim as it was in there.

Attorney Bentley replied 20PZ00002.

Chair Lober stated that given the volume of the comment cards that have been submitted and to keep people from waiting far longer than need be, with respects to items H.1 through and inclusive H.13., may he have a motion to suspend Brevard County Commissioners (BCC) Policy 97, which entitles non-applicants to speak for five minutes on items, and give all non-applicants, whether expressing support or criticism, three minutes to speak on each such item.

The Board approved suspending (BCC) policy 97 with respect to altering the five minutes to three minutes for non-applicants for the purposes of the evening.

Result: Approved
Mover: Rita Pritchett
Seconders: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

Chair Lober inquired if any of the Commissioners have any disclosures they need to make for items H.1. through and inclusive of H.13.

Commissioner Isnardi stated she believed she submitted it for the record; and she also had an additional discussion with Kim Rezanka that morning for five minutes concerning Item H.13.

Commissioner Pritchett stated she submitted everything.

Commissioner Tobia stated he had an email yesterday, as well as speaking on the phone today, with the Honorable Jim Barfield; he also had an email from Meier Wise on behalf of Florida Power and Light (FPL) on July 9, which was an objection on portability and encroachment on an easement; he had an email from Peter DiLecce today, which was an objection to traffic and the related safety of a bus stop; and he also had an email from Kim Rezanka in favor and in response to Commissioner Barfield's email.

Chair Lober stated he had quite a few disclosures as well, and he submitted quite a few also; with respect to those that have not been submitted, they were all within the past day or two, or three; there was one by phone on July 6 with Mike Shah, who is the owner of a parking lot in the vicinity of item H.13.; Mr. Shah had concerns with respect to the project; and all the other disclosures were emails. He informed the Board the first lot of emails were from July 8 from Michael and Dana St. Jean of Merritt Island in opposition, Patricia Spangler of Merritt Island in opposition, Jessica Beal of Merritt Island in opposition, Beverly and Thomas Crowell of Merritt Island in opposition, Raj Gohil of Merritt Island in support, the Honorable Jim Barfield whose company owns property nearby in opposition, Kate McCoy of Merritt Island in opposition, Suzanne and Joseph Perucci of Merritt Island in opposition; the next lot of emails were from July 9 from Rose and Peter DiLecce of Merritt Island in opposition, Kim Rezanka on behalf of the applicant addressed Jim Barfield's message that he mentioned, Patrick Stahl of Merritt Island included a letter from FPL stating FPL was in opposition to the interference of its easement, Brinn Leach-Wilson of Merritt Island in opposition, Kim Rezanka on the same date, on behalf of the applicant, addressed Patrick Stahl's email, and Karla Stevanus from Merritt Island in opposition.

Commissioner Smith stated his staff communicated to him all contacts that were submitted to him; he had one phone call from Ms. Rezanka today in which she asked him if he had received emails that day, and he replied to her he had not.

H.1. PUBLIC HEARING; RE: Temporary Use Acknowledgement (TUA) for Brevard County Dewatering Activities for the Grand Canal Muck Removal

There being no public comment, the Board approved and authorized the Chair to execute TUA to allow Natural Resources Management to utilize 6.38 acres of the 18.83 acre vacant parcel zoned Planned Unit Development (PUD) for dewatering activities for the Grand Canal Muck Removal Project for a period of up to four years.

Result: Approved
Mover: John Tobia
Seconders: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.2. Theodore Goodenow (Chad Genoni) Requests a Small Scale Comprehensive Plan Amendment from Planned Industrial to Residential 2 (20PZ00024) (Tax Account 2105262 - part of)

There being no public comment, the Board continued the requests made by Theodore Goodenow (Chad Genoni) for a Small Scale Comprehensive Plan Amendment to change the Future Land Use (FLU) designation from PI to Res 2 to the Thursday, August 6, 2020 Zoning Meeting.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.3. Theodore Goodenow (Chad Genoni) Requests a Change of Zoning Classification from AU to RU-1-9 (19PZ00158) (Tax Account 2105262)

There being no public comment, the Board continued the requests made by Theodore Goodenow (Chad Genoni) for a change of zoning classification from AU to RU-1-9 to the Thursday, August 6, 2020 Zoning Meeting.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.4. James and Mary Murray (Dan Quattrocchi) Requests a Change of Zoning Classification from AU to EU (20PZ00015) (Tax Account 2511451)

There being no public comment, the Board approved and authorized the Chair to execute a change of zoning classification from AU to EU as recommended.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.5. 4090 U.S. 1., LLC (Scott Lamb) Requests a Small Scale Comprehensive Plan Amendment to Change the Future Land Use Designation from RES 15 and NC to CC (20PZ00031) (Tax Account 2611636 - part of)

There being no public comment, the Board approved and authorized the Chair to execute a request for a Small Scale Comprehensive Plan Amendment to change the (FLU) designation from RES and NC to CC; and adopt Ordinance No. 20-08, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the third Small Scale Plan Amendment of 2020, 20S.03, 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 severability clause; and providing an effective date.

Result: Approved
Mover: Rita Pritchett
Second: Kristine Isnardi
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.6. 4090 U.S. 1, LLC (Scott Lamb) Requests a Change of Zoning Classification from RU-1-7, RU-2-10, and BU-1, to all BU-1 (20PZ00032) (Tax Account 2611636)

There being no public comment, the Board approved and authorized the Chair to execute a request to change zoning classification from RU-1-7, RU-2-10 and BU-1 to all BU-1 as recommended.

Result: Approved
Mover: Rita Pritchett
Second: Kristine Isnardi
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.7. Ruth E. Friddle and David Eitel Requests a Change of Zoning Classification from GU to RRMH-1 (20PZ00035) (Tax Account 2406126)

There being no public comment, the Board approved and authorized the Chair to execute a request to change zoning classification from GU to RRMH-1 as recommended.

Result: Approved
Mover: Rita Pritchett
Second: Kristine Isnardi
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.8. Ziffer Investments, LLC (Mark Kipp) Requests a CUP for Alcoholic Beverages (Full Liquor) for On-Premises Consumption in Conjunction with a Private Club, in A BU-1 Zoning Classification (20PZ00040) (Tax Account 3006387)

There being no public comment, the Board approved and authorized the Chair to execute a request for a CUP for alcoholic beverages for on-premises consumption in conjunction with a private club, in a BU-1 zoning classification as recommended.

Result: Approved
Mover: Rita Pritchett
Second: Kristine Isnardi
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.9. Matthew Wilson and Erin Leray Coris Requests a Change of Zoning Classification from AU to EU (20PZ00042) (Tax Account 2511208)

There being no public comment, the Board approved and authorized the Chair to execute a request to change zoning classification from AU to EU as recommended.

Result: Approved
Mover: Rita Pritchett
Second: Kristine Isnardi
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.10. Roundabout Partners, LLC (John Archer) Requests a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Restaurant in a PUD Zoning Classification (20Z00002) (Tax Account 3021659)

There being no public comment, the Board approved and authorized the Chair to execute a request for a CUP for alcoholic beverage full liquor for on-premises consumption in conjunction with a restaurant in a PUD zoning classification as recommended.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.11. Bud and Mary Carol Crisafulli Requests a Change of Zoning Classification from GU to SEU (20PZ00017) (Tax Account 2316832)

There being no public comment, the Board approved and authorized the Chair to execute a request for a change of zoning classification from GU to SEU as recommended.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.12. William Clarke (Kim Rezanka) Requests a Change of Zoning Classification from BU-1-A and BU-1 to BU-2 (20PZ00038) (Tax Account 2410519)

There being no public comment, the Board approved and authorized the Chair to execute a request for a change of zoning classification from BU-1-A, BU-1 to BU-2 as recommended.

Result: Approved

Mover: Rita Pritchett

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.13. MI Plaza Group, LLC (Matthew Phillips / Kim Rezanka) Requests Removal of an Existing BDP; a CUP for an Overnight Commercial Parking Lot; and a CUP for Alcoholic Beverages (Full Liquor) for On-Premises Consumption in Conjunction with a Restaurant, in a PIP Zoning Classification (20PZ00027) (Tax Account 2459292)

Chair Lober requested Tad Calkins, Planning and Development Director, to give the Board a thorough introduction in respect to item H.13, and to be sure to include why the options the staff included on the Agenda Item text were actually suggested instead of not just what they are.

Tad Calkins, Planning and Development Director, reported this request was from MI Plaza, LLC; they were requesting the Board to conduct a public hearing, and their requests included three items; the first item was a request to remove the existing BDP; the second item is for the Board to approve a CUP for an overnight commercial parking lot; and the third item is for the approval of a CUP for alcoholic beverages full liquor for on-premises consumption in a PIP zoning classification. He stated the property is located at 3345 North Courtenay Parkway and is in District 2; the applicants are proposing to use 237 parking spaces for an overnight commercial parking on 5.4 acres of land; it has two existing buildings that contain 27,000

square feet of space; they are also proposing a 3,100 square foot restaurant which is where they propose to have the on-premises consumption; the restaurant will be limited to only cruise parking patrons; and alcohol service will be limited from 9:30 a.m. to 1:00 p.m. He went on to say that the Conditional Use Site Plan they submitted indicates the remaining 23,900 square feet will be utilized for luggage storage, mini warehouses, a business complex, and fleet parking; the Code allows for overnight commercial parking on developed sites such as this, "where the site can demonstrate a surplus parking beyond the number of parking spaces that are required by Code to support the other uses,"; the Code goes on to say, "that all building structures or activities shall provide adequate off-street parking and adequate off-street loading zones for the uses of the occupants, employees, visitors, and patrons with the site in accordance with the site plan requirements,"; and while the applicants are requesting 237 spaces, the aforementioned Code provisions would limit the available parking for the overnight commercial parking between 190 to 154 spaces depending on how those uses are distributed in the square foot of those uses. He reported that the applicants are also requesting the Board remove the existing BDP which contains nine conditions that were previously established to help mitigate the on-premises consumption of alcohol; in the past 15 years, there were two other CUP applications for the consumption of alcohol that were denied; as with all zoning applications and actions, the Board is determining whether the overnight commercial parking lot and the on-premises consumption of alcohol in conjunction with the restaurant are compatible with the surrounding neighborhoods; the site activities do not diminish or adversely impact the safety of the welfare of the existing residents, and since this is a CUP application, the Board may consider conditions beyond that to help mitigate potential impacts to the abiding neighborhood; in the Board's Agenda Item he provided some proposed conditions that the Board may want to consider for mitigation; and he drafted those conditions in a formal format if the Board would like to take those into consideration.

Chair Lober requested Mr. Calkins to go over the conditions he provided and state if there are some conditions that are more important than others.

Mr. Calkins referenced letter A, which in the Agenda package shows that additional landscape buffering or a block wall from the westerly or southerly boundaries is needed; he stated there is a typo; it should say northerly, because there is an existing wall on the western boundary; the reason why he put that in there was because the existing site has been developed, and there are no mechanisms for the County to require the buffer standards in the County's Land Development Code Site Plan process; if the Board finds that additional buffering helps mitigate the proposed use then the County would need to include a special condition to have that carried through on the site plan; a turn lane analysis is required with the site development plan to be reviewed by Brevard County Traffic Engineering; and also reviewed and permitted by Florida Department of Transportation (FDOT) in which the applicant shall be responsible for the design, permitting, and all construction of all necessary roadway improvements prior the utilization of the site for cruise parking. He proceeded to say his department included this because although the applicant did provide a traffic study, it was a trip generation analysis, which evaluates the overall traffic; it does not look at the specific intersection and does not do an intersection analysis which the County would be looking at evaluating the adequacy of the north bound left turn lane on North Courtenay Parkway; the turn lane analysis would determine whether the minimum length of the queuing is acceptable for the anticipated trips from this project and the two other commercial cruise projects to the South; and the applicant has submitted a letter from those two owners stating that they do not intend to go forward with those commercial overnight parking establishments that have been going through the site plan, however, he does not have a formal withdrawal from either one of those applicants.

Chair Lober inquired if Mr. Calkins would elaborate on what that means.

Mr. Calkins replied that the County would still consider that a valid site plan, because it has not

been formally withdrawn; the County would want that to be considered in the background traffic; the queuing of vehicles is prohibited along the public right of way; the queuing plan shall be submitted with the site plan demonstrating that there is sufficient on-site queuing for both arriving and departing customers; he explained that this condition would prevent queuing on and along public right of ways which ensures the activities are internal to the site and does not create conflicts with the adjacent roadway; the applicant shall install no parking signs along the north and south sides of Duval Street; and this additional provision ensures that the activities occur internal to the site and do not create conflicts with the adjacent roadway. He further explained that limiting the hours of the restaurant and the number of seats in the on-premises consumption to beer and wine, the applicant has requested that the Board consider removing existing provisions in the BDP, which limited the activities to the sale of beer and wine only; it maxed out the restaurant to 80 seats, and now they are asking for 100; it is required to have restaurant style seating with no bar; and he noted that if the Board finds these additional limitations would mitigate the proposed use then a special condition would be necessary to achieve that. He mentioned outside entertainment activities should be prohibited; this condition would restrict outdoor entertainment such as music; the Board may also want to consider restricting the use of a public address (PA) system; this would reduce the noise associated with the site; when his department did the Agenda Item there was a parking plan submitted that showed there were 190 spaces available; since then, his department has received a new parking plan which shows the applicants are requesting 237, in which five would be reserved for employees; and he mentioned that the application does not take into account 23,900 square feet of a building, storage, a mini warehouse, a business complex, and those activities that need to have parking accounted for. He further stated that the applicants or the Board may want to consider item H, which would restrict all the overnight activities to the overnight commercial parking only and eliminate the use for the business complex and mini warehouse or the other uses which would help get to the 237 spaces; it would also take into account or eliminate the concern about the additional 21,000 square of building that is not being proposed to be used or being proposed to be used for other items; this would also align with the traffic analysis; the traffic analysis that was submitted by the applicant really just looks at the commercial park and ride aspect, it does not take into consideration the use for business complexes or mini warehouses or other activities; and he said he would be happy to answer any questions that the Board may have.

