

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

The Board of County Commissioners of Brevard County, Florida, met in regular session on May 29, 2014 at 5:03 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

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

ZONING STATEMENT

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

INVOCATION

The invocation was given by Pastor Dan Gish, River Run Christian Church of Eau Gallie.

PLEDGE OF ALLEGIANCE

Commissioner Chuck Nelson led the assembly in the Pledge of Allegiance.

ITEM I.C., RESOLUTION, RE: CONGRATULATING MELBOURNE MUNICIPAL BAND ON THEIR GOLDEN ANNIVERSARY

The Melbourne Municipal Band played 'Salute to the Armed Forces' in the Government Center Commission Room for all to enjoy; and it was very enjoyable.

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Commissioner Infantini read aloud, and the Board adopted Resolution No. 14-098, congratulating the Melbourne Municipal Band for 50 years of entertainment and service to Brevard County, and it looks forward to celebrating their golden anniversary.

Staci Cleveland, Melbourne Municipal Band's Conductor, stated they are very excited about the 50th anniversary, and they are planning many fantastic activities; there is a anniversary ball coming up in September; there is a great event coming up at the King Center in February, which will be the culminating event of the 50th anniversary season; and they are just so pleased to be part of the community and be able to share their talents and gifts.

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

ITEM I.A., RESOLUTION, RE: RECOGNIZING GREGORY PAUL DOXEY FOR ATTAINING THE RANK OF EAGLE SCOUT

Commissioner Nelson read aloud, and the Board adopted Resolution No. 14-099, congratulating Gregory Paul Doxey for attaining the rank of Eagle Scout, and offers best wishes for a successful future.

Gregory Doxey stated he made a prayer garden for his church, complete with a bench, an arbor, and great view of the pond nearby.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM I.B., RESOLUTION, RE: MANAGEMENT WEEK IN BREVARD COUNTY

Chairman Bolin Lewis stated she will be reading the resolution at another time.

The Board adopted Resolution No. 14-100, proclaiming June 1 through June 7, 2014, as Management Week in Brevard County.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

PUBLIC HEARING, RE: PLANNING AND ZONING BOARD RECOMMENDATIONS OF MAY 5, 2014.

Chairman Bolin Lewis called for the public hearing to consider the Planning and Zoning Board's recommendations of May 5, 2014.

ITEM III.B.1., (14PZ-00021) – COCOA EXPO SPORTS CENTER, LLC.

There being no comments, and requested by staff, the Board tabled Cocoa Expo Sports Center, LLC request the following: **Tax Parcel 516** (.53 acres) 1.) A change of classification from TR-1 to BU-1, with a Small Scale Plan Amendment (14S.02) to change the Future Land Use from NC to CC; 2.) CUP for Alcoholic Beverages for On-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the 75 foot required perimeter setback for athletic fields and ancillary improvements; 4.) CUP for light source to exceed 50 footcandles; and 5.) Acceptance of a modified BDP to include this property. **Tax Parcel 502** (47.87 acres) 1.) CUP for a light source to exceed 50 footcandles; and 2.) Amendment to existing BDP (Binding Development Plan). (48.4 acres total) Located on the east side of Friday Rd., approx. 490 feet north of S.R. 520 (Tax Parcel 516: 420 Friday Rd., Cocoa; Tax Parcel 502: 500 Friday Rd., Cocoa)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM III.B.2., (14PZ-00022) – COCOA EXPO SPORTS CENTER, LLC

There being no comments, and requested by staff, the Board tabled Cocoa Expo Sports Center, LLC, requests the following: **Tax Parcel 758** (2.36 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for light source to exceed 50 footcandles; and 4.) Acceptance of modified Binding Development Plan to include this property. **Tax Parcel 762** (.86 acres) 1.) A change of classification from TR-1 to BU-1 and Small Scale Plan Amendment (14S.03) to change the Future Land Use from NC to CC; 2.) CUP for Alcoholic beverages for on-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 4.) CUP for a light source to exceed 50 footcandles; and 5.) Acceptance of a modified BDP to include this property. **Remainder to Tax Parcel 762** (4.5 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Lane Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for light source to exceed 50 footcandles;

and 4.) Acceptance of a modified Binding Development Plan to include this property. **Tax Parcel 817** (.48 acres) 1.) A change of classification from AU to BU-1 and a Small Scale Plan Amendment (14S.03) to change the Future Land Use on that portion with an NC designation to CC; 2.) CUP for Alcoholic Beverages for On-Premises Consumption; 3.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or an area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft perimeter setback for athletic fields, parking, and ancillary improvements; 4.) CUP for a light source to exceed 50 footcandles; and 5.) Acceptance of a modified Binding Development Plan to include this property. **Remainder of Tax Parcel 817** (1.76 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) CUP for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for light source to exceed 50 footcandles; and 4.) Acceptance of a modified Binding Development Plan to include this property. **Tax Parcel 760** (5.45 acres) 1.) CUP for Alcoholic Beverages for On-Premises Consumption; 2.) for Commercial Entertainment and Amusement Enterprises, with waivers to: a.) the required 300-foot minimum setback to an existing residential development or area designated by the County Comprehensive Land Use Plan for Residential Development ; and b.) to the required 75 ft. Perimeter setback for athletic fields, parking, and ancillary improvements; 3.) CUP for a light source to exceed 50 footcandles; and 4.) Amendment to an existing Binding Development Plan. (15.5 acres total) Located on the northwest corner of S.R. 520 and Friday Rd., Cocoa. (Tax Parcel 758: 5120 Highway 520, Cocoa. Parcel 762: No assigned address. Parcel 817: No assigned address. Parcel 760: 335 Friday Rd., Cocoa), to the August 7, 2014, Zoning Meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM III.B.3., (14PZ-00033) - JOSEPH K. AND ANNETTEE G. DITTMER - REQUEST A CHANGE OF CLASSIFICATION FROM GU TO AU(L) ON 1.01 ACRES, LOCATED ON THE NORTH SIDE OF CARAWAY STREET, APPROX. 154 FEET WEST OF CHEROKEE AVENUE (3222 CARAWAY ST., COCOA)

There being no comments, the Board tabled Joseph K. And Annette G. Dittmer's request a change of classification from GU to AU(L) on 1.01 acres, located on the north side of Caraway Street, approx. 154 feet west of Cherokee Ave. (3222 Caraway St., Cocoa), to the August 7, 2014, Zoning Meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

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ITEM III.C. PUBLIC HEARING, RE: ADOPTION OF COMPREHENSIVE PLAN PACKAGE 2014 -1, PLAN AMENDMENT 2014-1.1

Commissioner Infantini stated she would like to take these separately; Plan Amendment Item 2014 - 1.1 changes the zoning on 47 acres, and it looks like staff is changing it to Residential 4, which would be four units per acre, and she is not in favor of that.

Commissioner Nelson stated for the record, this was previously voted by the Commission to get to this point.

