

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, July 13, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 P.M.

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

ZONING STATEMENT

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

C. PLEDGE OF ALLEGIANCE

Commissioner Tobia led the assembly in the Pledge of Allegiance.

G.1. Tracey C. and Teresa B. Higginbotham (Randy Rodriguez) Request a Change of Zoning Classification from GU to AU (23Z00024) (Tax Accounts 2312731, 2319995, & 2319996) This Item is Automatically Continued to the 08/14/23 P&Z Meeting, and the 09/07/23 BCC Meeting at the Request of the Applicant. Letter Received 06/01/23

Chair Pritchett called for a public hearing on a request by Tracey C. and Teresa B. Higginbotham for a change of zoning classification for GU to AU.

Jeffrey Ball, Planning and Zoning Manager, stated Tracey C. and Teresa B. Higginbotham request a change of zoning classification from GU to AU; the application number is 23Z00024 on tax account numbers 2312731, 2319995, and 2319996; it is located in District 1; and per the applicant, this Item will be automatically tabled to the August 14, 2023, Planning and Zoning meeting, and the September 7, 2023, Board of County Commissioner's meeting.

Chair Pritchett advised Mr. Ball has asked for a motion to table this Item.

There being no further comments or objections, the Board continued the request by Tracey C. and Teresa B. Higginbotham for a change of zoning classification to the August 14, 2023, Planning and Zoning meeting, and the September 7, 2023, Board of County Commissioner's

meeting.

Result: Approved

Mover: Jason Steele

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.2. Sean and Danielle Gleason Request a Change of Zoning Classification from AU to RU-1-13 on 9.47 Acres; and a BDP Limited to 22 Units on Entire 22.21 Acres (23Z00022) (Tax Account 2316598) This Item has been Withdrawn by the Applicant. Letter Received 07/12/23

Chair Pritchett called for a public hearing on a request by Sean and Danielle Gleason for a change of zoning classification from AU to RU-1-13 on 9.47 acres, with a Binding Development Plan (BDP) limited to 22 units on the entire 22.21 acres.

Jeffrey Ball, Planning and Zoning Manager, advised the Board that this Item had been withdrawn by the applicant and that no motion was needed.

G.3. James H. and Kristine F. Sanford Request a CUP for Alcoholic Beverage (Beer & Wine Only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 Zoning Classification (23Z00013) (Tax Accounts 2316090 & 2316106)

Chair Pritchett called for a public hearing on a request by James H. and Kristine F. Sanford for a Conditional Use Permit (CUP) for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a bar, in a BU-1 zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated James H. and Kristine F. Sanford request a CUP for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a bar in a BU-1 zoning classification; application number is 23Z00013, tax account numbers 2316090 and 2316106; it is located in District 1; and if the Chair will look at the Agenda Report there are some conditions that the Board may want to consider as part of the vote this evening.

Chair Pritchett mentioned Ms. Sanford did not turn a card in, and asked if she is good with the requested Item that was given by Planning and Zoning; she mentioned she thinks it is a wonderful thing the applicants are doing; and noted that it is located in her district. She inquired if that is Planning and Zoning's recommendations or Mr. Ball's recommendation.

Mr. Ball advised this Item did not go to Planning and Zoning, it went to the Port St. John Special District Board.

Chair Pritchett mentioned it was the Special District.

Tad Calkins, Planning and Development Director, stated the second bullet, and this is just a suggestion for the Board's consideration, it says to limit the hours of operation, but there is no time frame for that, therefore, he does not know if the Board wants to consider placing a time frame there or remove that from the motion.

Chair Pritchett advised remove it because there is already a noise Ordinance.

There being no further comments or objections, the Board approved the request by James H. and Kristine F. Sanford for a CUP for alcoholic beverages (beer and wine only) for on-premises

consumption in conjunction with a bar, in a BU-1 zoning classification, as recommended by the Port St. John Special District.

Result: Approved

Mover: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.4. CP Venture Five - AMC, LLC (Ron Robbins) Requests a CUP for Alcoholic Beverages (Full-Liquor) for On-Premises Consumption in Conjunction with a Cigar Bar, in a PUD Zoning Classification (23Z00018) (Tax Account 2627467)

Chair Pritchett called for a public hearing on a request by CP Venture Five – AMC, LLC for a Conditional Use Permit (CUP) for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a cigar bar, in a Planned Unit Development (PUD) zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated CP Venture Five – AMC, LLC requests a CUP for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a

cigar bar, in a PUD zoning classification; application number is 23Z00018; tax account number is 2627467; and it is located in District 4.

There being no further comments or objections, the Board approved the request by CP Venture Five – AMC, LLC for a CUP for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a cigar bar, in a PUD zoning classification.

Result: Approved

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.5. John Earl and Chelsea Dominique Bassford (David Bassford) Request a Change of Zoning Classification from BU-1-A to AU (23Z00020) (Tax Account 2003014)

Chair Pritchett called for a public hearing on a request by John Earl and Chelsea Dominique Bassford for a change of zoning classification from BU-1-A to AU.

Jeffrey Ball, Planning and Zoning Manager, stated John Earl and Chelsea Dominique Bassford request a change of zoning classification from BU-1-A to AU; application number is 23Z00020; tax account number is 2003014; and it is located in District 1.