Chair Lober inquired which one of those conditions would be most critical.

Mr. Calkins replied, in his opinion, the conditions that the Board would probably want to take the most consideration in would be conditions B, C, with some sort of limitation on condition E that ensures that it is only for the patrons and not open to the public; in addition, not have a restaurant that the public can go eat at, but is for cruise patrons only; the Board should look at condition G, to establish some sort of maximum number or some limit on the commercial parking activities; and condition H, which the Board could restrict the use to line up to whatever the maximum number of parking spaces that the Board provided; and he noted that he has a draft to pass out.

Chair Lober requested that the proposed draft be placed on the screen for the public to view; he would allow the Board a minute to take a look at what has been provided to them; he confirmed with Mr. Calkins if the most imperative conditions on his list were B as in bravo, C as in Charlie, E as in echo, D as in dolphin, and H as in hotel.

Mr. Calkins responded yes; the conditions he provided are very similar to what he has discussed, but he has put them in a stipulation format so they are worded slightly different to notate who should do what and when it should be done to ensure that everyone is on the same page.

Chair Lober inquired from the staff if they had any questions at this point; he would give the applicant 15 minutes to present; any time that is not used will be reserved for rebuttal; all non-applicants whether they support or oppose the project are going to have three minutes to speak; and he requested Kim Rezanka be the first to speak.

Kim Rezanka stated that before she begins she had documents to pass out, and there would be three people speaking during the 15 minutes.

Chair Lober asserted that Ms. Rezanka can divvy up the time any way she likes.

Ms. Rezanka stated it takes time to move people through back and forth to speak, and if the Board had questions that would take more time.

Chair Lober affirmed that he would be generous with respect to the fifteen minutes.

Ms. Rezanka explained that she had a large quantity of material, about two inches worth, and it will be difficult to respond to questions also in that time frame.

Chair Lober inquired from Ms. Rezanka if he entertained a motion to increase her allotted time to 20 minutes if that would suffice the back and forth shuffling of people and papers.

Ms. Rezanka replied she did not know, because she also had to flip pages on the public screen for Commissioner Smith to view.

Chair Lober stated the Board would start with the fifteen minutes to see how it goes, and if she needed extra time he would entertain a motion to add a reasonable amount of additional time.

Ms. Rezanka thanked the Chair.

Ms. Rezanka greeted and thanked the Board and staff for giving the applicants this time; she informed the Board she was representing the applicant, MI Plaza Group, LLC; with her was Z. Sid Chehayeb, the engineer of record, and Matt Phillips and Sharon Galeano, which are the owners of the property; she had a presentation, but she would start with Z. Sid Chehayeb; and before she does that she wanted to clarify that the application came in before she was involved with the project. She stated the primary use of the property is for overnight commercial parking; the other uses are a restaurant, a business complex, a waiting area, and storage for the luggage waiting to be put on the busses; she reiterated that the primary use, however, is overnight commercial parking; they have asked for 232 parking spaces; and they do not think they are surplus. She went on to say that the rest of the building is not going to be used; the sole purpose of the entire 5.489 acres is for overnight commercial parking; Mr. Galeano looked at the conditions and believes most of them are acceptable except for the 109 parking spaces, and there was confusion on condition number one, because there was a ton of buffering already on the developed site; and she mentioned she was not sure what could be done about that. She advised the Board that condition number five stated they had asked to open up business at 9:30 a.m., but now they are asking for 9:00 a.m.; in regards to condition number seven, they are asking for 232 parking spaces, and everything else is acceptable; she had a couple more conditions to discuss that would make it more acceptable when it is her time to speak; and she would let Mr. Z. Sid Chehayeb come up next to discuss the technicalities.

Z. Sid Chehayeb introduced himself and informed the Board he was the owner of Consulting Civil Engineers, Inc., also known as (CCEI), located at 3650 Bobbi Lane in Titusville, Florida; he is a professional engineer and has 37-38 years of experience doing civil engineering; he and his family have been residents of Brevard County since 1991; his firm prepared the application for this CUP. He stated the site plan was approved in 2005; there are currently 207 parking

spaces; there is 10,000 square feet in the middle of the property that was approved to be permitted and constructed as a complete building that they are not going to do; the storm water, parking, landscape, ingress, egress, and anticipated traffic was reviewed by the County, by the Department of Transportation (DOT), and by the Water Management District and approved back in 2005; and he said there is nothing being changed on the site. He went on to say if the CUP for parking is approved they will still need to do a minor site plan that will need approval from the County; there is a vegetated buffer on the west side of the site plan with an environmental easement over it so no one can touch it; there is a concrete wall on the west side of the parking; to the west of the wall there is about 150 to 160 feet of vegetated buffer that will not be removed and will be part of the site; there are no drainage issues with the site; and he saw pictures that show it is in the right of way and not at this site. He continued that maintenance to the facility on site and minor issues with the drainage is being taken care of; it is maintenance issues and that is it; there are no additional impacts to the storm water system since the site is existing; it is an existing development; and nothing is going to be added to the storm water management system to increase the amount of storm water that is going in to the outside. He stated Duval Street has two sidewalks, not just one; it has a sidewalk on the north side and the south side; if one looks at the plan for Duval Street or an area for Duval Street, there is an area between the edge of pavement; it is an urban roadway in which there is a curb and gutter on either side; traffic is prevented from going onto the sidewalk; there is no pedestrian difficulty going from the subdivision to State Road 3; and there are two sidewalks existing at this site on Duval Street on the north and south side. He added that the new plan that CCEI provided shows the traffic pattern and the increase of 30 parking spaces; that is the only thing they are doing to the middle of the site; those parking spaces are already part of the storm water management system; and they have to submit a minor site plan to the County to get it approved. He noted that the traffic will enter from the west entrance of Duval Street and will exit only from the east entrance of Duval Street; the other exit would be to State Road 3; there is enough parking on site so that there will be no queuing on Duval Street; there is approximately 1,500 linear feet of driveway inside the property that is only one way; so if you count it two ways there is about 3,000 feet that cars can queue in; it is not possible to have these cars come in because they have reservations, it is only a couple hundred cars, 232 cars; they do not come in all at once; 3,000 feet is plenty of space for queuing on site; there is enough ample room inside the property for queuing; and there is no problem with the queuing. He continued to say that the turning lane from northbound traffic was constructed as part of this development; the actual site plan for this development, when it was approved in 2005, had a turning lane from State Road 3; it was constructed with the approval of the DOT to service this development; there is an existing 290 linear feet along State Road 3, which is the turning lane; and 50 m.p.h is what is required for 290 linear feet.

Ms. Rezanka stated she submitted the engineer's, Turgut Dervish, resume for the record; she informed the Board that Mr. Phillips will come up next to talk about his business plan and his experience in the industry.

Matthew Phillips introduced himself and stated he wanted to give a quick history of Go Port of Florida Cruise Port; they have been in business for over 12 years; they are the number one Port Canaveral destination management for Port Canaveral; there are five million cruisers that come into Port Canaveral a year; and they handle 500,000 of them. He continued that his business model is snooze and cruise; the packages that would be used here would be attached to a hotel; currently they have a parking facility at the Double Tree in Cocoa Beach where they already have 400 spots; 50 percent of those spots are used with what they call their hotel and parking packages; and this site is pretty much just going to be used for hotel and parking packages not just straight out parking. He indicated they intend to stop using Double Tree and use this property instead; there are 232 spaces for overnight parking anticipated at 95 percent capacity including a hotel stay which is spread out over five days; it is not like a church gathering where everybody comes in within the hour and everybody leaves within the hour;

these 232 spots are broken out over an entire week and during that week it is broken out for six hours a day; for three hours in the morning patrons are picked up from the ship and get in their car and leave, the next three hours new patrons are brought from his facility to the cruise ships; and a very small percentage will interact with people coming and going at the same time. He added that all those allowed to park at the Merritt Island Go Port will have a reservation; there are no drive-ins; it is not just a drive in to park your car; it is all pre-arranged; and a lot of hotels that are part of these packages are in Titusville, including Mr. Mike Shah's Best Western. He pointed out they have used the Best Western in Titusville for over 10 years and produced over a million dollars worth of sales for his hotel; he is surprised that Mr. Shah does not want this program to go; yet when Mr. Shah had a program or a parking lot it was approved for 600 spots which was three times the size; there were two other parking facilities that were approved; one is right next to him which was approved for Lots of Honor; Lots of Honor went out of business, and the reason is the parking business is not as lucrative as everybody may think it is; it is a lot of work; and Mr. Kaborg bought the website. He stressed that the overnight parking facility is different than the other three or four Merritt Island facilities, because they only accept reservations, and they combine the parking with the hotel package; there are two parking lots that exist in Merritt Island; one is Lots of Honor, which was right next to him, has now been sold; the gentleman that has it is not using it and is not going to use it for parking; he has a letter of intent from him; he is going to use it for Recreational Vehicle (RV) parking or to flip the property; and he bought it for \$300,000 and wants to sell it for \$600,000. He continued to say that the other lot is near the veterinarian which was also approved; it was going to be 200-300 spots also; it ran into financial difficulty and one may see all the big berms and pilings there so it is not going anywhere; if he was approved today he would actually be the first one; Mr. Shah would be number two, because he still does not have his done; he still has another six months to go; it would be the first in his business; and Mr. Shah has not been in the business for 12 years. He mentioned that since they purchased the property, they have put over \$20,000-\$30,000 into it for cleaning it up, taking care of the garbage, doing all of the trees and maintenance, cleaning out all of the storm drainage, and making sure the roof does not leak; they have been improving it, but they had a little break stop in March due to the uncertain situation; and they are doing very well with their upcoming bookings in the future. He reported that they hired a company to fix a complaint about the waterway in the back by the retention pond; Florida Power and Light (FPL) was nice enough to go in there and put all new poles in, but they also took down the berm; he is taking his cost and his expense to getting it done as soon as possible so the water does not go into the other area; he did not take it away, he is just fixing it; he added barricades and no trespassing signs, because large trucks were using the parking lot for a turn-around; and a lot of the residents in the back used it for a dog walking park, which unfortunately they did not like to pick up afterwards. He pointed out that the flooding that is in the photos that were presented by Patrick Stahl is in the County row and not on his property; he does not have any problems with it except for fixing the berm in the back; there are many large trucks accessing Duval Street to enter the construction company that is north of Duval Street; and they have huge trucks, which in fact when he first purchased the property they were using the property to turn their trucks around. He reiterated that the plan for this property was only for overnight commercial parking and only for those who have reservations; the two tenants he has, World of Fitness and Harloin Company, currently lease 8,500 square feet of the almost 27,000...

Chair Lober interrupted Mr. Phillips to request him to pause for one second; he asked the Board to have a motion to give Mr. Phillips another five minutes.

The Board authorized an extension of time for the applicants to present their case.

Result: Approved

Mover: John Tobia

Secunder: Kristine Isnardi

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

Mr. Phillips stated those two leases will be terminated if the CUP for overnight parking is granted and Merritt Island Go Port opens; the business plan for Go Port is that it will only be open on cruise days, which is anticipated to be approximately five days a week with hours of operation from 6:30 a.m. to 1:00 p.m.; the rest of the time it is closed; 50 percent of the cars will be leaving in the morning and 50 percent of the cars will be arriving, but spread out over five days; one has to account that there will be probably an average 30-40 cars leaving in the morning and 30-40 cars coming in; all former cruisers are out by approximately 10:00 a.m.; and new cruisers arrive around 10:00 a.m. He added that new cruisers bring luggage in the luggage area of the building; then they can go to the restaurant or the cocktail lounge, or the waiting area; busses hold 10-25 passengers and load up about every 30 minutes to transport the cruisers to their ship; the busses are contracted with vendors and will not be parked on the property; and all busses stop by 1:00 p.m. He stated that only those leaving for a cruise can utilize the restaurant or cocktail lounge; it will never be open to the public; based upon his experience in the industry, the average number of cars coming in per day will be 35-40, and the same amount will be leaving; there may be higher numbers on Saturday, because it is a four to five cruise ship day; and 232 parking spots are reserved for customers and five will be for employees. He noted that Go Port is a transportation facility that packages parking with hotel room stays; this is less intense use than the 27,000 square foot shopping center will allow; it is less intense than what could happen since it is in a Planned Industrial Park (PIP) zone; this lot could be a car dealership, a recycling center, or a lot of different things; as a Brevard County resident of many years he is surprised of the public's disdain for this project that has very little impact on anyone; and he requests the Board approve the CUP and remove the 2010 BDP.

