

May 7, 2020

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, May 7, 2020

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:01 PM

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

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for 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.

B. MOMENT OF SILENCE

Chair Lober called for a moment of silence.

C. PLEDGE OF ALLEGIANCE

Chair Lober led the assembly in the Pledge of Allegiance.

H.4. River Fly-In Condominium, Inc. (Kim Rezanka) Requests an Amendment to an Existing BDP in a PUD Zoning Classification (20PZ00019) (Tax Account 2501008)

Chair Lober called for a public hearing on River Fly-In Condominium, Inc. to request an amendment to an existing Binding Development Plan (BDP) in a Planned Unit Development (PUD) zoning classification. He stated staff has handed out a letter from Merritt Island Redevelopment Agency (MIRA) that he presumes will be added to the minutes and the clerks have that; basically, it states that MIRA voted to approve the BDP amendment for the subject property; and he asked for a motion to approve.

There being no comments or objections, the Board approved an amendment to an existing BDP to allow for short-term rentals of a proposed 112-unit condominium in a PUD zoning classification located at 735 and 741 Pilot Lane, Merritt Island.

Result: Approved
Mover: Kristine Isnardi
Secunder: Bryan Lober

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

H.1. Theodore Goodenow (Chad Genoni) Requests a Small Scale Comprehensive Plan Amendment from Planned Industrial to Residential 2 (20PZ00024) (Tax Account 2105262 - part of)

Chair Lober called for public hearing on Theodore Goodenow's request for a Small Scale Comprehensive Plan amendment from Planned Industrial to Residential 2. He asked Eden Bentley, County Attorney, if she thinks it is appropriate to read Items H.1., H.2, H.3, and H.9 into the record or if the Board can make a motion to table.

Eden Bentley, County Attorney, stated she thinks very quickly at least the names of the applicants so if anyone is listening they can follow what is happening.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.1., is Theodore Goodenow.

There being no comments, the Board tabled the request by Theodore Goodenow for a Small Scale Comprehensive Plan amendment from Planned Industrial to Residential 2 to the July 9, 2020 Zoning meeting.

Result: Tabled
Mover: Kristine Isnardi
Secunder: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.2. Theodore Goodenow (Chad Genoni) Requests a Change of Zoning Classification From AU to RU-1-9 (19PZ00158) (Tax Account 2105262)

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Theodore Goodenow.

There being no comments, the Board tabled the request by Theodore Goodenow for a change of zoning classification from AU to RU-1-9 to the July 9, 2020 Zoning meeting.

Result: Tabled
Mover: Kristine Isnardi
Secunder: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.3. James and Mary Murray (Dan Quattrocchi) Request a Change of Zoning Classification From AU to EU. (20PZ00015) (Tax Account 2511451)

Jeffrey Ball, Planning and Zoning Manager, stated this Item is James and Mary Murray.

There being no comments, the Board tabled the request by James and Mary Murray for a change of zoning classification from AU to EU to the July 9, 2020 Zoning meeting.

Result: Tabled
Mover: Kristine Isnardi
Second: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.9. Bud and Mary Carol Crisafulli Request a Change of Zoning Classification From GU to SEU (20PZ00017) (Tax Account 2316832)

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Bud and Mary Crisafulli.

There being no comments, the Board tabled the request by Bud and Mary Crisafulli for a change of zoning classification from GU to SEU to the July 9, 2020 Zoning meeting.

Result: Tabled
Mover: Kristine Isnardi
Second: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

H.10. MI Plaza Group, LLC, Requests Removal of an Existing BDP (Binding Development Plan); CUP (Conditional Use Permit) for an Overnight Commercial Parking Lot (5.48 acres); CUP for Alcoholic Beverages (Full Liquor) for On-Premises Consumption in Conjunction with a Restaurant (3,100 Square Feet) in a PIP (Planned Industrial Park) Zoning Classification (20PZ00027) (Tax Account 2459292)

Chair Lober stated he thinks this Item is going to get substantial public comment and he noted his suggestion would be to table to July 14 through 16, and create a meeting just for this; he can see this going maybe even a couple hours with public comment; he knows this is in his District and he anticipates it is going to be contentious; therefore rather than bogging down July 9, which is already a pretty heavy meeting, it might be better to set it for July 14 or 16, whichever works best for the Board and staff.

Commissioner Tobia stated he will go with anything, but he would rather have it on a date instead of calling out everyone and staff for a single item.

Chair Lober asked the Board if it wants to keep it on July 9.

Commissioner Isnardi stated she would rather keep it during a meeting, it could always be moved or a time certain if Chair Lober is worried about it.

Chair Lober stated he could do that; and he is thinking the coffee should be full for that one.