There being no comments or objections, the Board approved the request by John Earl and Chelsea Dominique Bassford for a change of zoning classification from BU-1-A to AU.

Result: Approved

Mover: Jason Steele

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.6. Church of Deliverance, Inc. (Javier & Abigail Acosta) Request a Change of Zoning Classification from IN(L) to RU-1-7 (23Z00027) (Tax Account 2417019)

Chair Pritchett called for a public hearing on a request by Church of Deliverance, Inc. for a change of zoning classification from IN(L) to RU-1-7.

Jeffrey Ball, Planning and Zoning Manager, stated this is a request by Church of Deliverance, Inc. for a change of zoning classification from IN(L) to RU-1-7; application number 23Z00027; tax account number is 2417019; and it is located in District 2.

There being no comments or objections, the Board approved the request by Church of Deliverance, Inc. for a change of zoning classification from IN(L) to RU-1-7.

Result: Approved

Mover: Tom Goodson

Second: Jason Steele

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.7. Rebecca and Allen Potter Request a Change of Zoning Classification from RR-1 and AU to all AU (23Z00011) (Tax Account 3006359)

Chair Pritchett called for a public hearing on a request by Rebecca and Allen Potter for a change of zoning classification from RR-1 and AU to all AU.

Jeffrey Ball, Planning and Zoning Manager, stated Rebecca and Allen Potter request a change of zoning classification from RR-1 and AU to all AU; application number is 23Z00011; tax account number is 3006359; and it is located in District 3.

There being no comments or objections, the Board approved the request by Rebecca and Allen Potter for a change of zoning classification from RR-1 and AU to all AU.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.8. Robin Bland (Scott Jurgensen, Brevard County Fire Rescue) Request a Change of Zoning Classification from AU to GML(I) (23Z00030) (Tax Account 2318407)

Chair Pritchett called for a public hearing on a request by Robin Bland (Scott Jurgensen, Brevard County Fire Rescue) for a change of zoning classification from AU to GML(I).

Jeffrey Ball, Planning and Zoning Manager, stated Robin Bland (Scott Jurgensen from Brevard County Fire Rescue) request a change of zoning classification from AU to GML(I); application number is 23Z00030; tax account number is 2318407; and it is located in District 2.

There being no comments or objections, the Board approved the request by Robin Bland (Scott Jurgensen, Brevard County Fire Department) for a change of zoning classification from AU to GML(I).

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

G.9. Terrence A. Cronin, Jr. and Kathleen M. Hubbard (Mike Burkhead/Gulfstream Towers) Request a CUP for Wireless Telecommunication Facilities and Broadcast Towers in a GU Zoning Classification (23Z00015) (Tax Account 2324077)

Chair Pritchett called for a public hearing on a request by Terrence A. Cronin, Jr. and Kathleen Hubbard for a Conditional Use Permit (CUP) for wireless telecommunication facilities and broadcast towers in a GU zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Terrence A. Cronin, Jr. and Kathleen Hubbard request a CUP for a wireless telecommunication facility and broadcast towers in a GU zoning classification; application number is 23Z00015; tax account number is 2324077; and it is located in District 1. He advised this is a CUP for a cell tower; there will be infrastructure improvements required such as access and other infrastructure which will be addressed during the site plan process.

There being no comments or objections, the Board approved a CUP for wireless telecommunication and broadcast towers in a GU zoning classification, as requested by Terrence A. Cronin, Jr. and Kathleen Hubbard.

Result: Approved
Mover: John Tobia
Second: Tom Goodson
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.10. Stephen J. and Pacharee Ellison Request a Change of Zoning Classification from RU-1-7 to SR (23Z00017) (Tax Account 3008319)

Chair Pritchett called for a public hearing on a request by Stephen J. and Pacharee Ellison for a change of zoning classification from RU-1-7 to SR.

Jeffrey Ball, Planning and Zoning Manager, stated Stephen J. and Pacharee Ellison request a change of zoning classification from RU-1-7 to SR; application number is 23Z00017; tax account number is 3008319; and it is located in District 3.

There being no comments or objections, the Board approved a change of zoning classification from Ru-1-7 to SR, as requested by Stephen J. and Pacharee Ellison.

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

G.11. Afficap Cocoa, LLC (Javier Fernandez) Requests a Small Scale Comprehensive Plan Amendment (23S.03), to Change the Future Land Use Designation from RES 4 and NC to RES 15 (23SS00003) (Tax Accounts 2424005 & 2441241)

Chair Pritchett called for a public hearing on a request by Afficap Cocoa, LLC for a Small Scale Comprehensive Plan Amendment (23S.03), to change the future land use designation from

RES 4 and NC to RES 15.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.11. and G.12. are companion applications; and he will read them both into the record at the same time, however, they will need separate votes. He went on to say Item G.11., Afficap Cocoa, LLC requests a Small Scale Comprehensive Plan Amendment, 23S.03, to change the future land use designation from RES 4 and NC to RES 15; application number is 23SS00003; tax account numbers are 2424005 and 2441241; and it is located in District 1. He continued to say Item G.12. Afficap Cocoa, LLC requests a change of zoning classification from AU to RU-2-10; application number is 23Z00028; tax account numbers are 2424005 and 2441241; and it is also located in District 1.