Ms. Rezanka, Cantwell and Goldman, P.A., stated she was there on behalf of the applicant; she has never seen so many complaints; she primmed almost a thousand homes on north Merritt Island next to a cell tower and a Sonic restaurant, and she has never had this much opposition; she understands that it is a sensitive topic to the neighbors; the neighbors have fought this twice; they won once; they lost the second time because it came back from the circuit court; a CUP was granted; the CUP expired, and she is asking the Board to remove the BDP. She pointed out that the BDP only allows alcohol in the upper north end of this parcel; that is not where they are going to have the restaurant lounge; and that is one of the reasons why the BDP needs to be removed. She pointed out that all the letters and complaints the Board has are catastrophizing; residents are concerned, because they do not want change; she wants to give a shout out to Mr. Raj Gohil, the only one who is in favor of this; his comment was, "Who moved my cheese?"; she did not know what that meant, but now she does; it is certainly appropriate; and it is in the packet she provided to the Board. She went on to say at the North Merritt Island District Board she presented the project's CUPs as basic facts; she is not going to repeat that; the testament before the Board has been present; she never said, as Ms. Beale said, that she ever thought that this would adversely impact the residents; she said the PIP zoning was not necessarily to benefit the neighbors and was not a criteria of the County's code; she was addressing the comments from the pylon of exaggerations from the North Merritt Island District Board; she did not claim there would only be 35-40 trips a day; and she reported the average would be 35-40 coming and 35-40 going. She mentioned that Mr. Phillips explained his business model and his experience; Mr. Chehayeb detailed the requirements; what he did not talk about was the traffic study that was in the Board's packet; it shows the average trips per year have gone down on Tropical Trail; the October 2, 2018 Historical Trip Generation shows all the trips about a half mile north of the address; and that was the traffic study that Mr. Durvish was relying upon. She continued that there is also a Turn

Study so she was not sure why the applicants need another one; she said there was one in the packet that was provided to the Board; the first page of the packet she provided is the actual requirements for the CUP and they have met all of the conditions for the CUP 5219.31; it is in a PIP; and she asked the Board for five more minutes to speak.

The Board approved an additional five minutes for the applicant's attorney to speak.

Result: Approved

Mover: Rita Pritchett

Secunder: Bryan Lober

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

Ms. Rezanka stated Section 62.19413, the overnight commercial parking lot did not come into being until April 2018 as the board may recall, this was just adopted by the Commission; most of these overnight parking applications have not had to go through this process; this may probably be the first one the Board has seen; it is more than three acres; it is in PIP; it is a primary use and not an accessory use; it is limited to 232 spaces with five for employees; all drive aisles must be paved; they are paved; a routing map shall be provided; it has been provided; and it does not include the residential street of Duval Street. She pointed out if Duval Street can even be considered a residential street; it was built as a public street; it accesses PIP zoning on both sides of the street; a traffic study statement has been provided to the Board to review; there has been no competent evidence to say that it is not a good traffic study; and now the Board has the backup for it as well. She mentioned that the conditions that were proposed by staff have been discussed; they agree with all the conditions except the beer and wine; she apologized for missing that; and her client stated he wants a full liquor bar. She indicated a red herring was thrown out asking why would Mr. Phillips want it if he is not going to be open long enough; she could address that later on; she said it does not matter, because this is what he wants; this is what he does with his business model at the Double Tree; they come and park; they go into the Double Tree lounge; they have a drink and get on the bus; and no one is allowed to get a drink before they get on the bus to leave when patrons come back from their cruise ship. She informed the Board she added additional conditions based upon what she discussed with County staff; this is just the CUP criteria for the overnight parking; there are two CUPs, however, the additional would be to limit the business hours from 6:30 a.m. to 1:00 p.m., which is a far greater restriction than any shopping center would ever have; the commercial parking is a primary use; with all those uses limited to be overnight commercial parking; and the other ones are accessory. She continued to say as with the second CUP 62.196, alcoholic beverages for on-site consumption, there are very few criteria in it; it has to be a general retail zoning; it is; it has to be more than 400 feet from a church or a school; there was a specific survey done by John Campbell that makes sure it satisfies the County's Code which is in the application, but was not provided to the Board; it is not within any school or daycare; it may be next to a school bus stop, but she will get to that; and she said that was not in the County's Code anyways. She reported that the Code does not say anything about a school bus stop as a criteria; she said the Board can do the limitations; these are the conditions that were read by County staff; the applicants have agreed to everything except for limiting the beer and the wine; if the Board wants to put the condition that the applicants maintain the existing buffering and landscaping that is fine; the cocktail lounge will only be opened to those that come there and not to the general public; and only for those departing to the port can purchase alcohol. She informed the Board it has the specific purpose stated in the packet that was provided; it also has the letter from Mr. Stewart that owned Lots of Honor stating he was not using it; it has the Brevard County Property Appraiser details of Dr. Ragona's property; it has the Barge Canal; and that is another red herring. She reported that the shopping center was permitted for 37,500 square feet, over three thousand trips; this at most will have five hundred trips a day; even if it is the nine hundred in the County staff report, it is substantially less than the 2,500 or 3,000 trips it could be; there were complaints about why do the applicants need a liquor license; this

is part of the business model; it is a short-term use; and it will not be used by everyone. She reiterated that whatever Mr. Phillips has to do to get a liquor license is none of the public's business; the public wants to manage this property for him; to tell him what to do and how to do it; that is not how it is done in this country; it is his business plan; he can fail or do well; he can get a beverage license for about \$11,000; he can get a temporary liquor license; and he knows how to purchase a liquor license. She informed the Board that the BDP is in the their packet; she did not know if it was provided to them or not, but this is what she is asking to be removed; it was not necessary at the time so they are asking that it is removed; it has hours from 11:00 a.m. to 10:00 p.m., much longer hours than what they are requesting; and she has the comments from Mr. Gohil about who moved my cheese. She explained that the Board will see what that is about on the last page; most of the opponents are hems; they are stuck where they are, because they do not want change; she does not mean to be disrespectful, but they have come out and said things that are completely not true without evidence and without support; she would ask for the opportunity to cross-examine them before they leave the room; and she asks the Board to approve both CUPs and remove the BDP.

Chair Lober stated he would give Ms. Rezanka the opportunity to cross-examine citizens; he stressed he wanted to make sure that he is on the same page as Ms. Rezanka; he inquired if her client is okay with the County staff requests if she was referring to the second page on the Agenda cover sheet items, A through alpha...

Ms. Rezanka replied no, the one Mr. Calkins just gave him; it is the brand new one; she said his staff did it en masse, and she tried to separate it out in her presentation; she noted that if Chair Lober wanted to attach them to both, that it would be fine; it just seemed to make sense; she could possibly get the overnight parking CUP without the consumption of alcohol; they are two separate items; they do not have to be both approved; they hope they are; and the overnight parking is the primary use.

Chair Lober inquired what mechanism would exist to enforce this.

Ms. Rezanka replied that the conditions on the CUP would be used to enforce it.

Chair Lober inquired if she would be okay with it being on the CUP.

Ms. Rezanka responded affirmatively; she informed the Board that in her packet to the North Merritt Island District, there is an opinion by Morris Richardson who said a CUP has teeth and can be enforced; she does not believe a queuing turn lane analysis is necessary, but her client is alright with that; he wants the 232 spaces; he is not going to have a PA system; he never intended to; if the Board wants that as a condition that is fine; he does not want the beer and wine; they ask for 9:00 a.m. to 1:00 p.m., but since her clients have been asking for 9:30 a.m. and if for some reason 9:00 a.m. is not appropriate, they will concede; and all the bus stops are gone by 9:00 a.m. according to evidence in the packet provided to the Board. She pointed out that in the packet there should be a diagram where the school bus stop is; she found out from the Brevard Public School Transportation Department where it is; it is north of Duval Street, it is on the property where Mr. Barfield has his property; it is a little entrance way; she suspects they come in through there and go out through Duval Street; she reiterated that is where the bus stop is; it is in someone's property; and it is not on Courtenay Parkway. She also mentioned that FPL is also a red herring; the trucks can go through the drive aisle; it has been there since 2005; she thinks the Board has seen her email; and she notated to the Board that she tried to separate out the different conditions.

Chair Lober inquired if Attorney Bentley and Mr. Calkins heard any promises or assurances from the applicants that the County would be unable to enforce.

Mr. Calkins replied he did not think there was a problem enforcing it as long as all of it is

captured in the CUP as specific stipulations and conditions of approval.

Chair Lober stated that he is not presupposing the outcome of anything, but if any Board member makes a motion, whether or not it gets seconded for approval, given that it seems to be acceptable to the applicant, he would certainly encourage the Board member to make sure they take the applicant up on all the restrictions they agreed to.

Mary Hillberg of Merritt Island pointed out that no one is able to read the documents on the screen from the back of the room, and it is hard to hear if the Board members do not talk into the microphone; as Chair of the elected North Merritt Island Special Advisory Board, she is representing members of the community about this Item; the applicant wishes to convert the sparsely occupied Merritt Island Plaza strip mall and remove the current BDP into a private boutique park, drink, and ride which includes a full-liquor lounge and restaurant; after a lengthy presentation by the applicant at the Special Advisory Board meeting, the Board heard from several concerned citizens from the Sunset Groves Community as well as throughout the North Merritt Island and Merritt Island communities including the Savannahs, Chase Hammock Lakes, Villa de Palmas, Sunset Lakes, as well as residents from other communities including a representative from the North Merritt Island Homeowner's Association that represents approximately 500 citizens, as well as the Moose Lodge, that represents 3,000 citizens all of whom were unanimously opposed to this proposal; the Board thoroughly debated the plan and allowed the property owner and his team to rebut the numerous concerns; and the Special Advisory Board ultimately recommended denial of all three elements of this proposal considering the information heard on June 11. She added that in accordance with Brevard County's Administrative Policies, the Future Land Use element will provide the master guidance for land use and zoning issues in Brevard County; the North Merritt Island Homeowner's Association, as well as the Special Advisory Board requested denial based on Administrative Policies: 3A, 3B, 3B, 4, 4A, 5, 5E, F, G, 6, 7, 8 with factors to consider 1,3, and 5; there were several other competent and substantive reasons to consider as well; the North Merritt Island Special Advisory Board unanimously and respectfully requests the denial of the three items on this request of this applicant based on these competent and substantive reasons; and those presented hereafter by Brevard's citizens.

Lyndsay Sned of Merritt Island informed the Board she attended the North Merritt Island Advisory Board a few weeks ago; she had a couple comments based on that; one statement the attorney for this group stated is that citizens do not like it because they do not think it is good for them; it may not be; she understands that every business that comes into her community is not going to be suited to her personal needs and what she is going to be able to use and enjoy; however, the County has ordinances in place; the policies that Ms. Hillberg just spoke of and the zoning are all there for a reason; and it is so the citizens can plan their community appropriately. She mentioned that citizens move into certain communities based on what they are planned to be; she did not move into downtown Cocoa Beach for a reason; just because it is not exactly meeting her needs is not the reason why she is not wanting this; it is not just a business that she does not like; the business does not fit existing guidelines; it is not something citizens just do not like; the applicants do not fit; they are not good for the community; and they do not fit in within the surroundings. She continued that there is no good reason just to make an exception for them; they are not adding anything; they are adding to existing problems; the barge canal was already discussed; it is not a red herring; it is a real issue; she goes over it every single day; it causes issues everyday with citizens' commutes and with safety of emergency vehicles coming in; and she reiterated it is not a red herring, it is a real thing. She pointed out why the County would add to the problem when it already has impending houses that have to be built because of the growing space industry; other things will have to be built on North Merritt Island; there will be businesses that are related to the Space Center, and other things that need to be there; and there will be businesses that will benefit the community directly. She reiterated that this has nothing to do with North Merritt Island; it does

not need to be on North Merritt Island; and there are other appropriate places in the County where businesses like this can be.

George Kraft of Merritt Island stated he wrote an extensive email with all his concerns, and Commissioners Isnardi and Tobia responded; he thanked them for responding; he continued the thing that concerns him even more is the fact that he heard several things tonight that have changed again; he heard that the applicants were working on this since 2005; they looked at the flood plan and a few other things; the County has been so concerned about the flood plan and the development of Merritt Island that it has been concentrating a lot on cleaning the barge; and it has been doing a pretty good job. He went on to say that the Small Area Study, conducted by the Army Corps of Engineers, states that Merritt Island is shaped like a bowl; there is no place for the water to go, so it needs to be a significant investment before the County puts in more parking lots or other things; and the reason is because of the run off. He mentioned he talked to a cruise line employee, and he said there is plenty of land at the port; the port is developing; the port should develop parking for their own boats and everything else; he was at the meeting on June 11; he heard that the applicants wanted to have their business running Monday through Friday, but this evening they said there will be multiple cruises on Saturday too; and the cruise line employee says they are coming and going constantly; and with the announcement of the new mega ships there will be over three to six thousand people coming and going. He indicated that the intersection has been identified by the FDOT as one of the most ten dangerous in Brevard; it is subject to flooding; he came across the Barge Canal today, and he looked at the retention pond; it has drained some; it was a 20 minute rain; that intersection is a single point failure for the evacuation route; and the reason he brings that up is because FDOT told him they are going to look at that intersection in the future. He went on to say as State Road 528 becomes eight lanes, FDOT does not know what they are going to do; the Barge Canal is two lanes; they are not sure what is going to happen with the traffic when that bridge goes up and down; so it is going to be a bottlenecked area; a rain event will flood that intersection; there will be a lot of cars; there is going to be someone that will think they can make it across there; they are going to try; and it will be even more dangerous, more chaotic, and hamper a lot of different people in a lot of different ways. He thanked the Board for listening to his concerns and requested they do the right thing by disapproving this Item.