There being no further comments, the Board adopted Ordinance Number 14-15a, amending article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2014-1.1; amending section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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

ITEM III.C., PUBLIC HEARING, RE: ADOPTION OF COMPREHENSIVE PLAN PACKAGE 2014 - 1 PLAN AMENDMENTS 2014 - 1.2, 2014 - 1.3, AND 2014 1.4 (CONTINUED)

There being no further comments, the Board adopted Ordinance Number 14-16a, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2014-1.2; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

The Board adopted Ordinance Number 14-17, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2014-1.3; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing on effective date.

The Board adopted Ordinance Number 14-18, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County; entitled "The Comprehensive Plan", setting forth Plan Amendment 2014-1.4; amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part I, entitled conservation element and conservation element map series; Part XV, entitled glossary; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM III.A.1., (13PZ-00110) SECTION 22, TOWNSHIP 20G, RANGE 34, SUB. #A1, BLOCK 7, LOT 1, ON 20.57 ACRES; AND SECTION 35, TOWNSHIP 20, RANGE 34, PARCEL 3, OWNED BY THE STATE OF FLORIDA (DOT) - 18.3 ACRES, LOCATED ON THE WEST SIDE OF I-95, BETWEEN GANDY ROAD AND HIDDEN LAKES (IN THE MIMS AREA. NO ASSIGNED ADDRESS).

Cynthia Fox, Planning and Zoning Enforcement Manager, stated this Item is the existing rest area and this is the home of the Welcome Center; and staff just needs to convert it over to the Government Managed Lands (GML-I) zoning classification.

Commissioner Fisher asked for support and gave staff direction to look into adding gasoline sales as accessory to the GML-I zoning classification. He stated he thinks one of the things that would make the Center more successful is if it was treated like something similar to what one sees on the Florida Turnpike; an example is Turkey Creek where it provides gas at the site; and he does not know if the State or Tourism Development Council (TDC) would be supportive but he thinks if the Board is going to change the zoning that it should give staff direction to add gas as accessory. He advised he has talked to staff and they are okay with that; he thinks it gives the Welcome Center a better opportunity.

Commissioner Nelson stated that is two items; one is the approval of the zoning, and he thinks the Board needs a separate motion; he does not know if he would have that discussion with this associated with this particular item; and he does not have a problem with it being an accessory use; but he is not saying he would agree that is a good use. He reiterated if the Board could have two separate motions, voting on the zoning first, and then to come back and give staff direction to being the process to add it to the zoning category.

There being no further comments, the Board approved the request of Section 22, Township 20G, Range 34, Sub. #A1, Block 7, Lot 1, on 20.57 acres; and Section 35, Township 20, Range 34, Parcel 3, owned by the State of Florida (DOT) - 18.3 acres, located on the west side of I-95, between Gandy Road and Hidden Lakes from GU to GML(I).

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

Chairman Bolin Lewis asked if the Board puts into the zoning category this that within the zoning category the Board is going into or would it have to be changed again. Ms. Fox stated staff would add it to the GML-I zoning classification, but staff would look at the whole section and come back to the Board with an analysis.

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Commissioner Infantini stated there may be some GML-I zoning classifications down in the south beaches, and she does not think she would like to see gas stations there; and she is not in favor of moving forward on this. She added, she would rather have something where staff has it laid out and been thinking about it, and had a chance to research it before the Board starts moving forward putting gas stations at a whole new zoning classification.

Mel Scott, Assistant County Manager, stated staff would come back and tailor the proposed change to the Zoning Code so it would only apply potentially to rest stops along Interstate I-95, and it would take out of the mix the potential that scenario to happen in places like the south beaches.

Commissioner Nelson stated in effect the County would be asking for a legislative intent, which would come back; the Board would give staff direction to do a legislative intent; and then it can vote yes or no at that point in time as to whether to proceed.

Commissioner Fisher stated it could be a Conditional Use Permit and that would single it out to certain sights to go through approval; and he had a vision if gas could be gotten at the Welcome Center, it would be more successful.

Chairman Bolin Lewis stated there is a lot of discussion that would need to be done; with a gas station then one thinks food, bathrooms, it expands; and she will most certainly welcome the discussion at a later date.

The Board directed staff to provide legislative intent to add gas stations to the GML-I Zoning Classification, and bring it back to the Board for its consideration.

ITEM III.A.2., (14Z-00008) - LGH GROVE, LLC AND HARVEY'S INDIAN RIVER GROVES, INC. - (KEN FULMER/DEL AVERY) - REQUEST A CHANGE OF CLASSIFICATION FROM AU AND BU-1 TO EU-2 WITH A BDP ON 111.03 ACRES, LOCATED ON THE NORTH SIDE OF HALL RD, APPROX. 1,020 FT. EAST OF N. COURTENAY PKWY. (TAX PARCEL 505: 320 E. HALL RD, MERRITT ISLAND; TAX PARCEL 264: NO ASSIGNED ADDRESS. IN THE N. MERRITT ISLAND AREA: TAX PARCEL 270: 4870 N. COURTENAY PKWY, MERRITT ISLAND; TAX PARCEL 274: NO ASSIGNED ADDRESS.

Commissioner Infantini stated for the record she met with the attorney present for this project.

Chairman Bolin Lewis stated she did not meet with the attorney, she met with the applicant.

Cynthia Fox, Planning and Zoning Enforcement Manager, stated this is a classification change from Agricultural (AU) and General Retail Commercial (BU-1 to Estate Use Residential (EU), the applicant has voluntarily submitted a Bind Development Plan capping the number of units; this is located in North Merritt Island area; and it was approved with a different zoning classification Rural Residential (RR-1) buy the North Merritt Island Board as their recommendation.

Kim Rezanka, Law Firm of Dean Mead, stated she is representing Titan Reality Corporation, which is the applicant; and with her tonight is one of the principals Ken Fulmer, Larry Harvey, whom of the owner of land in question, Joe Mayer, and Kendal Keith with Planning Design Group out of Orlando. She added, she will be doing an overview; Mr. Fulmer will be talk briefly about the company and answer any questions the Board may have about the development; Joe Mayer will talk about retention and drainage, conceptual plan and the density analysis that he prepared; and Kendall Keith will be discussing the consistency with the County Comp Plan and the Small Area Study, which a portion of the property includes, and the compatibility of the existing land uses. She continued to say this is a zoning change request for 111 acres; this is