Chair Pritchett commented it is so easy tonight; and she asked the Board for a motion to approve.

There being no comments or objections, the Board adopted Ordinance No. 23-15, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan," setting forth the third small scale comprehensive plan amendment of 2023, 23S.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, entitled the Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; providing an effective date; and approved the future land use designation from RES 4 and NC to RES 15.

Result: Approved

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

G.12. Afficap Cocoa, LLC (Javier Fernandez) Requests a Change of Zoning Classification from AU to RU-2-10 (23Z00028) (Tax Accounts 2424005 & 2441241)

Chair Pritchett called for a public hearing on a request by Afficap Cocoa, LLC for a change of zoning classification from AU to RU-2-10.

There being no comments or objections, the Board approved a change of zoning classification from AU to RU-2-10, as requested by Afficap Cocoa, LLC.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

Absent: Steele

G.13. Alan B. MacIntyre Living Trust (John Schulte) Requests a Change of Zoning Classification from BU-1 to BU-2 (23Z00032) (Tax Account 2316311)

Chair Pritchett called for a public hearing on a request by Alan B. MacIntyre Living Trust for a change of zoning classification from BU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, stated Alan B. MacIntyre Living Trust requests a

change of zoning classification from BU-1 to BU-2; application number is 23Z00032; tax account number is 2316311; and it is located in District 2.

Melanie MacIntyre stated she has some photos to show; she knows this particular zoning request came about because someone wants to purchase the property and move down the street; they are on the same street, and just need to move for a little more space; they have a beautiful facility now; they keep it perfectly clean; they are quiet; they close at 4:00 p.m.; and they will be located across the street from a vehicle repair shop and next door to a landscaping company. She commented she is not sure why there would be an issue moving it to BU-2. She mentioned she can show pictures of the place that wants to purchase it and show pictures of the place now.

Chair Pritchett advised she has five minutes and she is welcomed to use her time how she wants to.

Ms. MacIntyre went on to show the pictures and explained, this is the facility now; she displayed another photo and advised this is the facility across the street; she mentioned they are trying to get it changed so they can have this, showing yet another three photo; she commented this is the sign, the lovely building, and it will be maintained and quiet; and she noted that is all she has.

Commissioner Goodson advised he would like to make a motion for denial; it does not fit in to the other residents; Ms. MacIntyre's pictures showed no storage; she wants this for large vehicles, dry cleaning, plants, possibly warehousing, storage yard, and major auto repair; and he reiterated he would like to make a motion for denial.

There being no further comments or objections, the Board denied the request by Alan B. MacIntyre Living Trust for a change of zoning classification from BU-1 to BU-2.

Result: Denied

Mover: Tom Goodson

Second: Jason Steele

Ayes: Pritchett, Goodson, Tobia, and Steele

Nay: Feltner

G.14. Norfolk Parkway, LLC (Bruce Moia) Requests an Amendment to an Existing BDP in a BU-2 Zoning Classification (23Z00012) (Tax Account 2802676)

Chair Pritchett called for a public hearing on a request by Norfolk parkway, LLC for an amendment to an existing Binding Development Plan (BDP) in a BU-2 zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Norfolk Parkway, LLC requests an amendment to an existing BDP in a BU-2 zoning classification; application number is 23Z00012; tax account number is 2802676; and it is located in District 5.

Stephen Phrampus stated he is West Melbourne's Deputy Mayor and he is the Sawgrass Lakes President, which is a community of 933, right next door to the resident of the property in question; it seems like it is coming full circle on this; there is quite a bit of history on this property; it looks like Representative Altman is going to be coming back to the Commission in 2024; he was actually the Commissioner in 1991 who was part of this Commission that forced this community landfill to close; and the Commission, at that time, spent about \$500,000 on refunding to the property owner and redoing the land to restore it from where the dump was. He continued by saying moving forward to the prior zoning, February 4, 2021, the zoning was

changed from RES 2 and NC to CC; the developer and Mr. Moia met with the homeowners of Sawgrass Lakes and promised the BDP would be put into place and obviously that occurred because it is what they are trying to change now; there are multiple reasons this was put into place; it was done, so it was 'just cause'; Mr. Richardson can attest that West Melbourne refused services to this property because of its history; and the engineering report submitting the transmittal to the State, when that went up for the rezoning, the report stated that three to five feet below ground, all seven of the test drillings were terminated because they hit debris. He added if structures are going to be put on this property, and have to have drainage, there is no way they are going to be able to do that without removing the debris; the debris is reported as being 28 feet high, so that would be a lot of removal of the debris; that was just a quick history of it; he knows that sometimes developers and politicians see differences in binding development agreements; and he would hope that the Board would know this was put in place for a reason. He noted he would hate to see all that land be evacuated and all the money the County has spent on this to make it where it is, to go to waste.

Commissioner Steele stated he will move to approve.

Chair Pritchett asked Commissioner Steele if he wants to do a traffic study on it.

Commissioner Steele noted he thinks there are a variety of studies that are going to be done no matter what happens with the project; but, he does not have a problem with making that as part of the motion.

Chair Pritchett thanked him; and she advised she thinks it will help him.

Commissioner Steele reiterated the motion is to approve with a traffic study that needs to be completed.

There being no further comments or objections, the Board approved the request by Norfolk Parkway, LLC, to amend an existing BDP in a BU-2 zoning classification.

Result: Approved

Mover: Jason Steele

Second: John Tobia

Ayes: Pritchett, Tobia, Feltner, and Steele

Nay: Goodson

Morris Richardson, County Attorney, asked if staff is clear on what is required by a traffic study; he mentioned the current BDP requires that the developer provide a traffic study detailing required roadway improvements at the time of site plan submittal; and he asked if staff is understanding that.

Tad Calkins, Planning and Development Director, responded in the affirmative; he advised that the traffic study would be need to be done at site plan submittal and any improvements associated with that would need to be approved by the City of West Melbourne because he believes it is the city's roadway. He noted he wants to make sure that the motion was to include the modifications for the BDP to allow for the mini storage.

Commissioner Steele advised it was.

Commissioner Goodson inquired if the Board is going to do away with all the conditions under the previous BDP, and just now have a traffic study.

Chair Pritchett responded, no, she thinks they did all these changes.

Commissioner Goodson mentioned he saw those, but his question is if the Board is doing away with those.

Attorney Richardson stated all of the existing conditions will remain; the only changes will be the self-storage mini warehouse facility will be an allowed use now; and the buildings and structures will be limited to 25 feet in height.

Chair Pritchett advised she is going to do the motion one last time; the motion is to approve with the BDP.

Commissioner Steele commented that is correct.

Chair Pritchett added with a traffic study.

Attorney Richardson advised the traffic study is already included in the BDP.

Commissioner Steele advised of the same.

Chair Pritchett apologized; and she noted she did not see it in there.

Commissioner Steele mentioned it is part of the situation that has to be done.

Attorney Richardson stated it is number 10 in the BDP, unless Chair Pritchett wants something different or more than what is required.

Chair Pritchett advised she does not.

Commissioner Steele commented he knows exactly why the Chair was wanting it, but it was already included in there.

There being no further comments or objections, the Board approved the request by Norfolk Parkway, LLC, to amend an existing BDP in a BU-2 zoning classification.

Result: Approved

Mover: Jason Steele

Secunder: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.15. Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra J. Douglas (Brittany LeCun) Request a Change of Zoning Classification from IU-1 to BU-2 (23Z00023) (Tax Account 3010512)

Chair Pritchett called for a public hearing on a request by Charles Steven Douglas and Debra Kay Douglas, Trustees, and Sandra J. Douglas for a change of zoning classification from IU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, stated Charles Steven Douglas and Debra Kay Douglas, Trustees, and Sandra J. Douglas request a change of zoning classification from IU-1 to BU-2; application number is 23Z00023; tax account number is 3010512; and it is located in District 3. He went on to say when this Item was heard at Planning and Zoning, the recommendation was for approval with a Binding Development Plan (BDP), limiting to all BU-1

uses and the only BU-2 use would be mini storage and boat and RV storage.

Commissioner Tobia asked if the applicant is in attendance. He stated the applicant had not contacted his office, and he asked if she is okay with those conditions.

Brittany Lecun stated she would like the BDP to state the purpose is for boat and RV storage as well as conditioned use for truck and trailer rentals.

Commissioner Tobia inquired if that was included in the recommendation.

Mr. Ball advised it was not included.

Commissioner Tobia questioned, the truck and trailer was not.

Mr. Ball responded affirmatively. He noted that is a BU-2 use and was not included in the recommendation.

Commissioner Tobia stated there was one member of the Board that had a concern with the limitations on the BU-2 stuff; since he did not hear from the applicant, and he only speaks for himself, he is comfortable going forward with the recommendation of Planning and Zoning; and he is also willing to table this to do a little more work to hear the applicant's argument.

Ms. Lecun stated she is fine with that as long as they can add the trailer and truck rentals.

Commissioner Tobia explained that was not in the recommendation; he advised he is willing to listen to her on that and look around as to what the neighbors have, but she never contacted his office to make the case for that.

Ms. Lecun apologized, stating she did not know she was supposed to do that.

Commissioner Tobia reiterated he is more than willing to table and do a little investigation until the next meeting if the Board is willing to do that; maybe that fits; he just read that one of the members, Mr. Hodgers brought up that very point and he was in the minority as it was a 10:1 vote; and he is not saying he is opposed to it, but he is not comfortable without speaking with her and going through the transcripts a little bit more.

Ms. Lecun stated okay.

Commissioner Tobia advised his question to her is would she rather have it approved without that or tabled to a later date.

Ms. Lecun stated she would like it tabled to a later date.

Tad Calkins, Planning and Development Director, advised the next zoning meeting is August 3, 2023.

Commissioner Tobia asked if the applicant is comfortable with that.

Ms. Lecun responded affirmatively.

There being no further comments or objections, the Board continued the request by Charles Steven Douglas and Debra Kay Douglas, Trustees, and Sandra J. Douglas for a change of zoning classification, to the August 3, 2023, Zoning meeting.

Result: Continued
Mover: John Tobia
Secunder: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.16. Mehran Ghaeenzadeh (Scott Glaubitz) Requests a Change of Zoning Classification from BU-1, with an Existing BDP, to BU-2, and Removal of the Existing BDP (23Z00007) (Tax Account 2800735) This Item has been Withdrawn at the Request of the Applicant. Letter received 06/30/23

Chair Pritchett called for a public hearing on a request by Mehran Ghaeenzadeh for a change of zoning classification from BU-1, with an existing Binding Development Plan (BDP), to BU-2 and removal of the existing BDP.

Jeffrey Ball, Planning and Zoning Manager stated this Item has been withdrawn by the applicant and no action is necessary.

G.17. Legacy West Melbourne, LLC (Bruce Moia) Requests a Change of Zoning Classification from AU to RU-2-15; The Property is 2.76 Acres, Located on the West Side of John Rodes Boulevard, Approx. 600 Feet South of Fortune Place (23Z00025) (Tax Account 2704610)

Chair Pritchett called for public hearing on a request by Legacy West Melbourne, LLC for a change of zoning classification from AU to RU-2-15 on a property that is 2.76 acres and located on the west side of John Rodes Boulevard, approximately 600 feet south of Fortune Place.

Jeffrey Ball, Planning and Zoning Manager, stated Legacy West Melbourne, LLC, requests a change of zoning classification from AU to RU-2-15; the property is 2.76 acres, located on the west side of John Rodes Boulevard, approximately 600 feet south of Fortune Place; application number is 23Z00025; tax account number is 2704610; and it is located in District 5.

Chair Pritchett commented this is probably the most interesting one she has seen her whole time on the Board.

Commissioner Steele stated it is an interesting case; this is multi-jurisdictional; it is a zoning request for RU-2-15 zoning on a small piece of property, but it is convoluted with a multi-jurisdictional piece of property that could be developed at the same point in time; it will have West Melbourne involved in it and the County involved in it; it is quite an interesting case, but he thinks the bottom line is that Planning and Zoning basically recommended to approve the zoning request and move forward with it; personally speaking, he thinks Mr. Moia should see if he can make a better way to get this done because he has a mess on his hands; and that is just the way it is. He added it is neither here nor there, that is a business decision that Mr. Moia can make, and come back later, but at least from his standpoint he thinks there is going to be some issues that need to be resolved; based simply on the zoning request for RU-2-15, the way it is right now, he thinks there is a case that the Board can approve it; once again, it is convoluted and there are some issues that are going to have to be dealt with that are not going to be a lot of fun for Mr. Moia; however, that is a business decision.

There being no further comments or objections, the Board approved the request by Legacy West Melbourne, LLC, for a change of zoning classification from AU to RU-2-15, on a property that is 2.76 acres, located on the west side John Rodes Boulevard, approximately 600 feet south of Fortune Place.

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

G.18. Redfish Water Disposal, LLC (James Morris Smith) Requests Removal of an Existing BDP in a PIP Zoning Classification (23Z00019) (Tax Account 2311419)

Chair Pritchett called for a public hearing on a request by Redfish Water Disposal, LLC for removal of an existing Binding Development Plan (BDP) in a PIP zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Redfish Water Disposal, LLC requests removal of an existing BDP in a PIP zoning classification; application number is 23Z00019; tax account number is 2311419; and it is located in District 1.

Chair Pritchett advised the Board this is in her district and she is opposed to removing the BDP; it was changed to this and it is right next to residential to be with a BDP; and she is not in favor of removing the BDP.

There being no further comments or objections, the Board denied the request by Redfish Water Disposal, LLC to remove the existing BDP in a PIP zoning classification.

Result: Denied
Mover: Rob Feltner
Second: John Tobia
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.19. Mina St, LLC (W. Nathan Meloon) Requests a Change of Zoning Classification from RU-1-13 to RU-2-10; the Property is 0.21 Acres, Located on the North Side of South Court, Approximately 600 Feet West of North Highway A1A (23Z00026) (Tax Account 2716147)

Chair Pritchett called for a public hearing on a request by Mina St, LLC for a change of zoning classification from RU-1-13 to RU-2-10 on 0.21 acre, located on the north side of South Court, approximately 600 feet west of North Highway A1A.

Jeffrey Ball, Planning and Zoning Manager, stated Mina St, LLC requests a change of zoning classification from RU-1-13 to RU-2-10; the property is 0.21 acres located on the north side of South Court, approximately 600 feet west of North Highway A1A; application number is 23Z00026; tax account number is 2716147, located in District 5; and to update the Board, Planning and Zoning recommended approval of RU-2-10 with a Binding Development Plan (BDP) capping the lease terms to a minimum of 90 days.

Robert Pope stated obviously he has a history with this residence; his opinion is if the Board changes the zoning he thinks it will open the door for a bed and breakfast and also for a boarding house; the research he found does that; he thinks it should be left as it is; it has been that way for 60 years; there is no advantage; and it does not hurt taxes. He continued by saying there are two different addresses in the location; he does not see the advantage of changing it; the neighborhood does not want it; these people all work and could not be there this evening, but they went the first time and were shot down; and they were a little disappointed. He went on to say he is there to voice his opinion; he lives next door to this place; people have no idea what is going on there; and that is all he has to say. He added he hopes the Board will take that into consideration.

Scott Widerman stated he represents Mina St, LLC; it is actually Cole, Megan, and Warren Nash; Warren is the 18-month old; he is there to give some background facts and he is there to ask for approval; they are okay with the BDP for the 90 days; he knows there has been discussion back and forth and all those things can happen; the short story is this property has been a duplex for over 60 years; it is actually file number and variance number 60 for Brevard County signed by Mr. McLaughlin back in the day when it was brought for purposes of being multi-family; and for 60 years it has been nothing but a duplex, single-family residential duplex under the various zonings. He went on to say in 1973 there was the entire neighborhood change; everything became the current zoning RU-1-13 and RU-1-11; continuing now through 2006, if one goes back to some of the tax records, it has always been a duplex; it is still a duplex; the issue has always been what does one do with a duplex that is 60 years there with a zoning change that made it a non-conforming use; and current zoning allows for the use that is for the rezoning, which is the resort dwelling, with the use conditions. He added the use conditions in this case is going to be the 90-day lease minimum, not a problem for any of them. He stated the new zoning designation does not actually allow in any other overuse; it is still going to be a duplex, it is still going to be single-family, and they still agree to the condition for that designation change; he has a presentation if anyone wants to see it; and he would be happy to answer any questions. He mentioned the applicants intend to use it the way it has always been used, no real changes; if the 90 days is sufficient for everybody, that has been in the plan anyway; and leases have been under that sort of guide.

Commissioner Steele stated he is not struggling with this at all, but he wanted to ask Morris Richardson, County Attorney, a question; and he asked with all this preemption going on for the State government in regards to the issue of a potential 90-day scenario, would the Airbnb preemption override that.

Morris Richardson, County Attorney, stated the County's current dwelling regulations are grandfathered in because they existed prior to the 2011 cut-off; currently those regulations apply to this property and because the BDP is a voluntary agreement between the property owner and the County, he thinks that would be enforceable; he understands what is being said with regard to the preemption; however, the County's resort dwelling regulations are grandfathered in.

Commissioner Steele noted that was a legal question first of all; he thinks the over-riding problem that he has is that he knows that street very well; it is a small, tiny street and there has been complaint after complaint after complaint after complaint of those folks, and he does not know if it is true or not but it is what has been coming into the office, where people are renting it as an Airbnb and continue to rent as an Airbnb with obnoxious loud parties; this is just the tip of the iceberg with the whole Airbnb scenario; he can say he is absolutely appalled by what the State of Florida is doing with the preemption of the Airbnb; he is frightened to death that it is ruining the neighborhoods and communities; and even though there was a recommendation by Planning and Zoning, he cannot in good conscience, knowing that firetrucks cannot get around there, or turn around, and the next thing there will be another coming in for a zoning request for a 90-day thing. He mentioned it is a small little street in an old neighborhood, infrastructure that is totally dilapidated, and really it is a sad situation; he understands the problem that is there, but he cannot support this; and he would move for denial.

Mr. Widerman stated anyone he has ever dealt with in front of this Commission, or any place else where he practices law, it is very clear, when someone does not like it, complaints and things that come in without verification, and he gets it; that happens to everyone; he is concerned that it would be one of the issues without proof of those things; he has also heard, certainly talking to his client about VRBO and those types of things, there has not been a listing for those; it was said that there was Airbnb listings, but it turns out it is a fake listing in order to

drum up a concern, and not by his clients; he does not believe there has ever been an incident on this property or on this street that has had any problem with Fire Rescue, police, or anybody else; and he does not speak for whether the Florida legislature or anybody else is doing the right thing. He noted he agrees with the County Attorney about voluntarily getting into that, but the suggestion of how to make sure that it is not used for the concerns of the Commissioner was joint between them and the County; he gets the concerns, but he has bigger concerns that if they have had that dwelling and they are a non-conforming use and it is going to continue to be that way, what would the next step be for those folks, or not, if they cannot continue to use it the way it has continuously been used, and not for the purpose that is of the concern; the applicants are willing to not use it for the purposed concern; and he reiterated he gets the concern and he thinks the applicants do as well.

Commissioner Steele stated he absolutely understands Mr. Widerman's concerns, however, this entire County is a flame with this kind of stuff and it is happening everywhere; it is a cancer that is really of a major concern to him; the State is taking away local control, the County cannot fight these things, and then it becomes a real problem; that is only thing he can say in a situation like this, specifically when the infrastructure is not proper for what is there, in his opinion, and he is going to ask his colleagues to deny the application; and it will be up to them.

Commissioner Pritchett noted she would not approve it in her district either.

There being no further comments or objections, the Board denied the request by Mina St, LLC for a change of zoning classification from RU-1-13 to RU-2-10 on 0.21 acres located on the north side of South Court, approximately 600 feet west of N. Highway A1A.

Result: Denied

Mover: Jason Steele

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.20. Samir and Ilham Itani Revocable Living Trust Requests a Change of Zoning Classification from AU to EU-2 (23Z00031) (Tax Account 2101052)

Chair Pritchett called for a public hearing on a request by Samir and Ilham Itani Revocable Living Trust for a change of zoning classification from AU to EU-2.

Jeffrey Ball, Planning and Zoning Manager, stated Samir and Ilham Itani Revocable Living Trust requests a change of zoning classification from AU to EU-2; application number is 23Z00031; tax account number is 2101052; and the Board has some options and one of those options is to table the request to the August 14, 2023, Planning and Zoning meeting and the September 7, 2023, Board of County Commissioners meeting.

There being no comments or objections, the Board continued the request by Samir and Ilham Itani Revocable Living Trust for a change of zoning classification from AU to EU-2, to the August 14, 2023, Planning and Zoning meeting and the September 7, 2023, Board of County Commissioner meeting.

Result: Continued

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

**I.1. Amendment to Scope of Work of Bonnie C. Landry and Associates, PA
(Continuing Services Contract - Urban Planning Consultant)**

Commissioner Tobia stated on November 15, 2022, the Board directed staff to add a land use designation study in the South Beaches to the County's contract with Bonnie C. Landry and Associates, PA; unfortunately, the study is no longer of use to the Board after the passage of CSHB 1489, creating an area of critical concern over the South Beach area; therefore, he would like to propose that the Board authorize staff to direct the consultant to cease work on this land use designation study and refocus on the statutory requirements for the area of critical concern; to be very clear, what he is asking does not increase density, it does not change zoning regulations, administratively it does not take away any property rights, it does not amend the coastal element of the Comprehensive Plan Policy 71, and it does not destroy female land crab populations in the South Beaches; if anyone has any questions he would be more than willing to answer and if he cannot answer he will punt it over to staff; and the motion, after discussion will be, to authorize staff to direct the consultant to cease work on the South Beach study and to initiate contract amendment and or task orders as needed to expand the scope of work of the consultant to provide assistance in compliance with the statutory requirements for the area of critical State concern.

Chair Pritchett advised she is in support of this.

The Board authorized staff to direct Bonnie C. Landry and Associates, PA to cease work on the South Beaches study and to initiate contract amendments and/or task orders, as needed, to expand the scope of work of the consultant to provide assistance in compliance with the statutory requirements for the Area of Critical State Concern.

Result: Approved

Mover: John Tobia

Second: Jason Steele

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

J.3. Tom Goodson, Commissioner District 2, Vice-Chair, Re: Board Report

Commissioner Goodson stated July is Parks and Recreation month and he wanted to give recognition to the County's Parks and Recreation Department for all they do for this community; they manage many parks, campgrounds, natural and educational centers, beach access, school athletic sites, and sanctuaries and conservation areas; and the County certainly keeps them busy and they make him proud.

J.7. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report

Chair Pritchett stated she has one little house keeping Item that the Clerk wants her to mention and that is that Commissioner Steele is going to replace Commissioner Zonka on the VAB.

Morris Richardson, County Attorney, advised Chair Pritchett he is going to replace her on that Board.

Chair Pritchett apologized, adding she almost did that twice. She mentioned she is not sure how she ended up on that anyway; and she advised Commissioner Steele he is replacing her.

J.4 John Tobia, Commissioner District 3, Re: Board Report

Vice-Vice Chair Tobia stated today is National Barbershop music appreciation day; it is a yearly

event to celebrate barbershop music, a style of voice only A cappella music this day; to be clear, there is a controversy out there; he does not want to confuse it with another barbershop themed event the national barbershop quartet day, which is April 11; and people of all ages, gender, and nationalities come together to perform at various public and private events singing melodies across genres. He went on to say now to delve into Florida; a useless Florida fact is it is estimated that there is over two trillion dollars' worth of lost treasure within 60 miles of the coast of Florida so metal detector people good luck finding all that stuff; this day in Florida's history is a sad one, in 1927 prohibition officials in Miami dumped more than \$250,000 worth of alcohol in the Gulf Stream, which is about \$4.3 million adjusted for inflation; and now moving on to a good one. He went on to say he would like to recognize Michael Boonstra; he is a Library II Genealogy Supervisor, with over 20 years of experience, which he was unaware that the County even had such a thing, but it does; Mr. Boonstra is a dedicated employee always willing to take on a challenge; he is passionate about the field and serving the community; he is regularly pinged by community members and other departments to unearth some facts or details about Brevard County; he responds swiftly and accurately; he can be depended on to share a smile and inspire others and his actions speak louder; and this year he pulled off a huge success with the Brevard County Library system's 50th celebration, this May 2023, the Florida Historical Society honored Mr. Boonstra with the Dorothy Dodd outstanding archivist award at their annual event in Lakeland, Florida. He continued by saying when Mr. Boonstra is not working he loves to travel, and work in the yard here in Florida and at a cabin in North Carolina; he is an avid workout fiend that enjoys time with his pup.

Michael Boonstra expressed his appreciation for the recognition; and he thanked Wendy Boast, Library Services Director, and Wanda Brown, North Area Library Director, for Titusville and Mims, and Jim Liesenfelt as well; he thanked the Board for its support of Library Services, as the Board knows they are a lot more than just books these days; he mentioned they have a mobile library bringing programs to all kinds of people, the creative lab teaching people technology, and the meeting rooms are providing people with meeting spaces that are desperately needed in the County; although they are a lot more than books, their summer reading program probably has the highest numbers they have ever had in the door; and it has been a great summer with that.

Vice-Vice Chair Tobia thanked him again for all that he does.

K. PUBLIC COMMENTS

Sandra Sullivan stated she is very appreciative of the comments on local rule on short term rentals; secondly, on I.1., what a great thing to celebrate, an area of critical concern for the South Beaches; it is so important in the context of SB 102, live local, which ironically takes away local rule; she wants to revisit the BCC-97, which is a policy for public comments, and read off a section just to revisit this in the context of the vote that was taken for Merritt Island; and she read under Section G. BCC-97, "with the exception of emergency items, the Board will take no action under Public Comment section, but can refer the matter to another meeting agenda or request a staff report." She went on to say she just wanted to clarify that from her comments made in the last meeting; now having received through records requests, a copy of the Request for Proposal (RFP), it concerns her very much that this study is not impartial because a Political Action Committees special interests are advising the consultant on this report; and whereas the consultant is responsible for consulting with Merritt Island Preservation Committee. She continued by saying she wants to bring this up in the context of the Political Action Committee members, three of which are Merritt Island Redevelopment Agency (MIRA) members; a concern was expressed to the Department of Ethics and the concern is regarding Florida Statutes 112.313, that an officer, an employee of an agency, will not have a continuing or frequently recurring conflict between his and her private interests and the performance of

their public duties that would impede a full and faithful discharge of his or her duties; there is a realtor who does sales, a developer, and somebody who does development of property in the area that the developers are looking at; and then it has come to her attention that they met this week at the Merritt Island Library. She added these are three board members meeting, talking about policy or city charter that is being written and other documents being written that includes the MIRA area; and she would ask if sunshine is being violated. She went on to say she would really appreciate if one of the Board members would initiate and ask for a legal opinion.

Chair Pritchett stated just to clarify again, this is the Board of County Commissioners and it can vote any time on any item that it would like because it can override its own policy unless it has to be advertised.

Morris Richardson, County Attorney, advised the Board can waive its own policies unless there is a requirement for advertisement or something like that.

Chair Pritchett agreed with Attorney Richardson.

Attorney Richardson continued by saying the policy that was read from pertains only to the Public Comments section of the agenda, not Board Reports for example.

Chair Pritchett stated she thinks that is just the authority of the Board of County Commissions; and she asked Attorney Richardson, whatever Merritt Island does, it is going to become a vote before the people that live in that area, it is always up to them.

Attorney Richardson replied, ultimately, if the State Legislature adopts a local bill that will schedule a referendum vote for the local voters.

Chair Pritchett asked for clarity that the Board of County Commissioners is not making any decisions on that, it will be totally up to the people.

Attorney Richardson explained the County Commission is simply funding it; that is the way these work; they are usually led by steering committees or groups of local citizens; and the County is just paying the freight.

Chair Pritchett noted that is correct because if citizens need something and the County is able to do it, it always wants to help its citizens get their needs across.

Commissioner Goodson asked if there are any requirements by State law or County law that says steering committees cannot be of a certain group.

Attorney Richardson replied no they are a private body; he had issued an opinion; he thinks there may be some confusion; he had said that MIRA, meaning the Merritt Island Redevelopment Agency is a Dependent Special District of the Board of County Commissioners could not fund the feasibility study, and that has been construed to mean by some that the individual members of MIRA cannot contribute their money towards the steering committee's efforts; that is incorrect and was not his opinion.

Commissioner Goodson inquired by those three or four that might be on the board, if they are on the committee for the approval of the city or un-approval for the city, it is not a violation of anything that he is aware of.

Attorney Richardson replied no, they may do that; they need to be careful not to discuss business that is likely to come before MIRA for a vote at those meetings because of sunshine;

but, they can certainly participate in both of those with no inherent conflict.

Charles Tovey stated he was the first one there for the meeting, he filled out his card and placed it on the desk, and he should not have to wait, but that is okay; he put on his card about water rights; 2555 Roberts Road, Melbourne, and all the area around him is being developed; he has addressed most of the other items except for the one that he cannot address; Palm Shores has nothing to do with him and County; he needs water, city water; everyone else has city water; Jimmy Hula is about to develop and he talked to them; they have no problem with extending the water to him; and he talked to the guy behind him, who needs water as well. He noted he has been isolated from everything because of Palm Shores and their plans and development; he has some pictures he would like to show the Board; he explained this photo is of dog beach and that board is cracked, so if someone leans on it...elderly people...and it is a crowded area...and kids could fall over there; and it is more than a few feet down. He went on to say, this is of one of the turtles, a dead squirrel, that is what is going to happen to the turtles; these are all recent photographs and they have timestamps on them as well; they are not being taken care of, and it is because he cares, and the people who do care; there is a world left and it was given to the people as a responsibility, American human beings and Christian citizens; his adversary is the devil and all the characteristics of the devil; he lives a spiritual life, not a worldly life; and a lot of his life depends on his spirituality and its focus. He added he is not a worldly person, he is a weirdo, stranger, unorthodox, and he thanked the Board; he mentioned he gives the Board the same respect; he has more; he will see the Board in two weeks, he hopes, with or without anything; he appreciates everybody for being a human being; and he asked the Board to excuse any kind of demeanor he may have that is not pleasant to anybody, he does not mean to direct that to anybody, unless it is Mayor McCormick and Sheriff Ivey.

Vice-Vice Chair Tobia stated he will make a promise to Mr. Tovey to shift his card to the top at the next meeting; he just did it randomly this time, but Mr. Tovey will be first next time; and he apologized to Mr. Tovey.

Upon consensus of the Board, the meeting adjourned at 5:59 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

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

APPROVED BY THE BOARD ON AUGUST 8, 2023