Adam Burkey of Rockledge stressed that Brevard County already has numerous parking lots; Merritt Island already has one of the largest cruise parking lots being built with 586 parking spaces; it is going to be an eye sore; there is nothing residents can do about it; it is already in place; and that is reason the CUP was put in place in 2018. He went on to say that Brevard County and Merritt Island residents did not want more parking lots like that; the CUP was voted on to make it tougher for parking lots to be put in place; there are numerous reasons why this item is a bad idea; he was hoping to speak after others came up to explain why it is a bad idea; and he is going to explain why he thinks it is a bad idea or share an alternative. He pointed out that on page 21 of the meeting minutes from North Merritt Island Dependent Special District Board Meeting on June 11, 2020, the property owner, Matthew Phillips, stated, "If we don't get it, it will go to a plaza. We are going to open it, and we are going to open it up. We will have 2,400 people coming in there. And I understand their concerns, but it will actually be worsened. I will rent those out. I will make the plaza filled. I am not going to leave it empty."; he suggests the alternative be that Mr. Phillips actually fill up the plaza so it creates Brevard County businesses; there are approximately 12-16 spots in there; and it is a strip mall, so use it for a strip mall. He inquired from the Board if they would rather see tax revenue from 12-16 different businesses or just one part-time business; would it be better for 12-16 local businesses to create jobs and employment for Brevard residents or one part-time employer/owner to have contract drivers who may not have benefits or may not live in Brevard County; would the Board rather have 12-16 businesses where local residents shop and keep their money in Brevard County's local economy or one part-time business that only caters to tourists with no access to the local economy; not to mention having a full service bar next to a school bus stop, whether it

is in the morning or the day, it is still by the school bus stop; it will be all the time; and it will not just open at certain hours.

Patrick Stahl of Merritt Island informed the Board he lived in the Sunset Groves subdivision; he is here on behalf of himself and his wife, Jessica Beale; he requests the Board to deny the proposed CUP and the removal of the BDP based on the lack of due diligence performed by the property owner and his team; during the Special District Board meeting on June 11, Chris Cook, one of the Board members, asked Ms. Rezanka, the applicant's lawyer, if the applicant had a permit from FPL to do long-term parking in the 100 foot FPL easement which is located on the south portion of the property; and Ms. Rezanka replied, "We do not need one, because there is parking space there and once again, we do not need one." He reported that he went ahead and did the due diligence for them and contacted Ms. Schwall, the FPL real estate officer, that deals with easements in Brevard County; what he learned from her was they do not allow for overnight or long-term parking in their easements for the fact in an emergency or normal maintenance mode they would not be able to locate the vehicle's owners to have them move the vehicles so they can get their equipment in; it does not actually provide FPL with 24/7 access to their facilities; the second thing he learned is any proposed use of their easement must go through the FPL Consent Agreement process for review and approval; and that means proposed fences as well. He pointed out that the last thing he learned from her was the developer failed to obtain a Consent Agreement when the property was built in 2005; this property is already in violation; he emailed every one this morning; it came in as a late submission; the letter he provided to the Board is from FPL; they wanted him to submit it on their behalf; and the letter is written by Mr. Meier Wise, the FPL Corporate Real Estate Manager. He went on to say the letter states FPL's objections to using the easement for commercial or long-term parking; Mr. Wise talked about the Consent Agreement process, the insurance requirements, and indemnity of provisions of the Consent Agreement; he also stated the applicant has not inquired or made any application for a Consent Agreement; the last paragraph of the letter states FPL would like to have its position be on record for this proposed project as it stands today and would object to its proposed use; and he provided the letter from Mr. Wise to the Board. Mr. Stahl indicated he would provide the copy of the proposed site plan that shows the 100 foot FPL easement highlighted in yellow, and the 54 spaces that cannot be used are in blue; there are 54 spaces in the easement that cannot be used; what Mr. Wise and Ms. Schwall from FPL stated was there was never a Consent Agreement, so even the retention area that was built is in violation; and they were never asked for this. Mr. Stahl addressed storm water issues; he stated the Board had already seen the documents provided regarding storm water issues; he provided pictures of storm water drainage trickling toward Duval Street into its storm water system; he noted the applicants have not done their due diligence; there are a few other issues where they have not looked at the laws; if they cut corners it causes issues down the way; and he asked that the Board to please deny this Item for lack of due diligence.

Ms. Rezanka inquired if Mr. Stahl spoke with a lawyer from FPL.

Mr. Stahl replied he spoke with the real estate officer that deals with easements.

Ms. Rezanka confirmed that Mr. Stahl did not speak with a lawyer at FPL.

Mr. Stahl responded he spoke with Penny Schwall; and as Ms. Rezanka can see in the letter from Mr. Wise, he is their real estate manager.

Ms. Rezanka inquired if Mr. Stahl noticed the form he submitted was a 2012 form.

Mr. Stahl remarked that is what FPL is still using.

Ms. Rezanka stated it was permitted in 2005, and inquired if Mr. Stahl knew that.

Mr. Stahl replied that was correct, but the FPL Consent Agreement went back way before that.

Ms. Rezanka inquired how Mr. Stahl knew that.

Mr. Stahl responded that the easement had been there way before this property was developed.

Ms. Rezanka inquired why Mr. Stahl has not complained about this before now.

Mr. Stahl replied this would be a good place to bring this up.

Ms. Rezanka inquired if Mr. Stahl had ever complained to FPL or anyone at the County about this civil matter.

Mr. Stahl remarked no, he thought this would be a good forum to bring this up.

Ms. Rezanka inquired if the County Commission can enforce an FPL rule.

Mr. Stahl replied no, but he believes one has to abide by the FPL rule.

Ms. Rezanka thanked Mr. Stahl.

Chair Lober stated he bet Mr. Stahl did not think he would be cross-examined tonight.

Mr. Stahl replied he did not mind.

Commissioner Tobia inquired if the Board could accept the letter from FPL as competent testimony since they are not here, and it is addressed to the City Commission of Merritt Island; and he inquired if that qualifies as competent.

Attorney Bentley replied it is a piece of information the Board may consider, whether or not it is a legal opinion for the regulations that apply in this particular situation is actually between FPL and the property owner; and it is not a County issue.

Commissioner Tobia stated he was not calling into question the validity of the letter, but inquired since FPL is not here does the Board just have to take it at face value.

Attorney Bentley remarked just at face value.

Chair Lober stated he did not think the Board had a way of authenticating it; and he did not think it was forged or put together.

John Boelke of Mims informed the Board he was an attorney and was hired by the homeowner's association to help them with this; he feels like the Maytag repairman, because they have done such a good job; he does not really need to be here; there were two things he wanted to address; the first one was Ms. Rezanka's repeated accusation that the homeowners only reason for objecting to this is because they do not like change; and nothing can be further from the truth. He added that the residents have access to their property through the one street; although they say the number of cars are going to be 35 to 40, he did not think the applicants have a way of putting a hard number in there, because they do not know; the applicants mitigate things by saying queuing will be prohibited and will not happen; and one cannot just say that it is not going to happen and that is the mitigation for it. He went on to say that the CUP requires the applicants to address what the substantive adverse impact would be; he did not think they addressed that; he does not think they met their prima facie case; he looks at it as they are not meeting the requirements of the Comprehensive Plan, because they

want a CUP and they want to change the BDP; he is going to let the residents talk, because they do a far better job explaining why they do not want the bus stop in the middle of a bunch of busses and cars going through, because children come and go from early in the morning until later on in the morning; then they come back in the afternoon; people are going to be coming and going; and he will let the residents talk.

Ms. Rezanka inquired from Mr. Boelke if he considered Matt Phillips testimony to be substantial and competent based on his years in the industry.

Mr. Boelke replied he thought so.

Ms. Rezanka inquired if Mr. Boelke looked at the 2002 specific criteria for the CUP for the overnight commercial parking lot, the five criteria, and the on-site consumption of alcohol requirements.

Mr. Boelke replied he did and was also at the Board meeting in Merritt Island; he did not speak there, because they did a better job than he thought he could ever do in addressing this, because they are the homeowners.

Ms. Rezanka inquired which of the five criteria for an overnight commercial parking lot, he believes the applicant has not satisfied.

Mr. Boelke responded he would start off with the traffic study; the traffic study was done with an expectation that the building would be completely filled with commercial businesses, and they estimated 2,900 cars a day; it has never been filled; it has had rarely more than a third filled; the 2,900 is not an appropriate number; and for the applicants to say they are going to be way less than that with 500 is an expectation that he thinks they can address.

Ms. Rezanka inquired from Mr. Boelke if he read the traffic study, because it addresses how many will come from the space.

Mr. Boelke replied yes.

Ms. Rezanka inquired if he knew what the number was.

Mr. Boelke replied 2,990 or something like that.

Ms. Rezanka inquired what would it be just for the cruise parking.

Mr. Boelke remarked he did not recall what it was and if Ms. Rezanka would tell him.

Ms. Rezanka stated no, because he did not read it; she affirmed whether he knew that a traffic study was submitted, but he did not think it was proper.

Mr. Boelke replied he thought the number was excessive, because they were expecting the entire building to be populated; and the building had never been populated.

Ms. Rezanka inquired if there are any other criteria he believes were not met for the CUP for overnight parking.

Mr. Boelke replied the queuing; he does not think the applicants can project whether or not there will be any queuing; they have no way of knowing whether queuing will be required or not; and the No Parking signs along Duval Street does not mean that cars will not park there.

Ms. Rezanka inquired where there is a requirement for queuing in the overnight commercial parking lot.

Mr. Boelke responded it was in the conditions of the proposed CUP stating queuing is not needed, and there will be no queuing.

Ms. Rezanka stated she was just talking about conditions one through five that was agreed upon.

Mr. Boelke stated he would have to wait and see the end result of the FPL study.

Bill Mitanis of Merritt Island provided the Board with pamphlets; he stated he was opposed to the parking lot conversion at 3345 North Courtenay Parkway; he is not here only to represent his family but also all the children that ride the three busses on the bus route twice a day; the conversion of this property would seriously impact children coming and going to school each day while increasing the traffic on Duval Street including, but not limited to the volume, the time of the day, activity, and vehicle types of those entering and leaving the facility; and it would be in direct disagreement of the Brevard County Administrative Policy 5G of the Future Land Use element as cited in Section four, paragraph A. He went on to say this coupled with the addition of an active hard liquor drinking bar would also further exacerbate the situation; as the Board can see on the diagram he provided, his community bus stop is within a 100 feet from the first entrance of this facility; this, in conjunction with the increased traffic, will make the school bus pick up and drop off extremely unsafe for the children when the cruise lot is in operation; and the cruise parking area will all exit by the bus stop and go to the left or the right on Courtenay Parkway as indicated with the blue arrows on his diagram he provided to the Board. He continued to say that the increased traffic will cause hindrance for the school busses leaving Duval Street to complete the bus route; dropping off and picking up other kids along the bus route, as the Board can observe by the yellow broken lines on the diagram he provided; there is no other location for the bus stop in his neighborhood due to the fact they only have one entrance in and out; the bus does not come into his community; and it would require a bus backup operation which is not allowed by the Florida Department of Education (FDOE) statutes. He pointed out that at the North Merritt Island Dependent Special District Board meeting on June 11, one can look at the minutes from page 10 and 11; Board member, Mr. Jack Ratterman, inquired from Mr. Phillips about the proximity of the proposed use and the bus stop on Duval Street; Mr. Phillips replied, "Correct. This bus stop is picked up in a commercial area, which is a little beyond me. You have Mr. Crisafulli's construction company on the right and then you pull in, and we are on the left. I am confused why there is a bus stop in a commercial area, and why the pickup and drop off of the children isn't in the residential area where the children live."; and he asked the Board for more time.

Chair Lober stated he would give Mr. Matanis more time if he could wrap everything up in 30 or 40 seconds.

Mr. Matanis stated Mr. Phillips opposes it and already admits there is a safety issue for the kids to be out there; Mr. Phillips states on page 10 and 11 that he has five children; he thinks Mr. Phillips would not want his children out there; he asked if the Commissioners had children and would they want their kids standing at the bus stop in that area where tourists come in, who are not familiar with their surroundings, driving near the bus stop and trying to find out where to go; and the business will be serving alcohol; it is not a good thing; it is all about safety; about the children's safety; and they are the future.

Ms. Rezanka inquired when did Mr. Phillips admit there was a safety issue.

Mr. Matanis requested Ms. Rezanka to check her minutes.

Ms. Rezanka stated by what Mr. Matanis said Mr. Phillips did not understand why there was a bus stop in a commercial zone; and she inquired if there was something else.

Mr. Matanis replied he will show her page 10 and 11 of the minutes.

Chair Lober proposed Mr. Matanis put it on the projector so Commissioner Smith has the benefit as well.

Mr. Matanis read the minutes by stating, "Correct. The bus stop is picked up in a commercial area which is a little beyond me. You have Mr. Crisafulli's Construction Company on the right, then when you pull in you have us on the left. And you have the bus stop there. I am confused about why there is a bus stop in a commercial area and a pickup and drop off of these children. Isn't that in the residential area where the children live? They actually walk out where they are and go to a commercial area to be picked up by a bus? I would make a suggestion that they may want to look at that, because of safety,"; it is in the minutes; and it is for safety.

Ms. Rezanka inquired from Mr. Matanis how many children use that bus stop.

Mr. Matanis replied if it matters; there is an elementary, middle, and high school; and there is a bus route that picks up all of North Merritt Island on there.

Ms. Rezanka inquired if all the children are picked up by 9:00 a.m.

Mr. Matanis responded Ms. Rezanka would have to check.

Ms. Rezanka inquired if he did not know.

Mr. Matanis replied she should check; and that is her due diligence.

Ms. Rezanka stated it was in the record that he did not know that is why she was asking if he knew.

Mr. Matanis replied Ms. Rezanka states that the children should be picked up by 9:00 a.m., but no one really knows what is going to happen or if the schools are going to reopen or what kind of busses are going to run; and no one is really sure what Mr. Phillips is going to do.