Commissioner Isnardi noted it would not be the first.

Chair Lober asked for a motion and advised this is for MI Plaza Group, LLC.

There being no further comments the Board tabled the request by MI Plaza Group, LLC for removal of an existing Binding Development Plan (BDP), a Conditional Use Permit (CUP) for an overnight commercial parking lot, and a CUP for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a restaurant in a Planned Industrial Park (PIP) zoning classification to the July 9, 2020 Zoning meeting.

Result: Tabled
Mover: Rita Pritchett
Second: Bryan Lober
Ayes: Pritchett, Lober, Tobia, Smith, and Isnardi

G. PUBLIC COMMENTS

Charles Tovey stated last Tuesday when he was at the meeting he noticed a rat coming out of one of the garbage cans and he does know how they exterminate and where it is located and he will draw the Board a diagram and drop it off at Commissioner Smith's office. He went on to say he thinks it is prejudice to put him in that room by himself when everybody else gets to go in front of the Commission, but if he were to wear gloves, a hazmat suit, and a mask he still would not be able to go in there, but that is the Board's decision; he thanked the Board for recognizing his right to speak; he mentioned his property and he stated it has been 11 years since his neighbor tried or did burn him out of his house; number one about the arson, fire does not burn in a straight line and that fire did burn in a straight line; it is still there and coincidentally it's a straight line parallel to where the doors aperture or being a jarred unless the accelerant was used, that would leave that all symptomatic of arson; and nobody wants to recognize it. He went on to say the road signs are out on Roberts Road and Palm Shores; he asked that they please be put back up; the one at the end of the road on Old Dixie Highway which is a historical landmark, maybe; he asked if the Board has heard of the Hong Kong Flu; he commented when he was a kid he could not go to kindergarten because of the Hong Kong Flu, his mother kept him out; and he thinks everybody is using this as an excuse to enforce their own opinion and collective enforcement for other people. He continued by saying as far as the Lagoon, the County is treating the symptoms and not the problem; he is still in alignment with recovery on the Lagoon; about his house, he mentioned since he cannot live there, Palm Shores does not want him in the vicinity, or Sheriff Ivey or the rest of them, he wants to make it into Designated Environmental Recharge Area; when he was at Deer Park Elementary he used to bring box tabs and stuff and it got him interested; and he does rabbits, turtles, birds, snakes, skunks, lizards, squirrels, raccoons, cats, fish, dogs, and etcetera, not to mention plants; however, he is hoping the Board will come to some cooperation between the County, sheriff McCormack, and Mayor Ivey; and he stated he appreciates the Board's time and he noted he did not want to waste the Board's time and put everybody else in jeopardy.

H.5. **Troy Yates Requests a Small Scale Comprehensive Plan Amendment From Residential 4 to Community Commercial (20PZ00020) (Tax Account 2400600)**

Chair Lober called for public hearing on a request by Troy Yates for a Small Scale Comprehensive Plan amendment from Residential 4 to Community Commercial.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.5. and H.6. will be read into the record together; Troy Yates requests a Small Scale Comprehensive Plan amendment from Residential 4 to Community Commercial; this application number is 20PZ00020 and is located in District 1, Commissioner Pritchett; Item H.6. is also Troy Yates who requests a zoning classification from GU to BU-1; the application number is 20PZ00021; and it is also located in District 1, Commissioner Pritchett.

Troy Yates stated this is for lawn mower repair and sales, lawn and garden shop, outdoors things like lawn furniture and things of that nature; it is located just across the street from the BP gas station and right next door to Jabbers Restaurant; almost all the area south and north of there is pretty much being developed commercially and industrial; and he is kind of right in the middle of it. He explained he purchased it back in April two years ago, 2017; he was thinking of what he could do with it, so recently that is what his plan was for it, a lawn mower

repair shop; and it is probably a 3,000 square foot building or somewhere around that size.

There being no further comments or objections, the Board approved the request by Troy Yates for a Small Scale Comprehensive Plan amendment to change the Future Land Use designation from RES 4 to CC; and adopted Ordinance No. 20-07, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan," setting forth the first Small Scale Plan Amendment of 2020, 20S.01, to the Future Land Use map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rita Pritchett

Second: Bryan Lober

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

H.6. Troy Yates Requests a Change of Zoning Classification From GU to BU-1 (20PZ00021) (Tax Account 2400600)

Chair Lober called for public hearing on a request by Troy Yates for a change in zoning classification from GU to BU-1.

There being no further comments or objections, the Board approved a request by Troy Yates for a change of zoning classification from GU to BU-1 on a vacant lot located on the east side of Grissom Parkway, approximately 0.23 mile south of Canaveral Groves Boulevard on 0.44 acre parcel.