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composed of two formally productive orange and grapefruit groves in North Merritt Island about two miles north of the Barge Canal, on Courtenay Parkway, just to the east of Courtenay Parkway and Hall Road; and this land had been in the Harvey family for over 45 years and it is no longer a productive grove. She stated her client seeks to re-zone the property from BU-1 portion, which is adjacent to Courtenay Parkway, and AU; the AU was obviously for the Agriculture Use that no longer exists; the current land use is Residential 2 and that will remain unchanged; and the zoning request is Estate Use Residential (EU-2) with a Binding Development Plan limiting the use to two units per acre, which is consistent with the Comp Plan. She advised the zoning review worksheets sets out most of the information very clearly, that the potential use would be a 25,000 square foot retail space; it would have to be designed kind of strange, but its what could be built there; they are asking for 222 single-family units, it is consistent with the Comp Plan; Traffic has been raised as an issue by some of the area residents, and the staff analysis has shown that it is within acceptable levels and does not change the current level of service of Courtenay Parkway; and the Binding Development Plan will also limit access to Courtney Parkway and Hall Road, with Courtney Parkway being the preferred access. She went on to say it will have a 600 to 700 foot area driveway for egress and ingress; they are going to work with Florida Department of Transportation (FDOT) and with the property owner, the veterinary clinic to the south, to have one joint access and a curb cut, that is the hope; and they will do whatever FDOT allows, but it is consistent with the level of service in the area. She stated the zoning in the area is relatively mixed; it is adjacent to a very large mobile home park with TR-3 zoning; that is the Sun Island Lakes Development, it has over four units to the acre, it is also in Residential 2; it is consistent with the Comp Plan; it is 71 acres and has almost 300 lots in it; and that is what is mostly abutting the property. She noted there is also some AU, some EU-1, some RR-1, with only really development to the south and some development to the north; and less than ten homes abut this other than the Sun Island. She stated there are no school concurrency issues or problems as sufficient capacity exists for the development; at the North Merritt Island Special District Board on March 13, 2014, they did approve a RR-1 zoning with the Binding Development Plan; unfortunately this is not acceptable with Titan Reality because they need the 90 foot width, because the configuration of the property they need the 90 foot width at only EU-2 will provide, RR-1 requires more width; and they need to have some flexibility because of that very odd shape. She added, the residents spoke, approximately nine property owners spoke, there issues were traffic, flooding, drainage, and density; the density issues were that they believed everything should be one unit to the acre; there is a perception in North Merritt Island that they should all be one unit to the acre or higher, but there is no Ordinance, Comprehensive Plan, Policy, or any Study that supports that; and there is in other areas but not in this area. She stated the representatives from Titan Reality and Joe Mayer met with the residents to the south of this property that raised issues about drainage and want to work with their drainage issues, and they have assured them they will not make the matter worse and could indeed make the better because all water will have to remain on the development.

Ken Fulmer, Titan Properties, stated the company has been in the development business for well over 20 years; they are based out of Orange County, but in the North Merritt Island area primarily as a result of a woman in the office who is a partner with Titan Properties and this venture is from Merritt Island; and she knows the area well. He added, with the growing job picture that Brevard County has with the Port, and what is replacing NASA, and what is going on close to the airport with Grumman, they feel this area is a good area; an area that could use residential development; they feel the demand is there, and feel the retire community looks at this area as nice area to move to as well; and even what is going on over in Orange County with Medical City that this is within close proximity to Medical City. He noted, they feel good about the area, they feel the demand is there and feel the area could be a nice community.

Joe Mayer, President and owner Bussen-Mayer Engineering Group, stated he was asked to speak about several things, the first is the site configuration. He displayed a layout; stated it

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has access to Courtenay Parkway and access to Hall Road; 50 foot public right-a-ways with curb and gutter streets; large lakes to take care of drainage; and he is expecting this to be a lovely residential community just like many of them already are in the North Merritt Island area. He advised, the drainage from the site, is a particular concern to folks; he would just like to say drainage runoff from the site must be routed to and treated in the onsite lake systems, again they are expecting some very large lakes as part of the project; and they are not permitted to impact adjacent property drainage and the post development runoff cannot exceed the pre-development runoff that is running off from the grove right now. He went on to explain they are expecting to approve both the quality and the quantity of runoff, because the grove does run off through ditches into the drainage system; and reiterated they are going to improve both the quality and decrease the amount of runoff that is leaving the site. He stated they must prove this to the engineers at FDOT, Brevard County, and the St. Johns Water Management, or they will not get permits or the project; he is very confident that he can address the drainage concerns, take care of the drainage; one is very sensitive in addition to getting just the permits standard thing; and he is aware that the folks around the project have drainage concerns and drainage issues. He noted he and Mr. Fulmer meet with several of the folks on the south side that have concerns. He stated they have started to look at their property as he gets more topographic information they will be able to work through that, and believes they will be able to help them in their situations, certainly in no way would they negatively impact them with the drainage and believes it will be a positive effect. He talked about the density which is very consistent with the other communities in the area; he displayed a chart with several subdivisions, such as Sunset Lakes, Citrus Isle, the groves; and he stated the Board can see that some of the density are a little lower than the project and some are a little higher, they are pretty much right in the middle of all the densities of all the surrounding communities, north, south, east, and west to this particular property. He reiterated the project is consistent with other surrounding parcels and in general the North Merritt Island community; and it is consistent with the Comp Plan and the established Residential 2.

Ms. Rezanka stated she would be passing out Kendall Keith's resume to the Board, and wanted it to know he is a planner with 25 years of experience; he has worked with the local Merritt Island Redevelopment Agency (MIRA) regarding updating their plan, as well as Cape Canaveral, Orange and Volusia Counties; and she asked the Board to consider his testimony as expert testimony.

Kendell Keith, Planning Design Group, stated he is before the Board to address specifically the project is consistent with the Comprehensive Plan goals objectives and policies. He addressed the Future Land Use Element, Administrative Policy 3, and specifically sub-section C, states that proposed development shall be evaluated for consistency with the existing or emerging development patterns in the area; the largest property that it is adjacent to is the Sun Island Lakes mobile home community, more than 4 units per acre, and that is one of the things to address in terms of how the project is compatible with that. He advised the Sun Island Lakes development is also part of the higher intensity that is along the corridor. He displayed a chart to the Board of the development and explained where the surrounding properties were located. He went on to explain at two units per acre the development serves as good transition between the higher intensity along Courtenay Parkway and the lower intensity Future Land Uses to the east; there are a number of developments in the area that are equal to or higher density than the project, these include Cedar Creek Condominiums, which are located on the south side of Hall Road; and even with the large conservation area in there, their density is around 2.3 units per acre. He added, immediately west of the project is a North Grove Subdivision at 2 units per acre; south of Citrus Isle at 2.6 units per acre; and further south is Sunset Lakes, and those are at 2.25 when one counts for everything including the open space amenities, retention. He stated Future Land Use Element Administrative Policy 4 also discusses character of the area; again this project serves an appropriate use that does not adversely impact the character or change the character of the surrounding area; it is consistent with the Future Land Use

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Designation, compatible with surrounding development patterns; and one of the things it references is it is not an intrusion of commercial development within a residential area. He advised, Administrative Policy 5 talks about public facilities; the Board has a report from the School Board stating that there is capacity in all the schools to accommodate this development; the staff report also indicates there is capacity in the road system to support the development; and there is capacity in water and sewer and all the other facilities to support the development. He stated Administrative Policy 6 states that proposed developments must consist with all elements of the Comprehensive Plan in regards to the conservation element, not only does one have Land Development Regulations in place, but it also has the actual Future Land Use designations, which again the most sensitive areas designate as conservation along the creek. He added, Future Land Use Administrative Policy 7 discusses the impacts of proposed development on drainage patterns, which has been referenced, and will certainly be discussed and addressed more specifically in the engineering phase of the development. He concluded by saying the project is consistent with the goals and directive of the Comprehensive Plan; it is an appropriate use of the Residential 2 Land Use Designation; it is consistent and compatible with the development patterns in the surrounding area; and it is consistent with the recommendation of the North Courtenay Parkway Small Area Study, there is a piece of this property that actually falls within the boundaries of the corridor.