Ms. Rezanka stated no, Mr. Phillips has testified what he is going to do.

Mr. Matanis pointed out that Mr. Phillips has testified what he wants to do.

Chair Lober stated he wanted to explain why he was doing what he was doing with respect to this item; if the application ends up getting denied, the applicants will not have any issue if he gives the applicants every opportunity to appropriate time; he is going above and beyond to do everything appropriate so that if this application is denied, he does not know whether it will be or not, there is less likelihood of liability on the County's behalf; he is not trying to show favoritism to one side or the other; and no one should take that giving Ms. Rezanka extra time as supporting her; and or conversely not supporting her. He asserted it is the safest thing to do from a liability perspective on the County's behalf; he wants to keep things brief, with respect to the rebuttal; it would be appreciated if things to be asked are answered; that would be wonderful; no one should harp on them; he understands from the residents' perspective that Ms. Rezanka may be perceived as the bad guy; they should understand that she is doing the job she needs to do for her clients; he expressed for them to try to answer her questions; if they do not think Ms. Rezanka is giving them enough time to provide a complete answer, he will not let her cut them off; he will allow them to finish their thought; he will certainly let them do that;

everyone is going to have a chance to fully vent; if not for Ms. Rezanka, then for him, to make his life a little easier, let her ask her questions; if one does not know her answer, tell her so; everyone will get through this a little faster; and hopefully be a little more pleasant as well.

Sara Inmon of Cocoa Beach stated she is a sixth generation Merritt Island resident; her mom's family was one of the first founding families on North Merritt Island; part of the Barge Canal was land that was taken from her family in exchange for what is now Pioneer Cemetery so that the canal could be constructed; for this reason, she has a very intimate understanding of the change that has happened on Merritt Island and on North Merritt Island in particular; and she takes an insult to being referred to as a hen for not liking change. She went on to say that she lives in Cocoa Beach and learned today that the applicants also own and operate the cruise parking at the Double Tree hotel; prior to COVID-19 happening and the cruise industry shutting down completely, there was a queuing issue; there were customers who did not know where they were going, where to turn into, or where to turn out; it is also a busy intersection; there is a Publix there, several condominium complexes, a lot of elderly citizens, and it does create backups; she has been late more than once to an appointment due to backups from that location prior to all of this; and she cannot reference any right now, because she has been working from home for several months. She expressed that her concern is her family still lives on North Merritt Island; she is there all of the time; she has been subject to the barge bridge being up, the traffic congestion issues that it causes on both the north and south sides of the bridge, and the other large cruise ship parking that is going on in those areas; her request to the Board is to think about his or her daily commute, one's neighborhood, where one lives, and if he or she would like that additional traffic right outside of his or her neighborhood on top of a launch traffic jam, a bridge going up because a sail boat needs to go through, or whatever else is going on; there have been many times where she has had to go through Titusville and around, and it is a big inconvenience to a lot of people in that area. She continued while it is nobody's business why the applicants want a liquor license, the fact of the matter is, these are people's homes; this is their lives; this is where they live; the residents do not get to go there between 9:30 a.m. and 1:00 p.m. and this is where people live; that is what should be considered; does this fit around the community, and would the Commissioners want it in their own homes and in their own backyards; she would like to point out that the Best Western in Titusville that Mr. Phillips referred to as his sleep and cruise is the first hotel off of Interstate 95; the people stopping there are not spending a lot of time in the community; they are stopping at a \$63 a night hotel, driving, parking, and trying to spend as little money as possible in the community; and there is no economic benefit to any of the residents.

Gary Smades of Merritt Island stated he lives north of the bridge; the bridge knows his name very well; he was told by the County, when the first parking lot was going to be built, that there were no restrictions at that time, and it was never going to allow it again; the County stated it now had restrictions in, and it would not allow another parking lot in the future; now another parking lot is going to be built unless the Board turns it down; SpaceX, National Aeronautics and Space Administration (NASA), and all the other companies are hiring like crazy; Courtenay Parkway is so busy compared to 11 years ago when he first moved there; it is only getting worse; there will be busses and cars; when then the bridge goes up, because a little sail boat is putzing through, traffic is backed up for miles; and the police and firefighters are not able to get through. He asserted that if someone wants to sell their house, the house values will be terrible; that person will not be able to sell his or her house once someone sees all the traffic and the people able to drink from 9:30 a.m. to 1:00 p.m.; he did not understand what that was all about; he did not think the residents need that; there is plenty of room on State Road 528; he does not understand why the County lets everything be put on Courtenay Parkway; State Road 528 has room up and down both sides; there is nothing there; and let the applicants build over there somewhere. He continued to say that more and more cruise ships are continuing to come to Cape Canaveral; it is not going to be just a few; the cape is building; there are going to be more and more ships; it is going to be the biggest port in Florida, if it is not already; when the bridge

goes up, there is a super traffic jam; SpaceX crossing is also an issue; drivers go north and have to make a U-turn; if the light turns red or the bridge goes up, it stops traffic; and it is just a mess trying to get out of there. He asserted that he did not think his community needs this parking lot; he noted that for 30 years he was an air traffic controller, so he knows traffic; he worked for Chicago O'Hare, Los Angeles, Miami, San Francisco; he knows what traffic is; and the community is going to get it if the item goes in to effect.

Chair Lober inquired if Mr. Smades was there during the Reagan years.

Mr. Smades replied if Chair Lober wanted to know the story.

Chair Lober stated he would like to hear it in 10 seconds.

Mr. Smades replied he has a wall in his home made out to Reagan; he was fired by President Reagan in 1981; he went to work for the Department of the Army as an air traffic controller; in 1994 he was notified he was going back to Federal Aviation Administration (FAA); he was rehired and then retired in 2003; he still did not hold it against Reagan; and he asserted Ronald Reagan was the best President the country ever had.

Chair Lober said he would not argue with Mr. Smades on that point.

Commissioner Tobia stated he was not going to judge President Reagan's stance on amnesty, but that was a different issue; President Reagan was a Democrat longer than he was a Republican; he inquired if Mr. Smades called the County recently when he was informed that there would not be a parking lot there.

Mr. Smades replied no, it was when the first one was not even built yet.

Commissioner Tobia stated then it was not done recently; and he inquired who told him there would not be a parking lot there, because that is a Board decision not a staff decision.

Mr. Smades responded that he could only tell Commissioner Tobia that there was a telephone number in the Merritt Island News that said to call this number with any complaints; he did and talked to gentleman that was rude; the gentleman said there were no restrictions then, but there are now; and he stated there will never be another parking lot.

Commissioner Tobia inquired if Mr. Smades knew who that individual was that he spoke to.

Chair Lober stated it sounds like Mr. Smades did not know.

Mr. Smades replied John Doe; he had no idea who he was; this was months ago; and he did not say that he has to speak to Commissioner Tobia so he has to have the gentleman's name.

Commissioner Tobia stated that Mr. Smades mentioned he was an air traffic controller; and he inquired from Mr. Smades what level of expertise does he have that would allow him to talk about future home values.

Mr. Smades replied an air traffic controller has nothing to do with it.

Commissioner Tobia stated that was his point; he noted that Mr. Smades made a statement that home values would decrease; and he inquired what level of expertise, education, or what certificate does he hold to know that home values will decrease.

Mr. Smades replied he probably owned at least seven rentals in California, Michigan, and

Florida; he knows one thing; when the traffic gets so bad...

Commissioner Tobia inquired what degree or certificate...

Mr. Smades replied he had no certificate.

Raymond Scarpa of Merritt Island stated he lives in Sunset Groves; he has lived there for 23 years; he mentioned that a lot of the points have been touched on already; he wanted to show on the bus stop map that the two driveways that the Board sees on the south side of Duval Street is the subject property; the bus stop is right between those two driveways; he read from Administrative Policy 5, criteria G regarding the school bus stop; and he had a couple of points to it. He went on to say the two driveways he already mentioned was the first point; the traffic accessing this public property would most likely be accessing the two driveways on Duval Street; since the intended use for the property is for cruise parking, it will result in a substantial number of vehicles traveling down Duval Street to park; currently his community has very little traffic on that street, because the plaza is not doing well; there are not that many cars there; the traffic coming to park, trucks making deliveries of food and beverages, various vehicles to deliver luggage for storage, and the coming and going of the shuttle bus to and from the parking lot will present a danger to the school children of this development. He continued that the school children walk to the bus stop that is located between the two driveways; Duval Street is the only access to and from his neighborhood; if the street becomes blocked with traffic it will impede access to and from the residents' homes; and the residents of Sunset Groves respectfully requests the Board denies the CUP, because they feel like it threatens the safety of their children.

Commissioner Pritchett inquired if the school bus drives down the driveway to pick up the children or does it stay on Duval Street to pick them up.

Mr. Scarpa replied the bus stop is inside the industrial plaza.

Commissioner Pritchett inquired if the bus goes inside.

Mr. Scarpa replied he was not sure if the bus stops on the road or goes in the driveway.

Commissioner Pritchett stated if the bus goes inside the driveway, she was trying to figure out how it turns around.

Mr. Scarpa replied the bus goes down the road from the North to the South; and then it goes into the driveway, and then there is an exit point.

Commissioner Pritchett held up the map and stated she figured the bus comes down from the north and exits to the south onto Duval Street to get back to North Courtenay Parkway.

Mr. Scarpa pointed to the map and noted the bus route.

Commissioner Pritchett stated she wondered how the bus turned around.

Mr. Scarpa replied he did not really know.

George Alden of Merritt Island stated he was representing the Merritt Island Moose Lodge; his lodge has approximately 3,000 members; there are 150 to 200 cars a day from the women coming in and out playing Bingo, Marshon, having lunch and so forth; he wants to echo everyone else's concerns about the traffic; he wants to know what kinds of problems they will have with the traffic from the parking lot on Smith Road and Courtenay Parkway; the gentleman that spoke before him stated there were 586 cars are in that; he spoke to Dixon Electric, they

are putting all the electric in there, and they said 600 cars; and he was just wondering what kinds of problems the community was going to have with the traffic just off the bridge. Thomas Valk of Merritt Island stated he lives in the Sunset Groves subdivision; he respectfully requests the Board to deny the request from the applicants, MI Plaza, LLC; there were a couple of issues that need to be addressed thoroughly; although the traffic issue was discussed earlier, he wanted to give the Board a few different points; it was stated the applicants have covered all the requirements for the changes; however, he strongly disagrees due to the fact that there is nowhere in any of the documents that he could find where it addressed the undue hardship of the people who live in the subdivision, because there is only one road in and out; and the safety and quality of life of the existing neighborhood, which is a criteria per the Administrative Policies, was never addressed. He went on to say there were some issues that need to be discussed that were not covered; for instance, in the trip generation study that was provided, there was never anything in there that discussed how the applicants are going to handle the additional truck traffic; since they are going to have a restaurant and additional bar service, they will need service for food and restaurant supplies; and they will have luggage storage in approximately 23,000 square feet of the facility which is a lot of freight trucks and luggage. He stated based on his public school math, it figures out to be 141,000 cubic feet of storage that will be in the facility; the applicants want to use it for luggage storage for out of town visitors; most likely that will come via freight service or carrier; therefore, the residents will have the impact of larger size trucks; Mr. Phillips already stated there were large sized trucks already in the area that used his facility to turn around in; and he mentioned it was important to look at the routing map that the applicants provided in their site plan. He continued to say that the applicants show the entrance to be at the far west of the parking facility in their site plan; therefore, all vehicles will have to go down Duval Street; the applicants made it very clear in the hearing at North Merritt Island that there will be chains or gates to the entrances; with the property only being open from 6:30 a.m. till 1:00 p.m. he does not know how they will control luggage drop-off and delivery without those vehicles being parked on the street or for consumers that come to use the facility potentially having to wait until the chains or gates are opened; and he contends that it will cause industrial and commercial traffic down into his subdivision looking for possible locations to turn around since there will be gates all around the facility. He concluded he believed those traffic issues are important and need to be considered; he asks the Board to read his document fully; in closing he wanted to bring up a couple common sense points; number one, Ms. Rezanka brought up the point of enforcement; she quoted an email that was provided to the Board from then, Assistant Attorney, Morris Richardson stating that the BDP and CUP have teeth; however, there is a basic problem with this facility at this location; the teeth that are expressed in the statute are required by citizens to report; Brevard County's website specifically states that zoning issues are to be documented by residents and notifying the Board; the residents are not allowed on this property; it is completely private; and if the primary enforcement is through the citizens, how can they possibly monitor the CUPs.

Jerry Perlet of Merritt Island stated he sent the Board a full testimony through an email, so he is only going to focus on one thing, CUP application requires a traffic study; the point was made that it was submitted; that box can be checked off; however, if one reads that study, he or she will discover that it is woefully inadequate, it is based on old data; and he figures it is from 2017. He went on to say the traffic count during the pandemic isolation document is dated March; the numbers are not current; they do not project the future traffic from the 500-600 cruise parking lot on the canal or the thousand houses approved for construction or the increased number of SpaceX employees using Courtenay Parkway to reach the Space Port; there is no data on the intersection of Smith Road and Courtenay Parkway; and there is no data on the Courtenay Parkway and State Road 528 intersection. He continued that these intersections will be impacted significantly by busses with trailers, delivery trucks of all kinds, and lots more cars; there is no data on the accidents and the deaths that have occurred on the intersection of Duval Street and Courtenay Parkway; the traffic report dismisses the study of

deceleration lanes, as they are not needed, because the project is going to reduce traffic; the owner says the shopping center is basically vacant and generates hardly any traffic at all; the traffic study projects 900 trips per day; and there will clearly be a need for a right turn lane onto Duval Street and an extended left turn lane on Courtenay Parkway. He further stated the traffic report says there will 45-120 cars per day; the owner says there will only be 20-40 cars per day; the report neglects to even mention the busses with the trailers, the delivery trucks with the luggage from United Parcel Service (UPS) and Federal Express (FedEx), and the deliveries from the bar and the restaurant; the data in this report is all over the place, inconsistent, and unreliable; the traffic report does not discuss the school bus stop near the entrance of the proposed facility; and it does not even mention the church preschool across the street on Courtenay Parkway. He stated he wondered if there will there be a crossing guard around to protect the children; the traffic report does not address the new bridge that will be built on NASA Causeway; he asked the Board to imagine the traffic jams that will be there; he reported that the Board will be adding 120 more cars coming from Titusville; the fact is the traffic report is inadequate, and it fails the application; and at the very least, the Board should require the applicants to do a proper traffic report with current and future numbers.