Result: Approved

Mover: Rita Pritchett

Second: Bryan Lober

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

H.7. Michael Richard and Carina Emma Hugoboom Request a Change of Zoning Classification from GU to AU(L) (20PZ00022) (Tax Account 2404041)

Chair Lober called for public hearing on a request by Michael Richard and Carina Emma Hugoboom for a change in zoning classification from GU to AU(L).

Jeffrey Ball, Planning and Zoning Manager, stated Michael Richard and Carina Emma Hugoboom request a change of zoning classification from GU to AU(L); and the application number is 20PZ00022 in District 1, Commissioner Pritchett.

There being no comments or objections, the Board approved a request by Michael Richard and Carina Emma Hugoboom for a change in zoning classification from GU to AU(L) on a one-acre lot located on the north side of Oneida Street, approximately 304 feet east of Dakota Avenue in District 1.

Result: Approved

Mover: Rita Pritchett

Second: Bryan Lober

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

H.8. Brevard County (Euri Rodriguez) Request Changing the Zoning Classification From GML to GML(H); CUP for a Solid Waste Management Facility; Removal of an Existing BDP; Waiver of the 400-foot setback; Limiting the Building Height to 55 feet (20PZ00026) (Tax Account 2209623)

Chair Lober called for public hearing by Brevard County on a request to change the zoning classification from GML to GML(H), a Conditional Use Permit (CUP) for a Solid Waste Management Facility, the removal of an existing Binding Development Plan (BDP), a waiver of the 400-foot setback, and limiting the building height to 55 feet.

Jeffrey Ball, Planning and Zoning Manager, stated Brevard County requests changing the zoning classification from GML to GML(H), a Conditional Use Permit (CUP) for a Solid Waste Management Facility, the removal of an existing Binding Development Plan (BDP), a waiver of the 400-foot setback, and limiting the building height to 55 feet; the application number is 20PZ00026; and it is located in District 1, Commissioner Pritchett.

There being no comments or objections, the Board approved changing the zoning classification from GML to GML(H); approved a CUP for a Solid Waste Management Facility; approved the removal of the existing BDP; approved a waiver of the 400-foot setback; and approved limiting the building height to 55 feet on property located at 3600 South Street, Titusville.

Result: Approved

Mover: Rita Pritchett

Second: Kristine Isnardi

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

I.1. Staff Report on Legal Notices Advertising Using the Least Expensive Publisher

Chair Lober stated he would ask for a motion on this Item to table it until there is notice of issuance of periodical permit from more publishers; the short version is this is the legal advertising question pertaining to *Florida TODAY* and other publishers; he heard back from one of the other publishers that they, at least this particular publisher, that they paid their periodical permit application fee and they have the temporary ability to submit things under the periodical rates but they do not have the permit yet; therefore, he would suggest rather than going through something prematurely, is to just take it off all together and advise staff to place it back on once it is advised by any of the publishers that they have been issued a permanent periodical permit.

Commissioner Pritchett stated okay.

The Board continued consideration of the Staff Report on legal notices advertising using the least expensive publisher until any of the publishers have a permanent periodical permit in place.

Result: Continued

Mover: Rita Pritchett

Second: Bryan Lober

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

L.2. Eden Bentley, County Attorney, Re: Board Report

Eden Bentley, County Attorney, advised she has a short report; the Board had asked her office

to report on the LGBTQ discrimination research; currently Florida Law does not specifically include sexual orientation or gender identity in its anti-discrimination statutes related to employment or housing; Brevard County's Codes and Policies do not specifically include these issues either; there are three employment cases before the U.S. Supreme Court addressing gender identification and sexual orientation issues in employment; these arguments have been heard and she is awaiting the Supreme Court's order; the U.S. Supreme Court actually issued some opinions this morning and her office checked, however, none of these cases were included, so she does not have that opinion yet. She went on to say she will report to the Board as soon as her office receives those decisions.

Chair Lober stated he has not looked at this in a little while but he recalls there was a reference in the document she had passed out, that he is sure will be included in the minutes, about one municipality perhaps, where there was a municipality ordinance banning conversion therapy being struck down and that being brought up to, he believes, the 11th Circuit in Atlanta; and he asked if that matched Attorney Bentley's understanding.

Attorney Bentley agreed.

Chair Lober inquired if that is currently still under appeal.

Attorney Bentley responded affirmatively. She stated she can check on that and bring it to the Board.

Chair Lober stated that is perfect.

L.3. Rita Pritchett, Commissioner District 1, Vice Chair, Re: Board Report

Commissioner Pritchett stated on Tuesday night the Board went forward with the COVID funds and she would like to request in those items the Board has coming back in July if staff would do some research; she heard from some of the hospitals today and they are having trouble with reimbursement on a lot of the Personal Protective Equipment (PPE) funds and some other things; therefore, she would like staff to go ahead and do some research for the Board so those funds could go to hospitals and she also thought maybe healthcare providers. She added maybe the Board could leave that door open in case there are some of those spending a lot of funds out of pocket.

Chair Lober stated he will take that as a motion and he will go ahead and second it.

Commissioner Smith stated he would like to reiterate, he talked to several people in the County that are heads of hospitals and they said gearing up for this, they spent hundreds of millions of dollars and thankfully it turned out to be a big bust and the hospitals haven't had to do anything with all that room and all that money they spent, however they had to prepare; they are not out of the woods, it still may happen in July or August, who knows; however, they are really behind the eight ball because it depends on a lot of their elective surgeries, so they have not been making a lot of money either. He went on to say they have kind of hemorrhaged funds so they could use some help if the Board can get it for them.

Chair Lober stated he would be happy to have staff start researching some numbers.

Commissioner Isnardi stated she was just going to say definitely; obviously with that comes talking about proving how they spent those funds; but just retrofitting a hospital for that kind of crisis is a huge task in itself; the drive-thru testing they had and the modification to their visitation, the elective surgeries that were all stopped essentially, not because they wanted to

but because they were told they had to, so she thinks it is a great idea, a wonderful idea.

The Board directed staff to research options to reimburse hospitals for supplies and equipment related to the COVID-19 crisis.

Result: Approved

Mover: Rita Pritchett

Seconded: Bryan Lober

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

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

Commissioner Tobia stated today is Billy Prasad's, who is his Chief of Staff, 36th birthday; all the good stuff that comes out of his office is because of his tireless work; he greatly appreciates it, he is the unsung hero, not only is he a capable attorney, he is a friendly individual; Billy tells him when he has gone to far and he greatly appreciates his council. He went on to say, "Happy 36th Birthday and thank you for all you do"; and he noted it is 5:25 p.m. and Billy did not even take his birthday off, so he has dedicated folks and he is thankful for his service to District 3 as well as his office.

Chair Lober asked if the bottom left picture is the age he was when Commissioner Tobia hired him.

Commissioner Tobia commented he is a world traveler and as seen, he can hold up the Taj Mahal himself; and he reiterated Billy is an asset to his office and he greatly appreciates all he does.

Commissioner Isnardi stated she is sure he appreciates being seen on television with a diaper on.

Commissioner Tobia stated all those photos were provided by his sister who is an intern in his office and a University of Florida graduate.

L.6. Curt Smith, Commissioner District 4, Re: Board Report

Commissioner Smith stated as long as the Board is talking about item that he would like to see added to the CARES Act it would be Green Gables; he does not know how many of the Board Members are familiar with Green Gables but it is quite a historical property and the COVID-19 has really put them in a bind; so if the Board could get staff to look at their circumstances to see if they qualify, he thinks that would be a positive addition them.

Chair Lober stated if Commissioner Smith wants to make that in the form of a motion, he would take it as such.

Commissioner Smith responded affirmatively.

Commissioner Tobia inquired if this was just to look to see if this would qualify.

Commissioner Isnardi stated she thinks it is great but she thinks it opens the door for quite a bit of people who think they are eligible for those funds; it is noble for sure, but if the Board allows every hotel, every museum, and every agency out there that has been hit, which is just about everybody, then the Board is opening that door for those things; and as much as she thinks it is noble and she appreciates Commissioner Smith looking out for them and she thinks it is great

what they are doing, she just cannot support that.

Chair Lober stated that is compelling enough that he will join Commissioner Isnardi in dissenting.

The Board directed staff to find out if Green Gables qualifies for the CARES Act Funds.

Result: Approved

Mover: Curt Smith

Seconded: Rita Pritchett

Ayes: Pritchett, Tobia, and Smith

Nay: Lober, and Isnardi

Commissioner Smith stated he agrees 100 percent, there is so much encompassed in people's loss, businesses and people; and he asked where does the Board draw the line. He noted he thinks Green Gables has a lot that they can claim, if they cannot then they will not qualify anyway.

Commissioner Isnardi state she appreciates what Commissioner Smith is doing and her vote does not degrade that at all, it is a slippery slope.

L.7. Kristine Isnardi, Commissioner District 5, Re: Board Report

Commissioner Isnardi expressed her appreciation to staff for getting the Florida Room ready for the Board so the entire Board could attend and look at each other instead of being in the penalty box like the other night; she knows it is a lot on staff; and she just wanted to thank them for doing the job that they do.

Upon consensus of the Board, the meeting was adjourned at 5:24 p.m.

ATTEST:

SCOTT ELLIS, CLERK

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