

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, February 1, 2024

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 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.

Approval, Re: Permission for Commissioner Goodson, District 2, to Participate Via Telephone

The Board granted permission for Commissioner Goodson, District 2, to participate via telephone.

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

D. MINUTES FOR APPROVAL

The Board approved the November 14, 2023, Regular Meeting Minutes.

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

G.1. Public Hearing, Re: 3955 Kings Hwy, LLC (Bryan Potts) Requests a Small Scale Comprehensive Plan Amendment (23S.11), to Change the Future Land Use Designation from RES 8 and CC to all CC (23SS00011) (Tax Account 2423666)

Chair Steele called for a public hearing to consider a Small Scale Plan Amendment (23S.11) to change the Future land Use designation from RES 8 (Residential 8) and CC (Community Commercial) to all CC, as petitioned by 3955 Kings Hwy, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.1. and G.2. are companion applications; he will read them into the record simultaneously; however, the Board will need separate motions for each of them. He went on to say Item G.1. is 3955 Kings Hwy, LLC requests a Small Scale Comprehensive Plan Amendment (23S.11), to change the Future Land Use designation from RES 8 and CC to all CC; the application number is 23SS00011; the Tax Account number is 2423666; and it is located in District 1. He noted Item G.2. is for 3955 Kings Hwy, LLC requesting a change of zoning classification from AU and BU-2 to all BU-2; the application number is 23Z00049; the Tax Account number is 2423666; and it is also located in District 1.

There being no comments or objections, the Board adopted Ordinance No. 24-02, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Fourteenth Small Scale Plan Amendment of 2023, 23S.11, 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; provision which requires amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rita Pritchett

Second: Rob Feltner

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

G.2. Public Hearing, Re: 3955 Kings Hwy, LLC (Bryan Potts) Requests a Change of Zoning Classification from AU and BU-2 to all BU-2 (23Z00049) (Tax Account 2423666)

Chair Steele called for a public hearing to consider a change of zoning classification from AU (Agricultural Residential) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2, as petitioned by 3955 Kings Hwy, LLC.

There being no comments or objections, the Board approved a change of zoning classification from AU and BU-2 to all BU-2, on property located on the southeast corner of Kings Highway and Florida East Coast Railway, Port St. John.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

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

G.3. Public Hearing, Re: Anabeth Nazario Requests a Change of Zoning Classification from RU-1-9 to RU-1-11 (23Z00079) (Tax Account 2320163)

Chair Steele called for a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential), as petitioned by Anabeth Nazario.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.3. is Anabeth Nazario requests a change of zoning classification from RU-1-9 to RU-1-11; the application number is 23Z00079; the Tax Account number is 2320163; and it is located in District

There being no comments or objections, the Board approved the request for a change of zoning classification from RU-1-0 to RU-1-11, for property located on the north side of Aspen Land, west of Leonard Avenue, Port St. John.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

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

G.4. Public Hearing, Re: Florida Dealer Center, LLC (Bruce Moia) Requests a Change of Zoning Classification from BU-1 and BU-2 with an Existing BDP to all BU-2 and Removal of Existing BDP (23Z00081) (Tax Account 2314551 and 2314553)

Chair Steele called for a public hearing to consider a request for a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial), with an existing Binding Development Plan (BDP), to all BU-2 and removal of the exiting BDP, as petitioned by Florida Dealer Center, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.4. is Florida Dealer Center, LLC requests a change of zoning classification from BU-1 and BU-2 with an existing Binding Development Plan (BDP) to all BU-2 and removal of existing BDP; the application number is 23Z00081; the Tax Account numbers are 2314551 and 2314553; and it is located in District 1.

Commissioner Pritchett advised she did notice there was a change on the BDP; she loves what they are doing with the project; she wants in the BDP that if there is outdoors storage that they will have it behind the building and out of sight; it will be allowed to do everything done in BU-1; but the BU-2 part is they will be doing the storage.

Bruce Moia commented they concur with those two conditions.