April Burson of Merritt Island stated she is a resident of Sunset Groves and is also a licensed real estate agent; she is a member of the National Association of Realtors and Space Coast Association of Realtors; she has knowledge of property values being diminished; her clients, who were trying to buy in her neighborhood, would potentially refrain from buying in her neighborhood within the vicinity of a park and ride facility; she provided the Administrative Policies the applicants are in violation of; and she votes to deny this. She continued that some of the things her clients would be looking for, if she was showing them a home is the location, the quality of life they could have, and also the resale value of the property; when she purchased a house in Sunset Groves in Merritt Island, she bought there because she saw that it was a nice, quiet neighborhood; it was close enough but far enough away from growth and the Space Program; and she thought it would be a great investment property for her. She went on to say that when people are selling their home the first thing they look at is curb appeal; when one drives up to a property and looks at it, he or she thinks, "Wow! This is a really nice area."; that is the first thing someone will see and what makes a first impression on someone that is going to buy property in a neighborhood; the second thing a buyer will see is the quality of life; what is it going to give to his or her family; what is he or she going to attain from living there; if someone lives by a place that is going to be selling liquor from 9:30 a.m. to 1:00 p.m. by a bus stop, people will refrain from living there if they have a family; they will not want that in their neighborhood; and that is a quality of life issue. She pointed out that if someone has problems selling a home in that area, it is going to affect the resale value of the whole neighborhood; if someone puts a house up for sale that continues to get passed up, it will sit on the market for a longer period of time; he or she will have to worry about reducing the listing price on the home so that it is more comparatively priced for what is in the surrounding area; the more he or she diminishes the asking price, the more likelihood the other homes will have to be sold at a lesser price, because that is the way the market is; it affects the appraisal values which takes away from the community and other neighborhoods in the area; one will see a diminish of value not only in Sunset Groves, but in other communities such as Sunset Lakes; and she reiterated that she hopes the Board will deny the request for the applicants.

Chair Lober inquired if Ms. Burson could shed some light on Commissioner Pritchett's earlier question as to where the school bus stop is located.

Ms. Burson used the map Ms. Rezanka provided to the Board to point out where the bus stop is; she stated the children have to walk from Sunset Groves, down Duval Street, past the applicants' business on the opposite side of the street, and get picked up; some parents may walk their kids, but other parents do not; there are three different times that the students are picked up; there is an elementary school, middle, and high school; the bus will be there six

times; so it is not just one bus at one time; and it will also fluctuate with the amount of children in the community. She asserted that kids grow up and move away; there will always be an exchange of children coming in and using that bus facility; kids can be exposed to potential problems of safety when it comes to cars entering into her neighborhood; although the applicants stated people would not be coming into her neighborhood, there is only one ingress and egress of her community; people will be coming in when they are lost or if the facilities' entrances are gated or blocked off; and they will drive into her neighborhood and have to make U-turns.

Chair Lober stated Commissioner Pritchett's question has been thoroughly answered.

Commissioner Isnardi inquired if Ms. Burson knew the history of why the bus does not come into her neighborhood.

Ms. Burson replied that her neighborhood has two cul-de-sacs on each side; the bus cannot come into the cul-de-sac, because there is not enough room for the bus to maneuver around; there is also a rule that school busses are not allowed to back up to prevent running over someone; it is a safety issue; there is no way for a bus to come into her neighborhood and pick up children safely; and therefore, the bus has to pick them up at the designated spot where there is a point of entry and a point of exit.

Ms. Rezanka inquired from Ms. Burson if she had done any analysis of homes for sale near any restaurant along Courtenay Parkway such as Kings Duck Inn (KDI), Beef O'Brady's, or any other restaurant.

Ms. Burson replied she is not an appraiser, so that is not part of her job.

Jack Ratterman of Merritt Island stated he came to voice his opposition to the application; the voltage that goes across the FPL right-of-way easement is 500,000 volts; the substation that is fed by that easement is part of the NASA and part of the Air Force side of Cape Canaveral, which could be directly related to homeland security issues if they cannot use that access; as for the busses, elementary, middle, and high schools use that bus stop from 7:00 a.m. to 5:00 p.m.; the additional traffic would put children at risk; the State does not like busses to use cul-de-sacs, because they are unable to turn; the school busses do not have the turn radius to go around; and they do not back up. He went on to say that people have come to Florida and not respected the area; a good example of this is John Walsh and what happened to him; an increase in traffic next to the bus stop would be a disaster; in the prepared work for the residents at the North Merritt Island Dependent Special District Board meeting, there was a notation that stated there could be a 15 percent value reduction as result of the proposed CUP; the County is the expert witness; with the decrease in property values and putting children at risk, he requests the Board to deny the applicant; he has heard a lot of talk about red herrings; he says it is fairy tales and smoke in mirrors; and every time the applicants come before them it is always changing to new stats and new ways to finagle the property. He questions how the applicants are going to control customers that come in at the beginning of the day to buy liquor and deny those at the end of the day; he does not believe that if a customer walks in with money in their hand that the applicants will not sell them liquor or a pizza from their restaurant; he does not get it; and he requests the Board to deny the application.

Commissioner Tobia stated he was listening to Mr. Ratterman's best reason to deny; he requested Mr. Ratterman to explain how a CUP for alcohol or overnight parking will jeopardize homeland security issues.

Mr. Ratterman replied it is the right-of-way; the right-of-way for the 500,000 volts that travel from the mainland, over the Indian River, and across Merritt Island to the substation.

Commissioner Tobia stated Mr. Ratterman said homeland security, so he inquired if the Russians or North Korea were attacking.

Mr. Ratterman replied no; his understanding is that one of those facilities out there has buoys throughout the world that are listening in the oceans; if that station went down, and they could not listen that would have something to do with homeland security.

Commissioner Tobia stated he was in shock that Mr. Ratterman put a parking lot together with homeland security issues; that was his best reason; and he thanked Mr. Ratterman for keeping him awake.

Chris Minerva of Merritt Island stated everything has been said over and over again such as the Administrative Policies, 4A, 5B, 5G; the biggest concern he has is for Duval Street and for the development behind it; it will be more industrial looking; there will be more traffic; his biggest concern is that he lives in North Merritt Island; and he has more than a couple acres of land. He expressed that he wants it to be rural; sometimes when he leaves he cannot get over the bridge; it takes 10-15 minutes to get off; he knows there is a study being conducting for repaving State Road 3; they need more lanes on State Road 3; he heard it mentioned that there are 1,000 houses, but it is really like 3,000 over the past three years, that have been approved; that will add 4,500 cars; in addition the Space Center is growing; there are only two ways on and off that island; they are far apart from each other; and they are both with two lane bridges. He went on to say that they are drowning in growth; everything else has been said; and he feels like it is just one more peg in the dike.

*The Board recessed at 7:39 p.m. and reconvened at 7:55 p.m.

Chair Lober inquired of Attorney Bentley if there are some particular items that she thinks might be more appropriate for the Commission to consider in evaluating the proposal; he knows there are specific requirements that were articulated at the beginning during the introduction in terms of what the Board can consider, and by extension, what it cannot consider; and what among the discussion has she heard that she thinks the Board should consider.

Attorney Bentley replied the concern is whether or not the Board has been provided competent, substantial evidence; sometimes there are concerns, for example, such as traffic engineering expertise; citizens can testify about things that are in the common knowledge, such as things that they observe or things that they know; traffic engineering is an example of something where they may not be able to testify with expertise regarding turning movements and long-term estimates as to how traffic will be impacted, but they can certainly testify as to what they see now; for example, if they sit at a traffic light for five minutes, they can certainly testify to that; they can testify as to increases they have seen, things of that sort; things within the common knowledge such as what their neighborhood is like or what the impacts they have seen from adjacent commercial uses; and that sort of thing is all competent, substantial evidence.

Ms. Rezanka thanked the Board for its patience and with her setting a record for what she is concerned could be a litigation; she does not threaten it, but she is concerned that it could be; she wanted to address some of the concerns that the neighbors spoke of; their concerns are real to them, but they are speculative; there is no evidence that anyone from any commercial zoning site has went into their neighborhood; and there is no evidence that 30 to 60 cars coming in and leaving in one day will enter into their neighborhood. She affirmed that this lot is a destination location; all customers have reservations before they go; they all have Global Positioning Systems (GPS); they all know where they are going; the lot will have a sign that says, Go Port; people are going to know where they are going; they are not going to randomly go through a neighborhood; that is pure speculation; and it is just not going to happen. She went on to say that nowhere has it ever been said that the lot will only be open Monday through

Friday; it has been in the traffic study that was done a long time ago; it shows the days of the cruises, and Saturday is the biggest cruise day there is; in regards to the traffic study it was based upon historical data from 2018; it shows the peak volumes and the combined totals for one day, October 2, 2018; this is how traffic engineers work; the traffic at this particular point was 23,000 trips a day; this is not even close to the capacity; and these new cars will not increase the levels of service for this road. In response to the man who said traffic has increased since 11 years ago, in 2009 the historical data at this location on Courtenay Parkway, just a half mile north, was 27,000 trips a day; it is now down to 23,000 trips a day according to the FDOT information; no traffic studies were done during COVID-19; there is no requirement for a traffic study; this is a developed site; and this is something that was permitted for 37,500 square feet of retail. She went on to say there is only 27,500 square feet now, and that it is not necessarily being used; there are 8,500 feet being used right now; the primary use will be commercial parking; it is a destination location; cars come and go; cars go into the commercial development to the north; no one testified that people are going to Luke to the north or traveling down their road; and they are concerned about this road. She reported that the 2004 and 2005 denial of the CUP for alcohol was because of a 10,000 square foot billiard hall; that evidence is not substantial for now; the residents asked how would they know if the customers will not be drinking except when stated; she reiterated that was a condition of the BDP; there was talk about undue hardship to the residents; this use is not in their neighborhood; this use is adjacent; it has a buffer of over 200 feet between the nearest home; and there are only a few homes that even back up to the this site; she added that the buffering keeps the safety of the residents and also its use; regarding the criteria, she went over them repeatedly; even the Planning and Zoning Director said he thought they had met the criteria for overnight parking except for the traffic study; the traffic study requirement is a traffic study statement or report of traffic patterns, which has been provided to the Board by a traffic engineer; the CUP for alcoholic beverages is in the right zoning category and not close to a school; a school bus stop is not a criteria; no one has said that they have been concerned about UPS or FedEx trucks going down their neighborhood; this is just another speculation that the residents have; they are not sure; they do not like it; and they do not know. She mentioned the applicants understand it is a concern; any new development may have problems, but that will not happen; it is a low-intensity use; it has less traffic than a shopping center; the barge canal is not an issue; it is only a small number of trips; the hours the facility is open should be regulated; and it has been provided to the Board. She added that the number of cars going over the bridge in the morning is inconsequential; a school bus stop is not a criteria for a CUP; the property is commercial; Duval Street is a public a street; the commercial property was permitted through the County, St. John's, and FDOT to be used with the public street; whether anyone likes the applicant's business plans or thinks it will fail is irrelevant; whether they can obtain a liquor license is irrelevant; all of the comments that have been provided to the Board have not had facts to refute the prima facie case that the applicants meet the code requirements; and the significant fact is the zoning district where MI Plaza, LLC is located is zoned for light industry. She reiterated the County has created this problem by zoning it light industrial; if one looks at what a PIP is, it allows an industrial next to a residential with sufficient buffering; the applicants have met the CUP requirements; objections of large number of resident from an affected neighborhood are not a sound basis; they will not be affected; they have not shown they will be affected; numerous objections are not given a cumulative effect; and laymen's opinions that are not supported by facts do not constitute substantial evidence. She asserted to not be swayed by a pound of paper and twenty people that are concerned with no facts as to what may happen in their neighborhood; that neighborhood came in after the property was zoned PIP; and the applicants request the Board approve the CUP's and remove the BDP.

Commissioner Isnardi stated obviously it is not her district, so she is able to give her unbiased opinion not pressured by the residents that she directly serves; this is one of those situations where the Board is bound by the law if the applicants have met the criteria; if the Board can

determine that, whether the Board thinks the facility belongs there or not, is not for the Board to decide; if the business is zoned this way, then it meets the criteria; to threaten a lawsuit has never scared her before; but based on history, the Board would probably lose that lawsuit based on the information that she was provided. She pointed out that although they listen to testimony, there has to be facts provided; it is difficult sometimes to prove; Attorney Bentley spoke well about it; residents can talk about their experiences, but they cannot discuss what may or may not happen, because they have to provide evidence; she recommends moving to approve; and she motioned to remove the BDP and approve the CUPs.

Commissioner Pritchett agreed with Commissioner Isnardi's statements; her hang up is what if the applicant changes his mind and puts another business in.