Kim Smith, North Merritt Island Homeowners Association, stated the homeowners association represents about 3,500 residents; in considering Section 62-1151(c), of the Code of Ordinances of Brevard County, they must oppose this re-zoning request based on its incompatibility with number three, the proposed zoning classification on available on projected traffic patterns, and number five the appropriateness of zoning classifications based on a consideration of public health, safety, and welfare, namely increase stormwater flooding. She added, all previous building on North Merritt Island has been approved by the County; now the taxpayers in the County are having to resort to some engineering heroics to try to keep up with runoff from all of the them; the County has recently spent approximately \$3 million on a pump and drainage system on North Merritt Island; and she understands it will not alleviate future flooding, but it will shorten the time one is underwater. She asked for the Board to keep in mind there are currently other vacant neighborhoods on North Merritt Island; they are already zoned for multi-unit housing and it has already been approved for economic reasons they have not been built, therefore they are still vacant; and the question is what is going to happen to the stormwater levels when they are built out. She stated it is evident that denser housing is going to create more runoff and that North Merritt Island may have large open acreage on it, but it is evident that North Merritt Island cannot handle high stormwater; he and she have seen this in the past; it is built out; it is over capacity as far as stormwater levels; and the residents just want the opportunity to live there and not be increasingly flooded by more new dense housing. She noted, North Merritt Island is now the wrong place for this kind of high density development. She advised, she has list on other places in the County and other counties of where this density might be more appropriate; these parcels for sale are all over 100 acres; they provide much better high water drainage, and they are all buildable; and there is a very nice 113 acres over in Canaveral Groves, and lovely piece in Palm Bay with 170 acres. She went on to say there are two other parcels in East Orange County, four in Flagler County, three in Volusia County; and the point being that there are now better places for this density development then North Merritt Island.

Dr. Sonia Pearson, owner of the Space Coast Veterinary Hospital, stated she would like to raise several issues and concerns; the first is the Binding Development Plan calls for one egress and one ingress on North Courtenay Parkway; currently the project does not have one, but her property does; and in 2001, over 13 years ago, when researching property to establish her small business on North Merritt Island, she opted for her current location, paying premium price for the property over other properties along North Courtenay corridor. She added, the defining factor was that this property had on ingress and egress on Courtenay Parkway; this proposed

development could cause for a eliminating her business ingress and egress, and creating a new ingress and egress north of her property, coinciding with the new development and creating an inconvenience for clients, staff, delivers, and waste manage pickup. She expressed her dissatisfaction on the project, and she asked the Board take into consideration the impact this would have on her business. She stated it is her understanding that the proposed development is going to have a sewage system, and it is a concern that she is going to be forced to connect to the system at a significant cost to the business; initiatively and continually to have increase monthly expenses since the water usage is over 1,000 per day, as by Florida Statute 381.0065(a); and this is a potentially economic impact on the business, and it should be considered. She requested there be a variance on adjoining properties based on this economic impact do not require one to tie into their sewage system. She stated her property currently has an easement to the north of her building; it is a cement driveway; on this side of the building she has a examine room, with a tranquility window for the cat patients; and a concern is that this easement is physically inadequate to handle the number, type, and weight of vehicles used during construction and could potentially cause damage to the easement. She went on to say it would also interfere with the enjoyment of the view for the cat patients, and she suggested that this easement be abandoned; and she wishes that the Board would ask the applicant to voluntarily put a 15-foot wide, six-foot high buffer on the north side of the building.

Michael Hirkala stated he has several concerns about the project; he does not have a problem with the fact it is going to be built up, because it is the right of the owner to do it; the problem he has is the designation of two units per acre; two units per acre says it is going to be a half-acre zone; a half-acre zone is 200,000 feet per unit; and what they are intending to do is put over 200 units on the property, and one will be looking at a quarter-acre to a third-acre development. He added, there will be more runoff and drainage, which is going to have to be controlled, and that is going to be a big problem; the north side of Merritt Island is lower than the east side of the Merritt Island; and another concern is the bridge. He stated he lives in Island Lakes and sometimes it is difficult to get out, therefore there is a back gate which is on Hall Road and that is backed up sometimes too; and now there could be a problem there also because there is going to be also a access on Hall Road, which is a two lane road. He reiterated the bridge during heavy traffic times is a concern; and he inquired how does one get emergency services north from to North Merritt Island over the Barge Canal when traffic is heavy. He concluded by saying North Merritt Island should not be more than a one acre density. Chairman Bolin Lewis asked how many cars is the congestion problem. He responded, where the backup comes from is when traffic starts to come south. Chairman Bolin Lewis asked is the backup five cars, twenty cars, or two cars. He stated sometimes he will have to go out and make a left turn to go south, so he has to cross northbound traffic; there might be three of four cars northbound and another 10 cars coming southbound; and one might be there 15 minutes.

Susan White stated as far as density, it was stated that it is consistent and their plan would be in the middle looking at surrounding areas; in the last five years the two development projects that were approved on Hall Road, Mission Estates, which is right next to Kars Parks, they were approved for one-acre homes; and there were also homes approved to build behind in the Savannah's that back up to Kars Park, they were going for a higher density and they were also approved for one house per acre. She added, they stated that is will not run off into the ditches or they are going to improve the drainage; and this morning when she pulled over on Hall Road, right by the Harvey's Grove area, the drainage is already up to the top of the culvert and it is just standing water; and when they say they are going to look at improving it and getting the right permitting, when Mission Estates was approved, they found out after the storm from Fay that the water did not flow in the direction they thought it would and it had to be re-permitted and new culverts put in. She asked how can he or she be guaranteed that they will be permitted correctly to have the proper drainage with what happened with Mission Estates; also, Mission Estates is an empty neighborhood, therefore one may end up with a second project that is

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abandoned on Hall Road. She concluded by saying she agrees with the North Merritt Island recommendation to approve as one house per acre.

John Bailey stated he is favor of the development but he would like to see it at one unit per acre because of the density problems; this development is going to have two entry and exit points; one directly on Courtenay Parkway and the other on Hall Road; and in this area everyone wants to go south on Courtenay Parkway to get to downtown Merritt Island. He added, his concern is that people in this neighborhood are not going to want to turn left in traffic on Courtenay Parkway, instead they are going to want to get onto Hall Road and turn left on to Courtenay Parkway; and he is afraid it is going to cause a pretty good traffic backup there. He continued to say he has seen it backup already to the entry way to the mobile home, which is pretty far back; and he reiterated people trying to turn left from Hall Road to Courtenay Parkway will cause backup.

Richard Webb stated he has always expected Harvey Groves to be developed, just not at this high of density; he has been laboring the assumption for many years one unit per acre was the maximum that North Merritt Island could support; on North Merritt Island he has watched the effect of denser developments and made a commitment to hold the line at one unit per acre; and one expects that the reason to have a Master Plan is so it does not start spot zoning and changing and spot developing at high density like the project. He added, North Merritt Island's main access to the world is over the Barge Canal; Port Canaveral is going to significantly increase the traffic on the Barge Canal when they start hauling cars to Titusville and barging and opening up the bridge; and the second point is the stormwater, the last major left flooding for several weeks. He continued to say Mr. Mayer stated they would not impact the adjacent properties, but he has had some bad experience with the definitions of impacting adjacent properties, meaning that one will not let the water go onto adjacent properties; but if the property is the most low lying property in the area and receives drainage from adjacent properties it does impact those adjacent properties in that there is no longer anywhere for the adjacent property water to go; and he would appreciate the Board's consideration of the North Merritt Island Homeowner's Association request to leave is at one unit per acre.

Cathy Testa stated she lives a few miles north of the development; one of her biggest concerns is traffic; 99 percent of the time when she drives she goes south and she will be passing the area; right now she has difficulty going south because there are many people who cut across the divider and go south; and the more people one has the more dangerous it is going to be. She added, another concern is the people who were speaking for the development said they expect to improve the water flow, but there are no guarantees; and she does not know if money should be put into some kind of escrow account so if after they build the neighboring homes and areas are flooded because of the development that the neighbor are reimbursed for their expenses. She went on to say Dr. Pearson spoke and she knows the area she spoke about; there is not room for 600 cars to come in and out every day; it is unfair and her and to the her patients. She stated another concern is emergency services; when the bridge is up traffic backs up into the main part of Merritt Island because the lights do not change; and this will also impact not just north Merritt Island, but the center part Merritt Island as well.

Clark Sanders handed out a map to the Board; he stated the first map is a County map that was made in 2006 and the area has not changed in that period of time; one can see on the map where the subject property is yellow and green, which is low elevation; and if he or she looks at the second page the graph shows were the project is, is in a bowl, from Courtenay Parkway all the down to the Kennedy Space Center boundary. He talked about the pictures he took of the drainage ditches along the road, some are full already and the area has not even had any significant rain in several weeks, and when North Merritt Island does get a lot of rain the ditches fill up; and this is a very important concern.

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Ms. Rezanka stated regarding the concerns about traffic and driveways, this development will only do what FDOT will allow it to do; they are going to be entitled to a driveway permit somewhere on Courtenay Parkway, but FDOT will have to approve it and safety is always FDOT's ultimate concern; and as to the drainage issue, the Board is very well aware Brevard County Code will mandate that the drainage is retained on its property. She advised this property will probably require 18 inches of dirt before any building can occur and the retention and the drainage will all be sufficient to retain that water; if not people will complain to the Board and Code Violation will be sent out; again they believe this is a good development; they believe it meets the Comprehensive Plan, the County Code, the Small Area Study; and they ask that the Board approve this at EU-2 with a Binding Development Plan.

Commissioner Infantini stated the real concern she has is traffic, she worries about people being able to get over the Barge Canal; it seems inconsistent the density change, there is not a smooth transition to get to the other densities; most of the property seems to be where it is one unit per acre or two unit per acre in total; and right now it is permitted to have 44 units on it and the project is asking for 200 and something, which is significantly more than it is currently permitted. She added, she thinks the people moved in with an understanding that the property that surrounds them has the density; she is not in favor of allowing it; and maybe go as far as one unit per acre, but she thinks two units per acre is stretching. She went on to say she does not think is it meeting that transition rule that the Board consistently looks for.

Commissioner Nelson stated his concerns with two issues and he shared them with the applicant, which was drainage and traffic and dealing with those issues; it cannot have groves and the green area, which is Sykes Creek Basin; and he still has concerns on the south side, because he knows the County is going to be putting a pump in there and the study has not been done yet. He added, the other issue is the shared access and coming up with a legitimate access. He advised what he would like to do is to have an opportunity to work through some of the questions before the Board makes a final decision, because he thinks there has been some questions raised related to what happens with the water when it hits Hall Road; and what is the County going to do, regardless to what happens with the subdivision, because of the second pump that is going to go in; and to look at the issue of the Veterinarian related to the access. He asked the applicant if the Board could table the item until August to have the opportunity to look at the issues and get a more definitive answer related to the issues; and the would probably include another community meeting on North Merritt Island.

Ms. Rezanka stated they will agree to that.

There being no further comments, the Board tabled the request change of classification from AU and BU-1 to EU-2 with a Binding Development Plan on 111.03 acres, located on the north side of Hall Road, approximately 1,020 Ft. East of N. Courtenay Pkwy. (Tax Parcel 505.320 E. Hall Rd., Merritt Island; Tax Parcel 264: No assigned address. In the N. Merritt Island area; Tax Parcel 270:4870 N. Courtenay Pkwy., Merritt Island; Tax Parcel 274: No assigned address. In the N. Merritt Island area; Tax Parcel 275: No assigned address. In the N. Merritt Island area) to the August 7, 2014 Zoning Meeting.

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

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The Board recessed at 6:18 p.m., and reconvened at 6:23 p.m.

ITEM III.B.4., (14PZ-00034) - MAJESTIC OAK ESTATES, LTD - (RODNEY HONEYCUTT) - REQUESTS A CHANGE OF CLASSIFICATION FROM TR-1 TO TR-3, WITH A BDP LIMITING DENSITY TO 185 UNITS, (46.54 ACRES); AND TR-1 AND BU-1 TO ALL BU-1 (5.04 ACRES), ON 51.47 ACRES TOTAL, LOCATED ON THE NORTH SIDE OF S.R. 46, APPROX. 0.20 MILE WEST OF CAMBRIDGE DR. (NO ASSIGNED ADDRESS. IN THE MIMS AREA.)

Rodney Honeycutt stated this is a request for rezoning from Single-family Mobile Home (TR-1) to Mobile Home Park (TR-3) and to increase the commercial area to General Retail Commercial (BU-1) on State Road 46; and he has been before the Board over last few months with a Comp Plan change and this is the zoning request. He added, it is for a retirement community; it will be a gated retirement community with a community center, and pool for the residents; there will be lots of open space because there are wetlands in the area; and they do not plan on impacting any wetlands unless there is a road crossing. He continued to say the project will encourage foot traffic, trails will be throughout; the commercial trail will have a trail that goes to it so the residents will use it; the commercial area will not be inside of the secured area, so it will also be used for the public on State Road 46; and he is requesting that the Board approve the rezoning.

Commissioner Infantini stated this project has the exact same issue that the last project had; there is no nice transition for the properties just west of the property, there are basically on about .8 acres; he is asking for four units per acre; and she does not think that is a right transition to go. She added, she does not think it is appropriate for the neighborhood because everyone else has the expectation that there is going to be one unit per acre, so to go to four units is a huge increase; and she cannot support of this.

Commissioner Fisher asked Mr. Honeycutt if this is the project that was before that Board a couple months back; with Mr. Honeycutt responding correct. Commissioner Fisher stated he asked Mr. Honeycutt if he considered going and talking to the homeowners, and met with all the local residents; and he has not received any calls in his office. Mr. Honeycutt stated yes, he has met with the local residents and explained the project, mostly their questions were they did not understand what they were doing; and the project has their support now. Mr. Honeycutt added, they have been to the Mims Community Association, and the neighborhood meetings; and everyone is very supportive.

There being no further comments or objections, the Board approved the request change of classification from TR-1 to TR-3, with a Binding Development Plan limiting density to 185 units, (46.54 acres); and TR-1 and BU-1 to All BU-1 (5.04 acres), on 51.47 acres total, located on the north side of S.R. 46, approximately 0.20 mile west of Cambridge Drive.

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

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ITEM III.B.5., (14PZ-00030) - RIVER FLY-IN LLC - (WASIM NIAZI) - REQUESTS AN AMENDMENT TO EXISTING BDP IN A PUD ZONING CLASSIFICATION ON 13.03 ACRES, LOCATED ON THE SOUTH SIDE OF CONE RD., APPROX. 0.25 MILE EAST OF PLUMOSA ST. (NO ASSIGNED ADDRESS. IN THE MERRITT ISLAND AREA.)

Cynthia Fox, Planning and Zoning Enforcement Manager, stated this is an amendment to an existing Binding Development Plan (BDP) in a Planned Unit Development (PUD) classification; and the applicant is present if the Board would like to him ask any questions.

Christine Lepore, Assistant County Attorney, pointed out that the BDP requires approval by Titusville-Cocoa Airport Authority (TICO); she is unsure of the status of that; they did not have approval at the Planning and Zoning meeting; and if they should not get TICO approval within the 120-day timeframe to come back to the Board with a finalized BDP, then the approval will lapse. She advised there are some text changes that she has been in discussion with the applicant's attorney on, and they are in agreement verbally, but she has not received a final version of the BDP.

Wasim Niazi stated the BDP in fact was volunteered; the TICO Board did not have any input with the plan back in 2006; he is only changing one item which is the ownership issue; and two meetings ago at the TICO Airport Authority there was a motion to approve the BDP and that failed on a tie vote. He added, at the subsequent meeting there was a motion to disapprove and it also failed on a tie vote with full quorum present; both the motions failed so it was tie vote either way; and the TICO Airport Authority has no input at this point.

Commissioner Fisher asked does TICO have concerns, which usually are most airports, concerns the flight path. Mr. Niazi responded that is not a concern; the 7640 Study conducted by the Federal Aviation Administration (FAA) was approved and re-approved and has been approved multiple times; and there is no hazard from navigation because of the project.

Commissioner Nelson stated as he recalls it was a contentious few meetings where this was approved, and he never understood how one was going to force someone to pilot to own; and this changes that so that one does not have to be a pilot.

Commissioner Fisher inquired if the County Attorney wanted the Board to wait until Mr. Niazi agreed to some type of terms.

Attorney Lepore stated that is unclear; the draft BDP includes requirement for consent by TICO Airport; and she thinks the applicant needs to resolve that.

Commissioner Nelson asked if approved then the BDP can be sent on to TICO, and they can decide. Attorney Lepore responded there is 120 days after today.

There being of further comments or objections, the Board approved as recommended; and the BDP must be approved by TICO prior to being brought back to the Board of County Commissioners, River Fly-In LLC request amendment to existing BDP in a PUD zoning classification on 13.03 acres, located on the south side of Cone Rd., approx. 0.25 mile east of Plumose Street (no assigned address. In the Merritt Island).

RESULT: ADOPTED [UNANIMOUS]
MOVER: Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER: Chuck Nelson, Commissioner District 2
AYES: Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT: Andy Anderson

ITEM III.B.6., (14PZ-00031) - CHARLES C. CHANDLER, SR., TRUSTEE - REQUESTS A SMALL SCALE PLAN AMENDMENT (14S.04) TO CHANGE THE FUTURE LAND USE FROM NC TO CC; AND A CHANGE OF CLASSIFICATION FROM GU TO BU-2 ON 0.23 ACRE, LOCATED ON THE SOUTHEAST CORNER OF N. BANANA RIVER DR. AND DOVER AVE. (2775 N. BANANA RIVER DR., MERRITT ISLAND)

There being no objections, the Board adopted Ordinance No. 14-19, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Forth Small Scale Plan Amendment of 2014, 14S.04, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Chuck Nelson, Commissioner District 2
SECONDER: Robin Fisher, Vice Chairman/Commissioner District 1
AYES: Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT: Andy Anderson

ITEM III.B.7., (14PZ-00027) - ROBERT A. SCHEPPERLE - REQUESTS A CHANGE OF CLASSIFICATION FROM GU TO RP ON 0.45 ACRE, LOCATED ON THE EASE SIDE OF U.S. HWY 1, APPROX. .36 MILE SOUTH OF PINEDA CSWY. (5525 N. HWY 1, MELBOURNE)

Chairman Bolin Lewis stated she knows the area very well; Mr. Schepperle has a problem that she hopes he is going to address, as he goes forward on getting cars in and out of the property on U.S. 1; she knows the landscape of the property; and when one drives, he or she is down in the water. Mr. Schepperle stated yes is working on it. Chairman Bolin Lewis stated she is watching the progress daily.

There being no further comments of objections, the Board approved the request change of classification from GU (General Use) to RP (Residential Professional) on 0.45 acre, located on the east side of U.S. Hwy 1, approximately .36 mile south of Pineda Causeway (5525 N. Hwy 1, Melbourne)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Trudie Infantini, Commissioner District 3
SECONDER: Robin Fisher, Vice Chairman/Commissioner District 1
AYES: Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT: Andy Anderson

ITEM III.B.8., (14PZ-00029) - EPT MELBOURNE, INC. - (CECELIA BONIFAY) - REQUESTS A CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A MOVIE THEATER, IN A PUD ZONING CLASSIFICATION, ON 2.66 ACRES, LOCATED ON THE SOUTH SIDE OF TOWN CENTER AVE., APPROX. .26 MILE EAST OF LAKE ANDRES DR. (2241 TOWN CENTER AVE, MELBOURNE)

There being no objections, the Board approved the request of a CUP for Alcoholic Beverages for On-Premises Consumption in conjunction with a movie theater, in a PUD (Planned Unit Development) zoning classification, on 2.66 acres, located on the south side of Town Center Ave., approximately .26 mile east of Lake Andrew Dr. (2241 Town Center Ave, Melbourne)

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

ITEM III.B.9., (14PZ-00032) - CP VENTURE FIVE - AV LLC - (MICHAEL KASTRINAKIS) - REQUESTS A CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT, IN A PUD ZONING CLASSIFICATION, ON 0.039 ACRE, LOCATED APPROX. 0.18 MILE EAST OF LAKE ANDREW DR., AND APPROX. 400 FT. NORTH OF TOWN CENTER AVE. (2270 TOWN CENTER AVE, STE 113, MELBOURNE)

There being no objections, the Board approved the request of a CUP for Alcoholic Beverages for On-Premises Consumption in conjunction with a restaurant, in a PUD (Planned Unit Development) zoning classification, on 0.039 acre, located approx. 0.18 mile east of Lake Andrew Drive, and approximately 400 feet north of Town Center Avenue (2270 Town Center Avenue, Suite 113, Melbourne)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT: Andy Anderson

ITEM III.B.10., (14PZ-00043) - THE VIERA COMPANY - (HASSAN KAMAL) - REQUESTS AN AMENDMENT TO ALTERNATIVE DEVELOPMENT STANDARDS FOR ZERO LOT LINE DEVELOPMENT, AND WAIVE 4 FT. HEIGHT LIMITATION FOR WING WALLS ENCROACHING INTO THE SIDE SETBACK AREA, IN A PUD (PLANNED UNIT DEVELOPMENT) DRI (DEVELOPMENT OF REGIONAL IMPACT) ZONING CLASSIFICATION, ON 169.72 ACRES, LOCATED ON THE WEST SIDE OF LAKE ANDRES DR., APPROX. .17 MILE SOUTH OF JUDGE FRAN JAMIESON WAY. (NO ASSIGNED ADDRESS. IN THE VIERA AREA.)

There being no objections, the Board approved the request of an amendment to Alternative Development Standards for Zero Lot Line Development, and waive 4 foot height limitation for wing walls encroaching into the side setback area, in a PUD (Planned Unit Development) DRI (Development of Regional Impact) zoning classification, on 169.72 acres, located on the west side of Lake Andrew Drive, approximately .17 mile south of Judge Fran Jamieson Way. (No assigned address. In the Viera area)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM III.B.11., (14PZ-00042) - UNIVEST PARTNERS OF BREVARD, INC. - (STEPHEN MILEY) - REQUESTS A CHANGE OF CLASSIFICATION FROM BU-2 (RETAIL, WAREHOUSING, AND WHOLESALE COMMERCIAL) TO AU (AGRICULTURAL RESIDENTIAL) ON 2.75 ACRES, LOCATED ON THE WEST SIDE OF JOHN RODES BLVD., APPROX. .35 MILE SOUTH OF ELLIS RD. (NO ASSIGNED ADDRESS. IN THE MELBOURNE AREA.)

There being no objections, the Board approved the request of a change of classification from BU-2 (Retail, Warehousing, and Wholesale Commercial) to AU (Agricultural Residential) on 2.75 acres, located on the west side of John Rodes Boulevard, approximately .35 mile south of Ellis Road. (No assigned address. In the Melbourne area)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM III.D., BOARD APPROVAL, RE: SIX MONTH EXTENSION TO THE CITY OF ROCKLEDGE JOINT PLANNING AGREEMENT (JPA)

Robin Sobrino, Planning and Development Director, stated this is an extension to the existing Joint Planning Agreement with the City of Rockledge; the City has already signed off on it this last week; and staff is asking the Board to agree to it.

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The Board approved a Joint Planning Agreement (JPA) with City of Rockledge for a six-month extension period to the existing JPA, allowing for preparation of a new JPA.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM IV.A., APPROVAL, RE: TOURIST TAX EDUCATIONAL PROGRAM FOR SHORT-TERM RENTAL PROPERTY OWNERS

Stockton Whitten, County Manager, advised the Board the Tax Collector is present and she would like to make some comments. He stated she has worked very hard on the educational campaign; on April 1st when the Board adopted the Ordinance, it asked County staff to work with the Tax Collector to develop an educational program; most of the attachments are in the package; and she has a video that she shows at her locations.

Lisa Cullen, Tax Collector, stated in order to increase collections they have done several things on the educational side. She stated they have a video, which they will show today; in all tax bills in November it was inserted, and it will be inserted in all installment payments, business tax receipts, and the November tax bills; and it has been revised with the new Ordinance information. She went on to say any opportunity that they can they will advertise the information in the tax certificate sale advertisements; they had a filler page and they decided to fill the back with that information; they have developed and are in the midst of revising a brochure about the Tourist Development Tax that will be given to any realtor and condo association; and her staff takes them out when they speak to address the tourist development tax. She stated she has a long standing relationship because of the mailings that she does with a company in Orlando, and she asked them to price out for 300,000 properties; they could call and not mail to commercial properties, certain property types, that would never be in the business of renting short-term; they have asked that the Tourism Office link to the Tax Collector site; and they are also in the process of updating their website.

Commissioner Fisher expressed his appreciation to Ms. Cullen; stated in general people want to comply with the law; and he or she needs to understand what the law is. He stated if he has a single-family home for rent and his intentions are to have a 12-month rental agreement; he advertises for 12 months; he may think that does not apply to him; but he might negotiate to rent it on a six-month or nine-month basis. He inquired if there is a way to tighten that up. Ms. Cullen responded she is open for any suggestions and will look at the wording.

Commissioner Bolin Lewis stated with a seasonal rental, a person knows if it is shorter versus 12 months.

Ms. Cullen stated students and military personnel are exempt from the Tourist Development Tax. Commissioner Fisher stated maybe it could say advertise/or a person rents for less than six months.

Commissioner Infantini stated she wishes the Board would cut this down to one month instead of leaving it at six months; she does not call six months a resort or vacation rental, she calls that a residence for a temporary period of time; and she reiterated the Ordinance needs to be cut down to one month or three months tops.

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Commissioner Fisher stated this is State Law; and the Board did not create the Ordinance.

Commissioner Nelson stated he is in favor of people following the law.

The Board approved implementing the plan, including the direct mailing piece, and using the vendor the Tax Collector has a contract with.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Vice Chairman/Commissioner District 1
SECONDER:	Chuck Nelson, Commissioner District 2
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

ITEM VI., PUBLIC COMMENTS

Andrew Catropa stated this is in reference to a property address of 6325 Spinaker Drive. He went on to say they are trying to build a home on this property; there is a setback on the back of the property that they were under the impression was 25 feet; adjacent homes to them are using that 25-foot setback; when they went to permit the home, they were told that there was a 50-foot setback on the property, which they would not be able to build their home on at this point; and the 50-foot setback would also hinder other lots in the subdivision of Indian River Isles and it deems certain lots unbuildable. He stated there was a plat engineered for the subdivision prior to 1988, but it was not recorded until after 1988; from his understanding there is a different setback prior to 1988 that is 25 feet, and after 1988 it goes to a 50-foot setback; and there is a little discrepancy. He asked the Board to observe the 25-foot setback on their properties and the other properties on this road.

T. A. Altman stated he bought this property back in the 1970's, and in the mid 1980's they started the development; they did it in three phases; and there is one riverfront lot left in Phase 1, and five in Phase 3. He stated they did not have it plotted until 1992, but they applied for the permit in 1986; they thought this was grandfathered in; and all of the other houses in Phase 3 have a 25-foot subdivision. He stated it should be grandfathered in.

Jason Stanley, President of Stanley Homes, stated the pictures provided to the Board show the four existing houses built on that street, which is next to the one they are proposing to build; three of the homes were built in 2002 and one was built last year; and all were granted the ability to build to that 25-foot setback. He stated he does not understand how a home permitted in 2013 was given permissions but their lot was not.

Ernie Brown, Natural Resources Management Director, stated the way the subdivision was developed was in three phases; the first two phases were platted and recorded prior to 1988 on the date the Board adopted the Comprehensive Plan; everything that had not been established as a lot had to conform with that; they tried to look to include of the third phase in; and staff did permit for those properties under the improper impression that they were entitled to insufficient lot depth. He stated the parcel in question is in between two of the lots that the County did permit using this insufficient lot criteria; phases one and two have enjoyed that since they were permitted and recorded before 1988; but Phase 3 came in prior to 1988 for the permitting process, but was not legally established as lots until after that date. He pointed out there is a provision through vested rights; the County has afforded that to four other lots, it was an error on behalf of the County to do so, and they relied upon that; and now to have this on them creates injury to them. He stated the applicants can go through the vested rights process to

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alleviate that; the other lots of the subdivision will have to deal with that; the challenge is the vested rights process takes several months; the Board does not meet in June, so they can go to the Special Magistrate in June; and then it would come back to the Board the first meeting in July.

Commissioner Fisher stated through a Comprehensive Plan amendment the County made a mistake and now they have to go through all the vested rights stuff to fix it; and he is not sure why they should have to go through this. He stated it is an internal issue. He inquired if there is a quicker and better way to do this legally.

Christine Lepore, Assistant County Attorney, responded she and Mr. Brown spoke about this and it is a unique situation and there is no general process they could put them through any quicker. She stated the principal of grandfathering is that it was legal at some point and then became non-conforming through action of the County; and the third phase was platted after that date.

Commissioner Fisher asked if the Board ever saw the whole division design. Mr. Brown stated he is confident that the County saw the whole layout in some form or fashion; he has documents the files of surveys and information being submitted in the late 1986 and 1987 period; and they were clearly in the permitting process for the subdivision prior to 1988. Chairman Bolin Lewis asked if it was all three phases; with Mr. Brown responding he believes so.

Mr. Altman stated they had to get approval of the site plan before it could be platted.

Commissioner Infantini stated her concern is the drawings are from 1999 not 1988, and that was when the Comprehensive Plan passed; once the lots are platted, the property taxes are substantially higher; the problem is not they do not have the vested rights; and once this is done, if it is allowed, then he would have to go back to all properties as it is not an isolated change. She stated either everyone gets this exception and has a 25-foot setback or no one gets it. She noted she thinks the setbacks in the South Beaches went from 25 to 50 feet.

Mr. Stanley stated they just built a house in Palm Shores riverfront, which is only a couple of miles south of Indian River Isle, and they do not have a 50-foot setback; and he does not understand the reason for making the house be 50 feet from the water.

Commissioner Infantini stated if the Board allows it for them, it needs to allow it for everyone. She stated she wants consistency from the Board.

Commissioner Nelson stated if the County Attorney is saying the Board cannot do anything, then it will have to move down that path; he suggested staff go back and look at the records; he thinks there was some preliminary document that showed all of those lots at one time, because Mr. Altman would not have left it out there; and something needs to be found between now and then. He went on to say the only other way, unless the County Attorney's Office can come up with something, is they have to go through the process. He stated something needs be found in the County's records like a site plan or something that shows that those were anticipated to be in place at some point in time.

Ms. Lepore stated staff can do more research and see if those can be established in some way before that day; if not, they are looking at the option of either requesting the Board to hear a takings claim appeal, which is a two-step process through the Local Planning Agency (LPA) and then the Board, or a vested rights claim, which is a special magistrate and the Board.

Commissioner Fisher stated the applicant wants to get a feel before they started building whether or not this Board would be possibly supportive of them building the home.

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Commissioner Nelson stated if they go before the special magistrate before they come before the Board, the Board has the ability to make the final decision.

Chairman Bolin Lewis stated they will be working with Mr. Brown and the legal department to see what avenues there are; and the Board cannot give direction one way or the other.

Commissioner Nelson inquired who the surveyor was. Mr. Altman replied Bob Packard; and Mr. Packard is looking for something for him to see what he can find.

ITEM VII.C., REPORT, RE: COMMISSIONER CHUCK NELSON, DISTRICT 2

Commissioner Nelson stated the Regional Planning Councils of Florida have put out a document about responsibilities that Regional Planning Councils have; two of the Board Members will still be here and will probably get a chance to serve; it is worthwhile to have that information; and what somehow gets lost in the white noise is that there are numerous statutory responsibilities of Regional Planning Councils. He stated this kind of goes through what each of the Regional Planning Councils do; growth is going to come back; and it is going to have to be dealt with on a local basis as well as a regional basis.

ITEM VII.D.1., LETTER OF SUPPORT, RE: ALL ABOARD FLORIDA

Commissioner Infantini stated she is going to send a letter to Congressman Bill Posey and Senators Marco Rubio and Bill Nelson regarding All Aboard Florida, and she did not know if anyone else is interested in doing so.

ITEM VII.G.1., \$50,000 TOURIST DEVELOPMENT COUNCIL (TDC) GRANT FOR THE HENEGAR CENTER

Commissioner Bolin Lewis stated she has an item that came up from the Tourism Development Council, which is time sensitive; it is a matching grant from the State of Florida; it is due on June 15th; it is matching grant for the Henegar Center that will be needing \$250,000, but they already have \$125,000 from the City of Melbourne, and their Board is contributing; and they have requested from the Tourism Development Council \$50,000, which was approved by the TDC yesterday.

The Board approved a \$50,000 grant to assist the Henegar Center to obtain it local match to a \$250,000 Florida State Cultural Facilities grant application, due June 15, 2014.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chuck Nelson, Commissioner District 2
SECONDER:	Robin Fisher, Vice Chairman/Commissioner District 1
AYES:	Robin Fisher, Chuck Nelson, Trudie Infantini, Mary Bolin Lewis
ABSENT:	Andy Anderson

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Upon consensus of the Board, the meeting adjourned at 7:12 p.m.

ATTEST:

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

SCOTT ELLIS, CLERK