There being no further comments or objections, the Board approved a request for a change of zoning classification from BU-1 and BU-2, with an existing BDP, to all BU2 and removal of the existing BDP, subject to a new BDP with the following conditions: site to be developed per any allowable BU-1 use or as trades retail, wholesale, and storage facility, and related ancillary services and facilities, as allowed in BU-2 zoning; and any outdoor storage shall be to the rear of the building.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

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

G.5. Public Hearing, Re: Quality RV Florida, LLC Requests a Small Scale Comprehensive Plan Amendment (23S.24) from Res-6 to CC (23SS00024) (Tax Account 2702826)

Chair Steele called for a public hearing to consider a request for a Small Scale Comprehensive Plan Amendment (23S.24) to change the Future Land Use designation from RES 6 (Residential 6) to CC (Community Commercial), as petitioned by Quality RV Florida, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.5. and G.6. are companion applications; for the record, staff has received a correspondence from the applicant requesting that this Item be continued or remanded back for staff review; it was determined that there is a use occurring on the property that would not be consistent with the request, so the additional time would allow for the re-advertising and time for the applicant to revise his application; and it will be re-advertised and brought back to the Board at a later date.

There being no comments or objections, the Board continued request for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 6 to CC, to the March 7, 2024, Zoning meeting.

Result: Continued

Mover: Rob Feltner

Second: Rita Pritchett

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

G.6. Public Hearing, Re: Quality RV Florida, LLC Requests a Change of Zoning Classification from RU-1-7 and TR-1 to all BU-1 (23Z00083) (Tax Account 2702826)

Chair Steele called for a public hearing to consider a change of zoning classification from RU-1-7 (Single-Family Residential) and TR-1 (Single-Family Mobile Home) to all BU-1 (General Retail Commercial), as petitioned by Quality RV Florida, LLC.

There being no comments or objections, the Board continued request for a change of zoning classification from RU-1-7 and TR-1 to all BU-1, to the March 7, 2024, Zoning meeting.

Result: Continued

Mover: Rob Feltner

Second: Rita Pritchett

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

G.7. Public Hearing, Re: Travis and Rebecca Pless Request a Small Scale Comprehensive Plan Amendment (23S.23) to the Future Land Use Designation from AGRIC to Res 1 (23SS00023) (Tax Account 2002077)

Chair Steele called for a public hearing to consider a request for a Small Scale Plan Amendment (23S.23) to the Future Land Use Designation from AGRIC (Agricultural) to RES 1 (Residential 1) on 1.21 acres, as requested by Travis and Rebecca Pless.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.7. and G.8. are companion applications; he will read them into the record simultaneously; but the Board will have to have separate motions. He explained Item G.7. is Travis and Rebecca Pless request a Small Scale Comprehensive Plan Amendment (23S.23) to the Future Land Use designation from AGRIC to RES 1; the application number is 23SS00023; the Tax Account number is 2002077; and it is located in District 1. He continued by saying Item G.8. is Travis and Rebecca Pless request a

change of zoning classification from GU to RRMH-1; the application number is 23Z00080; the Tax Account number is 2002077; and it is also located in District 1.

There being no comments or objections, the Board adopted Ordinance No. 24-03, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Fifteenth Small Scale Plan Amendment of 2023, 23S.23, 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; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rita Pritchett

Second: John Tobia

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

G.8. Public Hearing, Re: Travis & Rebecca Pless Request a Change of Zoning Classification from GU to RRMH-1 (23Z00080) (Tax Account 2002077)

Chair Steele called for a public hearing to consider a request for a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), as requested by Travis and Rebecca Pless.

There being no comments or objections, the Board approved a change of zoning classification from GU to RRMH-1, on property located on the south side of Needle Street, west of Meadow Green Road, Mims.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

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

G.9. Public Hearing, Re: John L. Hearton Requests a Change of Zoning Classification from EU to SEU (23Z00077) (Tax Account 2633100)

Chair Steele called for a public hearing to consider a change of zoning classification from EU (Estate Use) to SEU (Suburban Estate Residential), as requested by John L. Hearton.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.9. is John L. Hearton requests a change of zoning classification from EU to SEU; the application number is 23Z00077; the Tax Account number is 2633100; and it is located in District 4.

There being no comments or objections, the Board approved a change of zoning classification from EU to SEU, on property located east and west side of South Tropical Trail, south of Stockton Drive, Merritt Island.

Result: Approved

Mover: Rob Feltner

Second: Rita Pritchett

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

G.10. Public Hearing, Re: Christopher H. Griffin Requests a Change of Zoning Classification from RU-1-9 to RU-1-11 (23Z00084) (Tax Account 2864401)

Chair Steele called for a public hearing to consider a request for a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential), as requested by Christopher Griffin.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.10. is Christopher H. Griffin requests a change of zoning classification from RU-1-9 to RU-1-11; the application number is 23Z00084; the Tax Account number is 2864401; and it is located in District 5.

There being no comments or objections, the Board approved request for a change of zoning classification from RU-1-9 to RU-1-11, on property located on the south side of Miami Avenue, west of Arizona Street, Melbourne.

Result: Approved

Mover: Rita Pritchett

Secunder: John Tobia

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

G.11. Public Hearing, Re: Virginia Anne Nelsen Requests a Change of Zoning Classification from GU to RR-1 (23Z00082) (Tax Accounts 2001693 & 2001694)

Chair Steele called for a public hearing to consider a change of zoning classification from GU (General Use) to RR-1 (Rural Residential), as petitioned by Virginia Anne Nelsen.

Jeffrey Ball, Planning and Zoning Manager, stated Virginia Anne Nelsen requests a change of zoning classification from GU to RR-1; the application number is 23Z00082; the Tax Account numbers are 2001693 and 2001694; and it is located in District 1.

There being no comments or objections, the Board approved the request of Virginia Anne Nelsen for a change of zoning classification from GU to RR-1, on property located on the north side of Aurantia Road, east of International Avenue, Mims.

Result: Approved

Mover: Tom Goodson

Secunder: John Tobia

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

J.7. Report, Re: Jason Steele, Commissioner District 5, Chair

Chair Steele asked the Board to travel to Washington, D.C., with the Economic Development Commission of Florida's Space Coast (EDC) and several of the large economic businesses here from March 20, 2024, through March 23, 2024; and the purpose of the trip is to determine ways to get additional monies for infrastructure, and to find additional ways to get economic incentives for some of these businesses.

The Board granted approval for Chair Steele to travel to Washington, D.C., from March 20, 2024, to March 23, 2024.

Result: Approved
Mover: Rita Pritchett
Secunder: John Tobia
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

J.5. Report, Re: John Tobia, Commissioner District 3

Commissioner Tobia advised today is National GI Joe Day; the useless Florida fact is Four Corners, and unincorporated community near Disney, saw more lightning in 2022 than any community in the United States according to an environmental technology company; Four Corners ranked first in lightning density this year of 474 lightning events per square calamander, or 1,229 lightning events per square mile; this day in Florida history is the Bok Tower Gardens and Bird Sanctuary in Lake Wales was dedicated by President and Mrs. Calvin Coolidge on this day in 1929; and this is the brain child of Dutch immigrant Edward W. Bok and his wife Mary Lewis Curtis Bok, who wintered in Florida. He mentioned the complex features a 250-acre garden with thousands of different trees, shrubs, and flowers designed by Frederick Law Olmsted, Jr.; the centerpiece to the garden, however, is a 205-foot tall stone gothic revival and art deco tower, which houses a 60-bell carillon; the employee recognition is for Denny Long, Code Enforcement Supervisor, Planning and Development Department; he began with Space Coast Area Transit (SCAT) as a radio operator in 2014; and he has been in Planning and Development since 2017. He continued by saying Denny has a Bachelor of Science from San Antonio Theological College; he has developed his skills in a variety of ways, including through Toast Masters; he has spent his career in civil service, previously working as a social service case worker at the Veteran's Administration (VA); he began his County career with Brevard County Transit, which he learned his valuable leadership skills from people like Jim Liesenfelt, Assistant County Manager; and he came from Brevard County Planning and Development to be a Code Enforcement Officer, and eventually earned a promotion to Code Enforcement Supervisor. He noted Denny's passion for his job is infectious, and he leads by example in the way he goes about his work diligent and with great professionalism; in the Code Enforcement division, he works to ensure employees remain knowledgeable and dedicated, including through the Florida Institute of Technology (FIT) program, which is a fellowship-infused training which he founded; he is a graduate of the Employee Development Program, and currently a class member of the Executive Leadership Institute; and as a side note, so is his employee Bethany Presad who sits next to Denny in the class. He pointed out Bethany says Danny always has a positive attitude, is continually encouraging others in helping to boost their confidence, and is an all-around wonderful person.

K. PUBLIC COMMENTS

Richard Heffelfinger stated he took the Board's suggestion and went to Cocoa; they had a wonderful, little meeting there on January 23rd; they were actually considering their community development district's second hearing, which they are pretty far down the road in building their nice development at the end of the road; they really were not interested in his idea to cut a new road, because that would probably be expensive; and they are going to push forward. He advised the neighborhood has done an excellent job; they reached out to St. Johns River Water Management District (SJRWMD), they are still considering the permits; there was a member of the community who met with Commissioner Pritchett; she was very attentive and took their concerns; they will look forward in working with her in continuing, because it seems surprising as those guys had a multi-year plan for that development and phases; and he understands why they are phasing it because there are traffic issues with SR 524. He noted he thinks they still owe the County a water conveyance permit; they still owe the County a vacating of James Road so they can put that road in; he thinks they think they are going to start before they actually are ready to start; those are the things that they are working on; there was a guy

at Cocoa, one of the lawyers for the developer, and he asked if he had contacted them; and he asked why would he contact them, as he does not live in Cocoa. He explained the gentleman pointed out that he should still meet with the developer, so he took his telephone number, and maybe they can try that, but he does not see them getting anywhere; when James Road is vacated, he does not know if there is any safety aspect that may be considered when looking to vacate that road, because that is a safety issue; they think that a single point of exit is the safety for fire, traffic, and emergency response; and in the past Cocoa told them, that stuff is coming in on the County road, which is the County's problem, and he does not think that is true. He commented when someone calls the cops, Cocoa Police Department is supposed to respond; of course, if they do not, the Brevard County Sheriff is willing to help out; he thinks he will bill those guys, so it is not a problem; that single point road with traffic coming on James Road as part of the stipulation, they will all come flying down Friday Road; and there is any blockage and any problem, he sees that as a safety, and he hopes that maybe vacating James Road is a consideration the Board should look hard at. He stated he understands that even the City's emergency services were asked, and this is rumor, what about the fire access; they responded it kind of sucks; they stated they would still be moving forward with the project; SJRWMD is aware and they received over 100 comments, so they are slowing down, and will probably be looking for some activity out of the County to make sure that they do not jump the gun and issue a permit; and he reiterated he wanted to let the Board know of the status.

Sandra Sullivan stated to talk about the stormwater conveyance, back when the Board approved the stipulated agreement, at the time, the Assistant County Manager Mel Scott, former Director of Planning and Zoning, he actually made the recommendation to the County Commissioners that this stormwater conveyance remain in Cocoa, that all of the stormwater remain onsite, because of the issues of stormwater impacts and flooding in that area; and she encouraged the Board to read the minutes from 2007 when the Board approved the stipulation agreement. She continued by saying she is here about another issue, so save our mid-reach reef, this is something she has advocated for, for a number a years; currently, it is unburied because sand has been lost due to storms recently; it was a beautiful reef; right now it is pretty barren, because it is pretty destroyed; this was under the Magnuson-Stevens Fishery Conservation Management Act, which is a Federal law; it protects as an essential fish habitat; it is very important to sea turtles and the fisheries of the Lagoon; and when talking about the Lagoon, it is important. She stated this is important, the permit was only dune restoration; down at low water, this was 15-feet high all the way down into the ocean; by digging into records, she started finding out that in 2020 some modifications were made on the outfall and misrepresentation made that all of the outfall issues have been taken care of, and to increase the amount of sand that was allowed; per the Federal Fish and Wildlife Service biological opinion under Section Seven Consult by the Endangered and Threatened Species Act, only 300,000 cubic yards of sand was allowed; the Board made a permit change in 2020; that put over 400,000 cubic yards, so it was only allowed for the top 6.2 miles by the biological opinion, only 300,000, because that is the calculation used for the impacts to the reefs, so it is only allowed 2.95 acres of reef impacted; and when putting more sand, more mid-reach was impacted. She pointed out the mid-reach six where she is, is 41 percent of the reef, so people do not know what the impacts are because there was no monitoring on reef six; and she asked the Board to stop this project until a renewed biological opinion is done by Fish and Wildlife Services.

Upon motion and vote, the Board adjourned at 5:27 p.m.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

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