Ms. Rezanka replied that is one of the suggestions herself and the applicants suggested for the CUP; and that it is limited to overnight parking use.

Commissioner Pritchett inquired if that is all they are going to do or if the applicants are going to change their mind later and change it into other businesses.

Ms. Rezanka responded no; if they did the business owners would shut down, someone else would come back and do something else; and the CUP would expire.

Commissioner Pritchett stated that was her struggle; and if the Board approved could there be parking issues later.

Ms. Rezanka recommended Commissioner Isnardi make the CUP contingent upon the conditions.

Commissioner Isnardi stated she would amend her motion.

Ms. Rezanka reiterated that her client does not just want beer and wine and do not want it limited except to 9:00 a.m. to 1:00 p.m.; and those are conditions that will need to be stated.

Mr. Calkins stated they were on a good path where they will include the conditions; he wants to make sure he is clear on a couple of them, because he heard earlier that they may not agree; from what he understand from the applicant in the discussion is they agree on condition number one, two, three, and four; and in regards to condition number five the applicants would like the beer and wine only to be stricken.

Chair Lober inquired to replace it with alcohol instead of beer and wine.

Mr. Calkins replied it would be full liquor.

Chair Lober inquired if it would be full liquor instead of beer and wine.

Mr. Calkins responded affirmatively; and the hours of operations are okay.

Commissioner Isnardi inquired if the applicants would like 9:00 a.m. to 1:00 p.m.

Mr. Calkins replied 9:00 a.m. to 1:00 p.m.; the applicants approved of number six; and there was a question about the number of cruise parking for condition number seven.

Commissioner Isnardi stated the request was for 232.

Mr. Calkins inquired if the motion was for 232.

Commissioner Isnardi replied that is correct; she did not think there was a significant difference between the original 190 in the condition and changing it to 232, as far as whether the Board can approve it or not.

Mr. Calkins inquired if the motion was for 232.

Commissioner Isnardi responded affirmatively.

Mr. Calkins inquired if condition number eight was good as far as restricting the use to commercial overnight parking, eliminating the mini warehouse, and the business complex.

Ms. Rezanka stated that was her understanding, but her applicant does have the accessory uses for the luggage storage and restaurant lounge that can only be used by patrons.

Mr. Calkins replied that was correct; there were the conditions that the applicant provided which are that the commercial parking is the primary use, and the business hours would be limited to 6:00 a.m. to 1:00 p.m.

Ms. Rezanka remarked 6:30 a.m.

Chair Lober inquired about item number five regarding the limitation of the use of the restaurant bar to cruise parking patrons; and if alcohol would only be for the patrons arriving or would they be served and put out on the roads to go home.

Ms. Rezanka replied only those arriving.

Chair Lober inquired if Commissioner Isnardi contemplated that as well in her motion.

Commissioner Isnardi responded affirmatively.

Chair Lober inquired if Mr. Calkins had anything further.

Mr. Calkins replied that covers it.

Commissioner Isnardi inquired if Chair Lober wanted her to remake the motion with all the conditions, because she did not think she could remember it all.

Chair Lober inquired of the Clerks to the Board if they have all the conditions of the CUP.

Kim Powell, Clerk to the Board, inquired if the hours of operations were 6:30 a.m. to 1:00 p.m.

Mr. Calkins responded that 6:30 a.m. to 1:00 p.m. is the hours of operation for the business, and it is 9:00 a.m. to 1:00 p.m. for the serving of alcohol.

Commissioner Smith inquired if there was a CUP restricting the change of the 9:00 a.m. to 1:00 p.m. use of alcohol in the future; and if the applicants decided it would behoove them for cash flow purposes to extend the time to 5:00 p.m., can they just arbitrarily do that or does it restrict it from 9:00 a.m. to 1:00 p.m.

Attorney Bentley replied it is not an arbitrary act on their end; it would have to be an amendment to the CUP; the applicants would have to come back to the Board of County Commissioners; and these are conditions on the CUP.

Commissioner Smith noted that answered his question.

Commissioner Tobia advised there are two CUPs on the motion; he understands all the conditions; he was taking notes; and he inquired if the motion contemplates both CUPs.

Commissioner Isnardi replied yes, it was stated already; it was mentioned right before the Board went through all the conditions; and the motion is for both.

Commissioner Tobia apologized and stated he just caught on; he will be registering a no vote; but he would be in favor of it, if for some reason it does not go, the condition regarding the alcohol only.

Chair Lober noted that he and Commissioner Tobia agree on that.

Commissioner Tobia stated he was a little disappointed that the Board was limiting the restaurant and bar to the cruise patrons.

Commissioner Isnardi inquired if Commissioner Tobia does not want patrons to park there, but he approves of them to drink.

Commissioner Tobia replied that his understanding was against limiting it to the patrons; he thinks that anyone should have the ability to drink, assuming they are at least of legal age.

Commissioner Lober remarked that he and Commissioner Tobia are not on the same page after all.

Attorney Bentley inquired if there has been a second to the motion.

Commissioner Lober replied there has not; and he inquired from the staff if they have ever denied a CUP for alcohol.

Mr. Calkins responded to the best of his knowledge they have not; however, previous Boards have denied it based on testimony and staff's research on this site.

Chair Lober stated in at least the time that he has been here, 18 months, he does not think he has ever denied one or perhaps any prior to that for some time; and he inquired if Mr. Calkins can recall the last one that has been denied.

Mr. Calkins replied he does not know if there has been any since he has been a director.

Chair Lober inquired how long he has been a director.

Mr. Calkins stated three years; and he does not believe there has been any denials in the last five years that he is aware of.

Chair Lober informed the Board that he does not know if he has a valid, legal basis to deny the CUP for the alcohol; he does think he has a valid, legal basis to deny the CUP for the overnight commercial parking; he is opposed to removing the existing BDP without there being another BDP to replace it; if the motion was bifurcated to address the CUP for alcohol, he would approve that, but he is not going to approve anything else in the application; he thinks there are too many concerns and unknowns; and he does not think it is a good fit for the community. He continued to say Ms. Rezanka pointed out things the Board is not entitled to consider which he is not considering; there were also quite a few documents that were brought up at the last minute to the extent that they were not previously provided in the disclosures he provided; he did not have much of an ability to consider them; if those documents had something new he would not have had the time to look at it; hence the reason why it is good to have things in advance; after speaking with staff extensively and doing due diligence on the front end, it gave him a good understanding of the scope of the project and what is contemplated; he is not willing to remove the BDP; he is not willing to do the CUP for overnight commercial parking;

and he does not think he has a basis to deny a CUP for alcoholic beverage service.

Commissioner Tobia stated he spoke incorrectly; he and Chair Lober are on the exact same page; he did not want Chair Lober to think they were different on that aspect; his only disappointment was that it was limited to cruise patrons; he thinks everyone should be able to purchase the alcohol there; either way he would vote for it with the limiting factor, but he cannot vote for the BDP at this juncture nor for the overnight parking.

Chair Lober replied he appreciated it and thanked Commissioner Tobia for the clarification.

Commissioner Smith stated Chair Lober had raised some interesting points; he is inclined to second the motion by Commissioner Isnardi, but Chair Lober raised some interesting points.

Chair Lober remarked to Commissioner Smith not to do it.

Commissioner Pritchett stated she was going to second the motion by Commissioner Isnardi; her thought is if this complex was broadened by a lot of businesses, there would be a lot more traffic; when people are just using it as a parking lot it is really kind of calm; the only thing she has a little bit of a struggle with is buses coming and going to pick people up, but she thinks that will be limited to a certain amount of hours; she knows this is Chair Lober's District and he carries more weight on this; from everything that she has been listening to, it is close to the road; she thinks there is going to be less traffic density; and she thinks from a legal perspective the applicants proved their point.

Chair Lober mentioned that he understood where Commissioner Pritchett was coming from; he thinks the point that was emphasized this evening that resonated with him was it is not just the parking for patrons; if the applicants are dedicating an ungodly amount of square footage to luggage storage and presumably receive it, not only when the patrons show up with the luggage in their trunk, but from a third party, whether it is a freight company, UPS, FedEx, USPS, Dalsey, Hillblom, and Lynn (DHL), or Airborne Express, the bottom line is he is concerned there will be a lot of heavy commercial traffic on that road; he does not like the fact there is a school bus stop there; he is concerned about that; he understands that there is a commercial operation in the north; it may be tenable with one commercial operation, but having two introduces an element that was not previously there, and it compounds the potential for there to be a problem; he appreciates that there are sidewalks in the area; he thinks that is great; that in and of itself does not resolve the issue in his mind; and he thinks the sidewalks lessen the likelihood of an issue, but he would rather keep that likelihood as low as possible.

Commissioner Smith noted that since the business hours of operations are going to be 6:30 a.m. to 1:00 p.m. and alcohol will be served from 9:00 a.m. to 1:00 p.m., most school buses are on the road between 7:00 a.m. and 8:30 a.m. and after 1:00 p.m. in the afternoon; and he inquired if that would impact the school buses and the school kids walking around.

Chair Lober replied that it was not necessarily the alcohol that was his concern in the morning pickup; the increased level of traffic is a concern; any kind of carrier delivering luggage or anything the applicant would be storing on behalf of the patrons would not be restricted to 1:00 p.m.; he hopes that UPS and FedEx and all the others would deliver to his house by 1:00 p.m., but that never happens; they can come at any hour of the day; and he does not know if that particular street is a good fit for that increased level of traffic or a variety of traffic; and it is not like it is just a few single cars, but large commercial vehicles.

Commissioner Isnardi inquired if Mr. Calkins could list the potential uses and traffic generation for the current BDP as opposed to what is being proposed.

Mr. Calkins replied the current BDP is for a conditional use application for the consumption of

alcohol.

Commissioner Isnardi inquired if the applicants could put a bar there.

Mr. Calkins responded the applicants would need to do the conditional use; their original conditional use expired, because they never received their license; and theoretically, if the applicants could accept those conditions that were already established through that BDP...

Commissioner Isnardi inquired if applicants sued the County for that CUP.

Mr. Calkins replied he did not know if they did for that particular one.

Commissioner Isnardi stated she believes the applicants sued and were victorious in that suit.

Mr. Calkins remarked he knew there has been ongoing trial to get the alcohol, and it took three tries to get it; without the cruise parking or the conditional use, this being classified as a zoned PIP, it allows for a lot of uses; it can be manufacturing, warehousing, or retail; it has been developed, and the County looked at this from a site planning standpoint; it can be a business complex with professional offices; and there are a lot of other uses.

Commissioner Isnardi inquired if the applicants would not even have to come back to the Board without the CUP.

Mr. Calkins replied affirmatively.

Commissioner Isnardi inquired if unless the applicants did a BDP for some reason, but at its current state they could be doing something...

Mr. Calkins stated in its current state they could be doing those things on the property with the only thing that they would be limited to would be if they came back for alcohol, because the BDP would kick in.

Commissioner Isnardi inquired if the applicants could put in a large, retail space in there.

Mr. Calkins replied they could.

Commissioner Isnardi stated that would be probably the worst case, but since the Board is talking about many hypotheticals she just wanted to put that on the record.

Mr. Calkins replied there are many uses that are allowed on that zone in that classification.

Chair Lober stated that he did not doubt that there are many uses that are permissible as it is currently set up that would be horrible for that area; if this is something where the residents get what they want and have this precluded, which is what he hopes the outcome will be, they may end up in a worse situation down the road; that said, just because there is a potential alternative that is bad or arguably worse does not mean that the Board goes forward with a bad idea to begin with; that is essentially where he is at; he is not saying that the alternative is better; he thinks the Board has a legal and valid basis to deny what has been requested; if it ends up being down the road that there is something that is worse certainly the community will have had their input at this juncture, although he hates to say it, at that point they will have brought it on themselves; and he does not see the "what if" as an alternative of possibilities to be the basis to approve or deny a particular application.

Commissioner Pritchett noted that she thought this decreases problems versus increasing problems; if a manufacturer or a retail business occupies that space, there are a lot of

deliveries that go along with that; an overnight parking lot will just be there with some in and out; she had asked earlier what the applicants thought the traffic would be during the day alongside with deliveries; her hang-up was if the applicant brought in extra business and patrons had to park outside the parking lot; and her other concern was patrons entering and exiting the premises. She went on to say that Duval Street is already being used for industrial use; that would be the entrance to a whole strip mall anyways; she does not know if that road really has a lot of pull on her right now; she thinks that this use might have less traffic than when it was a sports bar at one time; she thinks this could be less of a problem; the only thing she thinks could be more of a problem are people coming out of the area to park on the bridge and that has her attention; and if there will be less traffic than if a very good business was in there, whereas people will be coming from another area to come there, she believes it will be less of a problem.

Chair Lober stated he does not reside on the north side of the barge canal, but his office is not far to the south of it; the way it is currently constructed is an atrocious set up; anything that increases volume there is going to make it worse, but he understands where Commissioner Pritchett is coming from; he cautions her not to get too hung up on the what-ifs, because if one of those other options was appealing to the applicants they would have brought that to the Board by this point; whether there is not enough equity to make that a reality or if there is a concern that it cannot be monetized properly he does not know; he has not sat down and contemplated it to that degree; the Board can only look at the proposal before it to determine if there are sufficient concerns to deny it or if there is sufficient merits to approve it; he does not feel like the applicants made the case with respect to it; and he does recognize the residents can end up with something worse down the road, but it will be self-inflicted if that should come to pass.

Commissioner Pritchett inquired if the Board approves a full bar, and the overnight commercial parking does not get approved, if it could end up being a bar with a lot of traffic.

Chair Lober inquired if that depends on what conditions are associated with it.

Attorney Bentley replied affirmatively.

Commissioner Isnardi stated it is not for her to say, because usually the Board defers to the Commissioner who is residing there; she is just looking at the legal basis of a denial and does not see it; if she did, she would be on board quickly, because this is Chair Lober's District; she knows that Chair Lober is an attorney, but they do not always agree on health care issues, even though she is a health care professional; and her position is that based on what was presented, she does not see a reason to deny it.

Chair Lober reported that he could not say there was no chance the County would be sued, and he thinks it would probably be sued if the Board denies it; however, he does not think the threat of a lawsuit is a valid basis to take an action; and it is certainly a possibility.

Commissioner Isnardi remarked that the County should change the rules or criteria as much as it can to fit what it thinks is best for developments; the County does not use hypotheticals, but yet it does; the Board uses hypotheticals all the time in its arguments when it says the applicants can do this or that when it likes or dislikes something; she is not saying the applicants are going to put in a retail strip mall; the applicants may not have to come to the Board and do that; it may be more profitable for them, less drama, or less employees, but if they cannot do this then that may be what they do next; and she is not saying that is the case.

Commissioner Lober noted that it is possible; he is not a land use attorney and never inspired to be one; it was not on the bar exam; he did not study it; he did not take a class in it; and he

has learned all that he knows about land use in his position as a Commissioner. He further stated that, according to Commissioner Isnardi, there is this overwhelming feeling that this case is an absolute loser, and if the Board gets sued then the County will be hung out to dry; and he inquired if that was Attorney Bentley's impression as well.

Attorney Bentley replied she thought there were arguments on both sides; there is evidence on both sides; and it is a finding of the Board as to what it finds to be the most compelling in this situation.

Chair Lober inquired if regardless of what the Board does at the end of the day, does Attorney Bentley think there is an arguable basis or potentially meritorious defense as it were.

Attorney Bentley replied she cannot answer that.

Commissioner Isnardi stated the Board made those arguments; she does not think Chair Lober wants Attorney Bentley to answer that question here in case that is where the case ends up; she is not saying the County would lose; she is saying that she herself does not see a legal basis; she has done so many of these applications over the years; she sat as a council member for a couple of terms; and that was something that was drilled in her head from the beginning. She went on to say although the Board does not like or agree with what the applicants are doing, and the neighbors may be angry, if the applicants have legally met the criteria then, unfortunately, the Board has no choice but to give what the applicants are asking for, unless the Board changes the rules.

Chair Lober stated that is why he agrees with Commissioner Isnardi about the CUP for the alcohol; he thinks there is no question the applicants have met their burden on that; if his sole goal was to placate the residents he would deny the applicants on everything, but he does not think the Board could legally do that; it has to give the applicants the CUP for the alcohol; with respect to the rest, as Attorney Bentley said, there are arguments on both sides; and he just happens to be on a different side.

Commissioner Isnardi advised if Chair Lober disagrees with the zoning on what the applicants can do, then the Board has the ability to change the zoning at some point; and she inquired if the Board can call the question.

Chair Lober replied he did not think there was a second to the motion, so there is no question to call at this point.

Commissioner Isnardi remarked that she thought Commissioner Pritchett seconded the motion.

Chair Lober apologized; he misspoke; there has been a motion and a second; the Board will do it as a roll call vote since Commissioner Smith is on the telephone line; he inquired if the Board understands what the motion is at this point, because he knows there have been a lot of conditions read into the record; and he inquired if there is anyone on the Board that has a question what he or she will be voting on.

Commissioner Smith replied no.

The Board approved requests for removal of an existing BDP; a CUP for an overnight commercial parking lot on 5.48 acres; and a CUP for alcoholic beverages for on premises consumption in conjunction with a 3,100 square foot restaurant in a PIP zoning classification; the CUPs are approved with conditions to include the following: the applicant shall provide a landscape buffer along the north, east, and south property lines in accordance with the Land Use Development Code; the applicant shall provide a turn lane analysis required with the site

development plan to be reviewed by Brevard County Traffic Engineering, reviewed by Florida Department of Transportation, and shall be responsible for the design, permitted, and construction of all necessary roadway improvements prior to utilizing the site for cruise parking; the applicant shall provide a queueing plan to be submitted with the site plan demonstrating sufficient onsite queueing distance for both arriving and departing customers; applicant shall install no parking signs along the north and south sides of Duval Street prior to utilizing the site for cruise parking; the CUP limits the use of the restaurant and bar to cruise parking patrons only, limits the number of seats to 100, and limits the on premises consumption of alcoholic beverages from 9:00 a.m. to 1:00 p.m. only for those patrons who arriving; with hours of operation limited to 6:30 a.m. to 1:00 p.m. of the overnight commercial parking; the CUP shall prohibit outside entertainment activities or outdoor entertainment, music, and the use of a public address PA system; the CUP shall limit the number of overnight commercial parking to 232 spaces; and the CUP shall restrict the use of the site to overnight commercial parking lot, luggage storage, and the restaurant lounge only, thus eliminating the business complex, mini-warehouse, and the other uses on the site.

Result: Approved

Mover: Kristine Isnardi

Seconders: Rita Pritchett

Ayes: Pritchett, Smith, and Isnardi

Nays: Lober, and Tobia

K. PUBLIC COMMENTS

L.1. Frank Abbate, County Manager, Re: Board Report

Frank Abbate, County Manager, stated in light of the Board's action that it took on Tuesday, adding non-profits to the Small Business Recovery Program option and adopting that program that the Board approved, he wanted to bring before the Board whether it wanted to expand what it did for the CareerSource StopGap Employment Program to include non-profits, because in that proposal it specifically said profit only and now that the Board has approved non-profit, he thought it was something the Board might be interested in doing; he already spoke to CareerSource, and they were fine doing it as part of the same program with no changes to the program; so he wanted to bring that before the Board to see what its thoughts were.

The Board approved expanding the CareerSource Brevard Stop Gap Employment Program to include non-profits with no changes to the program.

Result: Approved

Mover: Kristine Isnardi

Seconders: Bryan Lober

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

L.4. Bryan Lober, Commissioner District 2, Chair, Re: Board Report

Chair Lober noted he has to be careful, because he has a non-disclosure agreement with the Economic Development Commission (EDC) that prohibits him from getting too detailed in what he is about to say; the EDC reached out to him on an EDC related project; they have asked for a letter of support; what they are asking him to sign and what they are proposing is covered by a non-disclosure agreement that hopefully all of the Commissioners have been able to discuss with Lynda Weatherman, President and of the EDC; and it will not cost anything to the County. He informed the Board there is no tax implication on the County side where it would be giving

up anything; it is cost free to the County; the EDC is asking for a letter of support; he cannot get into the details, although it makes requesting the authorization to sign the letter awkward; and he inquired which Commissioners have spoken with Ms. Weatherman in respect to this item.

Commissioners Isnardi and Pritchett replied they did.

Commissioner Tobia said he had, but he did not sign the non-disclosure agreement.

Commissioner Smith replied he spoke with Ms. Weatherman too.

Chair Lober requested the Board to make a motion to authorize him to sign a letter of support in order to further the EDC project on behalf of the Board.

The Board authorized Chair Lober to sign a letter of support for a proposal that is covered by a non-disclosure agreement with the EDC, with no cost to the County, to help further a project on behalf of the Board.

Result: Approved

Mover: Kristine Isnardi

Secunder: Bryan Lober

Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

L.5. John Tobia, Commissioner District 3, Re: Board Report

Commissioner Tobia stated on Tuesday the Board voted to add non-profits under the grants for the Small Business Program; while he was prepared to vote no, he was not prepared enough to advocate his position accordingly; he would like to point out things that could result in handing out tax dollars to some of these non-profits with disgusting mission statements; some are obvious such as North American Man/Boy Love Association (NAMBLA); its mission statement is, "Goals to end the extreme opposition of men and boys and mutual consensual relationship."; and another example of a non-profit, which he apologizes to have to say them, but they are possibilities, is Westboro Baptist Church. He continued that if the Board would like to find out more about the Westboro Baptist Church he or she can go its website, www.godhatesfags.com; another one of these non-profits is the Nation of Islam Mosque 74; their national leader, Louis Farrakhan, has repeatedly attacked the Jewish and gay population; in a statement he said, "The Jews do not like Farrakhan so they call me Hitler. Well that is a good name. Hitler was a very great man."; and it goes on and gets worse. He noted that some of the non-profits are not as objectionable so he looked up some of the ones that file; the Shark Hunters International, which he thought sounded like a pretty cool name so he looked it up; it is a Neo-Nazi organization that uses its funds to organize trips to places that are important to the Third Reich; they believe that Hitler did not commit suicide and escaped to Argentina; their views are so extreme that even certain Neo-Nazi groups believe the Shark Hunters International go too far; and he requested that citizens not public record request his search history.

Chair Lober inquired if that was a dare.

Commissioner Tobia stated one will find plenty of other bad ones there; he knows the Board probably did not realize this when it approved by majority vote to add non-profits to the small business grant program; however, this is the reality; before the Board argues that this is a red herring, there is actually a hate group registered right here in Viera; unfortunately, these groups are here; more importantly, the Board determined that these groups only need to have a physical location in Brevard and not necessarily be based here; and it is entirely possible and

even likely that there are many objectionable groups that would qualify for these funds. He added that while he will not make a motion, as his previous nay vote indicates he does not support any of these type of groups; he certainly does not believe anyone else on the Board would either; and if the Board would like to reconsider he certainly would be more than happy to second a motion to make sure these groups do not receive any dollars whatsoever.

Commissioner Pritchett stated she was fine with none of those groups getting money either; she thinks for-profit groups can do crazy stuff too; the Board may need to make sure the County is doing some criteria; and she does not know how to do that legally.

Chair Lober replied that is the worry that he has when the County starts policing what their views are; the best thing may be to do is to task staff to come back before the Board at the next meeting with options to preclude the funding to groups that would be universally objectionable; and he does not know if there will be an easy way to do that.

Commissioner Isnardi stated if the groups were promoting violence maybe those could be excluded from funding.

Chair Lober agreed and stated that would certainly be a good one.
Commissioner Pritchett remarked no hate groups.

Chair Lober stated crime and hate groups, but the question is what is a hate group; he watched a South Park episode that had North American Man/Boy Love Association (NAMBLA), and he thought it was a South Park invention; and he inquired if Commissioner Tobia knew if that was a real group.

Commissioner Tobia replied, unfortunately, it is; what the group has done is they have created other non-profits on top of that non-profit so they can disguise who they are; they have a web page and all that other stuff; these are the ones that are very obvious, but if one digs a little bit deeper he or she will discover that some of the groups that have innocuous names actually have very nefarious intent; he is concerned that whoever the Board tasks to manage the funding could overlook this stuff; and if the Board is concerned about money going to businesses, if it lumps the funding all into one by dividing the 10 million dollars, the more money that goes to the Westboro Baptist Church or the Shark Hunters International means the less money that will go to legitimate businesses. He reiterated that he knows the Board has not contemplated this, and he is certainly not thinking anyone would support any of these groups; unfortunately, people do support these groups; he has not done the research to look at how bad some of these non-profits really are; he is sure 99.9 percent of them are great, but he imagines there are plenty out there that would be eligible for these funds; and he does not think it would be a proper use of taxpayer funds.

Commissioner Isnardi inquired who is to say any for-profit business that applies for funds do not belong to half of these groups; and that would be the part that would be impossible to police.

Commissioner Tobia replied that it is actually not; if money does not get handed out to businesses then this issue does not come up; he understands what Commissioner Isnardi is saying; he thanks her for opening that one up; he can understand one saying that strip clubs give him or her heartburn, but since they are a for-profit business, the County will hand money out; one could say that cannabis dispensaries or gaming and betting establishments are not something; and no matter how one views them, hateful speech about how wonderful Hitler is, minors entering into consensual relationships, if that is even possible, or any of this other stuff does not compare to even the worst for-profit.

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Commissioner Pritchett stated the Board can figure out something legally; when the government gave out all these funds, it gave money to non-profits too; and there has to be something there that is used as criteria to divvy out funds, because she knows churches received funds.

County Attorney remarked that staff would have to take a look.

Commissioner Pritchett mentioned that she thought about the Humane Society and these types of businesses so that is something that the Board needs to take a look at.

Chair Lober noted that Commissioner Tobia mentioned one local hate group; and he inquired if Commissioner Tobia knew if the other hate groups he reported on were here locally as well.

Commissioner Tobia replied the hate group that was local is the Southern Poverty Law Center; he compiled some hate groups on a list, but there was also The Chronicles of Philanthropist, who puts out dozens of hate groups that have a charity status but espouses hate; there are a bunch of them; over the last couple of days he has been trying to put this stuff together to come up with a myriad of lists of not only ones that espouse hate but are just reprehensibly disgusting; and he just mixed them all together.

Chair Lober stated if there were two, or three, or five local hate groups, possibly looking at what these groups do would help Attorney Bentley in formulating how the Board goes about addressing the situation; he does not know; he is just speculating at this point; he does not know how the Board would define hate speech; he does not know if there is a great way; he thinks there are several different definitions of hate speech; and he inquired if Commissioner Tobia had dinner this evening.

Commissioner Tobia responded he was on a diet.

Chair Lober mentioned that he would teach Commissioner Tobia a little Russian from the little bit that he can recall from back in the day; he said, "ya khochu yedu," which means he wants food.

Upon consensus of the Board, the meeting was adjourned at 8:45 p.m.

ATTEST:

SCOTT ELLIS, CLERK

BRYAN LOBER, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA