

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, May 2, 2024

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:02 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, 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 Feltner led the assembly in the Pledge of Allegiance.

The Board gave approval for Commissioner Goodson to attend the meeting by phone.

Result: Approved

Mover: John Tobia

Seconder: Rob Feltner

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

G.1. Suzanne Cook (Daniel Banker) Requests a Conditional Use Permit for a Guesthouse in an RU-1-13 (Single-Family Residential) Zoning Classification (24Z00007) (Tax Account 2431745) This item is Requested to be Continued to the June 10, 2024, P&Z/LPA and July 11, 2024, BCC Meetings

Chair Steele called for a public hearing on a request by Suzanne Cook for a Conditional Use Permit for a guesthouse in an RU-1-13 zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.1. is for Suzanne Cook requesting a Conditional Use Permit for a guesthouse in an RU-1-13 zoning classification; the application number is 24Z00007, the tax account number is 2431745; and it is located in District 2. He noted it is being requested the Board continue this public hearing to the June 10, 2024,

Planning and Zoning meeting and the July 11, 2024, Board of County Commissioners meeting.

There being no comments or objections, the Board continued the request from Suzanne Cook for a Conditional Use Permit for a guesthouse in an RU-1-13 zoning classification to the June 10, 2024, Planning and Zoning meeting and July 11, 2024, Board of County Commissioners meeting.

Result: Continued

Mover: Tom Goodson

Second: John Tobia

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

G.2. Christopher Strozier Requests a Change of Zoning Classification from RU-1-9 to RU-1-11 (23Z00086) (Tax Account 2104016)

Chair Steele called for a public hearing on a request by Christopher Strozier for a change of zoning classification from RU-1-9 to RU-1-11.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.2. is for Christopher Strozier requesting a change of zoning from RU-1-9 to RU-1-11; the application number is 23Z00086; the tax account number is 2104016; and it is located in District 1.

There being no comments or objections, the Board approved the request from Christopher Strozier for a change of zoning classification from RU-1-9 to RU-1-11.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

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

G.3. Jonathan & Emily Schoolfield Requests a Change of Zoning Classification from AU to RRMH-1 (24Z00001) (Tax Account 2443960)

Chair Steele called for a public hearing on a request by Jonathan and Emily Schoolfield for a change of zoning classification from AU to RRMH-1.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.3. is for Jonathan and Emily Schoolfield requesting a change of zoning classification from AU to RRMH-1; the application number is 24Z00001; the tax account number is 2443960; and it is located in District 1.

There being no comments or objections, the Board approved the request from Jonathan and Emily Schoolfield for a change of zoning classification from AU to RRMH-1.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

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

G.4. William & Jeanette Gonedridge Requests a Changes of Zoning Classification from RR-1 to AU(L) and Removal of an Existing BDP (24Z00003) (Tax Account 2000372)

Chair Steele called for a public hearing on a request by William and Jeanette Gonedridge for a change of zoning classification from RR-1 to AU(L) and removal of an existing Binding Development Plan (BDP).

Jeffrey Ball, Planning and Zoning Manager, stated Item G.4. is for William and Jeanette Gonedridge requesting a change of zoning classification from RR-1 to AU(L) and removal of the existing BDP; the application number is 24Z00003; the tax account number is 2000372; and it is located in District 1.

There being no comments or objections, the Board approved the request by William and Jeanette Gonedridge for a change of zoning classification from RR-1 to AU(L) and removed the existing BDP.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

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

G.5. JEN Florida 48, LLC (Kim Rezanka) Requests a Large-Scale Comprehensive Plan Amendment (2023-2), to Change the Future Land Use Designation from RES1:2.5 to RES 4 and CC (23LS00001) (Tax Account 3000277, 3000368, 3000827, 3000829)

Chair Steele called for a public hearing on a request by JEN Florida 48, LLC for a Large-Scale Comprehensive Plan Amendment (2023-2), to change the Future Land Use designation from RES1:2.5 to RES 4 and CC.

Jeffrey Ball, Planning and Zoning Manager, stated Item G.5. is for JEN Florida 48, LLC requesting a Large-Scale Comprehensive Plan Amendment (2023-2), to change the Future Land Use designation from RES1:2.5 to RES 4 and CC; the application number is 23LS00001; the tax account numbers are 3000277, 3000368, 3000827, and 3000829; and it is located in District 5. He explained to the Board and the residents that this is a two-step process; this application has the potential to transmit this up to the State for its review; the Board has different options with this, as it can recommend approval to transmit, it can recommend denial, it can recommend what the applicant has requested as far as the RES 4, or it can make the recommendation along with the Local Planning Agency (LPA) recommendation; this is just a transmittal; and what the Board is signifying is that it has reviewed the application and it is sufficient for the State to review and reply back with comments. He added when it comes back down for this application it will go through the same process with the LPA and the Board for the adoption hearing.

Chair Steele commented he is completely confused now; and he asked if no matter what the Board does, if it is passed, it has got to go to Tallahassee.

Mr. Ball replied that is correct; and it is just the transmittal to send this up to the State for review.

Chair Steele remarked he has got it.

Kim Rezanka, applicant, stated she is present on behalf of SunTerra Communities, which is in partnership with Jen Florida 48, LLC; representing SunTerra is Richard German, Jimmy Dunn, and Dan Edwards, who do not intend to present unless there are questions; also, the engineer of record, Poulos and Bennett, has two engineers present, Mark Styley and Andrew Ivey; also present, the land planner, Jesse Anderson, who is formerly the assistant growth management director at Palm Bay; and also present is the transportation engineer, James Taylor, with Kimley-Horn. She stated as the Board knows, she is present for a Future Land Use amendment for almost 1,110 acres; she is still seeking a Future Land Use on the 1,082.57 acres of RES 4, and it is agreed that it will be limited to three, but still seeking RES 4; she is also still seeking 27.33 acres of Community Commercial (CC) to allow for almost 400,000

square foot of retail; and the location is south Brevard County about three and one-half miles north of the Brevard County line. She added it is adjacent to Deer Run and Babcock Street and it is not in Palm Bay; Palm Bay is to the north, the east and to the south, but it is not adjacent to Palm Bay in any way; the property to the north, Rolling Meadows, and to the west was at one point in Palm Bay but it was de-annexed by the Florida legislature many years ago; she showed on the location map, it does abut Babcock Street; and what is hard to see, but will be seen later, is there is a 100-foot drainage that surrounds this entire property and separates it from Deer Run and from the property to the north. She noted the property to the north is a spite strip that was done by Mr. Sartori and his company Jaric Holdings, LLC to essentially prevent annexation into Palm Bay; it varies from 75 feet to 120 feet, which stops the adjacency to Palm Bay; she showed the bubble plan for the Planned Unit Development (PUD) that is not before the Board to show why she is seeking RES 4; this is hopefully what will come before the Board if it is adopted and comes back to the Board sometime in August or September after it comes back from the State; the zoning will be with the application for the Comprehensive Plan adoption; and this would allow 3,246 commercial homes of \$398,000. She went on to say this is a very large development with 468 acres of open space, 140 acres of active recreation, including a very large pond which will be amenitized; it is not engineered, but this is what they are hoping to do with active recreation and the commercial along Babcock Street (in the square); this is a challenging project, as the infrastructure is lacking here; it is known the State has provided for a proportionate fair-share agreement, so whatever is approved will have to have the infrastructure before it can be built; and that is what the Comprehensive Plan says, and what Florida law says. She noted she is working through that with the School Board, the Fire Department, the Sheriff's Department, and they have spoken to all of these entities and they know what they are looking for; growth is coming, she showed to the north, there is St. John Heritage Parkway which has come in about one-half a mile north of here, there is a Publix coming in at this corner, and these are large developments that are at a higher density than what she is seeking, Rolling Meadows has a density of two units per acre, and then Ashton Park over here; there is a lot of growth coming, as there are seven large scale developments in this area within a two-mile radius; this whole South Brevard area is in transition to higher density; and there are deficiencies in infrastructure, but there are solutions to that. She mentioned there was a community meeting on April 10th, where people were allowed to attend virtually and in person; the meeting was two and one-half hours; there were a lot of concerns by Deer Run, as one could image, about traffic, schools, fire, density, and consistency compatibility; those are zoning issues and they are not there yet, as they have to get through Future Land Use first; and she brought James Taylor to the podium to talk about traffic on Babcock Street.

James Taylor, Kimley-Horn and Associates, stated as part of any Future Land Use amendment, a traffic study has to be done that evaluates for the short-term horizon, which is 10 years out, and the long-term horizon, which went to year 2045, what the impacts look like if this Comprehensive Plan amendment goes forward at its maximum intensity; he showed on the screen a large blue circle, a five-mile radius, which was evaluated in the Future Land Use amendment and will also be evaluated in an upcoming, more detailed Transportation Impact Study that is required by the County; they are working through a methodology for the future study, but for tonight, he wanted to point-out some general conclusions from the Future Land Use evaluation which showed that this area is going to be needing some capacity on Babcock Street from Grant down to Micco in those horizon years; and the percentages show the way that the traffic is anticipated to flow out of this project. He noted the red segments on the screen were part of the study area for this, so they have concluded in that study, and evaluated, and agree with the County staff that there will be some capacity that needs to be mitigated for in the future on Babcock Street between Grant and Micco.

Ms. Rezanka stated one of the issues that was raised at the community meeting is the buffering, because those are large lots, and these are going to be smaller lots; there is going to

be a lot of green space and a buffer around; she showed on the screen a representative cross-section for the property to the west and the south; she noted there is an existing 100-foot drainage ditch that surrounds the entire property and the developer is proposing a 50-foot buffer tract before the property lines of the individual homes, which would be a minimum 150-foot buffer; this is Planning and Zoning and re-zoning but it has been thought about, they are conscientious; and they do want to make sure there is a visual site buffer to the neighbors. She added to the north, it is even more of a buffer, as that is the spite strip, 75 feet, and there are two, and a 20 foot; then there is 200 feet there, which sometimes includes the canal in the right-of-way, sometimes it includes just the canal, but to the other side of the road it is almost 300 feet, a very large buffer to the north; as to school impacts, there is a concurrency review that has been provided; there is capacity to a certain extent, up to five years, but after that time schools will need to be built; but there is proportionate fair-share for that and impact fees of almost \$16 million that this will generate, to go towards whatever needs to be built. She continued to say there are many high school, middle school, and elementary sites in the area; there are about seven sites owned by the School Board within or close to the vicinity of this property and they have been working with the School Board to identify what can be done to assist; as to fire and police response, there is an Interlocal Agreement with Palm Bay and Mutual Aid Agreements also; SunTerra wants to make sure that the residents and neighbors are secure and safe; and they have talked to the Sheriff, the Fire Marshall, and are working with them to help them as this progresses.

Jesse Anderson, of Poulos and Bennett, stated he is talking a bit about the compatibility of this overall development in terms of the relative proximity, which is something that is brought up by statute; statute does define compatibility as a means or condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion, over time, such that no user or condition is unduly negatively impacted directly or indirectly by another use or condition; the important part about tonight, and what both Ms. Rezanka and Mr. Taylor have mentioned, is that this is for the Future Land Use amendment and talking about the maximum entitlements that would be governing this property; and as it goes through continuous stages of development, those will become more restricted and more finite, such as through the Planning and Development Unit Zoning District that is being provided for in a future development application. He mentioned that is where Ms. Rezanka had referenced that she is looking to restrict that property further down to three dwelling units per acre through that type of application, but tonight they are looking at RES 4; they are looking at the compatibility of that versus the general area and that is the question at hand; for the surrounding area, they do have a bit of diversity in terms of what is in the inner core versus the outer core of the area; the inner core is showing a lot more of the R1:2.5, whereas the outer core is showing a lot more intensity and density; and a lot of that has to do with the interchange that has come a long way, as well as the St. Johns Heritage expansion. He added in addition to those efforts, there are a lot of entitlement changes in the Waterstone area, as well as Cypress Bay and Emerald Lakes, for instance, Waterstone and Cypress Bay have a minimum of five dwelling units per acre and Emerald Lakes is over three dwelling units per acre; in Cypress Bay and Waterstone, they go upwards of 20 to 25 units per acre depending on which Future Land Use is looked at, with the neighborhood commercial having the most intensive and the most dense as well; when looking at their site, the reason they are looking for RES 4 is because it is seen as the most compatible transitional type of Future Land Use that could be identified with throughout the Comprehensive Plan in terms of the general close surrounding area, as well as a bit broader lens; and they would have looked at that half-mile radius, however, because these are such giant parcels, they did not feel that this is the holistic effect of their property, so they looked at a broader range of two miles, which does show that they have some more influence on the general development scheme. He stated then they also look at how to transition from Babcock Street further westward, and because of our alignment on Babcock Street, which is an arterial roadway, it does have the capacity in the future as they start to phase into this development; the phasing is what is going to keep them compatible throughout the time periods; with the

Planned Unit Development Zoning District, there will be phasing associated with it and at specific stages of that development, there will be enhancements or mitigation efforts that Ms. Rezanka and Mr. Taylor have both discussed, such as enhancements to Babcock Street that might have to occur through developments around this area; and those mitigation effects will eventually cause this to be more compatible as more houses are built throughout that time period.

Ms. Rezanka noted this is just the summation that Mr. Ball was talking about; she has gone through the Local Planning Agency (LPA) and now at County Commission; if it approves a Future Land Use amendment, it then goes to the State and it will come back for an adoption hearing along with the Planned Unit Development Zoning (PUD) with the preliminary Development Plan; and she is requesting approval of the RES 4 for the 1,109.57 acres.

Chair Steele instructed the speakers to please try not to repeat themselves, as he knows this is an emotional issue for them; and he asked why someone's hand is up.

Teresa Torsiello responded she is from Deer Run, as most of them are, and what was done at the Planning and Zoning is to let one person speak so that they did not take up all the time; she has a statement and could do that again; and instead of having 55 minutes of speakers...

Chair Steele remarked she may be his best friend ever; if there is one person from Deer Run that would like to speak on behalf of all the residents there, he may have to go buy her a candy bar or something; he asked if the speakers in the audience had all filled out cards and were in agreement with this scenario; and he heard agreement from the audience.

Ms. Torsiello stated she is the president of the Homeowner's Association and Equestrian Development; Deer Run is a Brevard County community established in the 80's; it is zoned R1:2.5, meaning one home per two and one-half acres; it is an equestrian development with its own horse facilities, including a \$60,000 arena; they have the pleasure of living in the only Brevard County housing development in this area and feel privileged to be able to live among the wildlife; and as another Deer Run resident stated, they cherish the peaceful lifestyle. She added Deer Run has proven that a harmonious coexistence with nature is possible; they are surrounded to the east by the Micco Scrub Sanctuary, which is an Environmentally Endangered Lands Program (EEL); for those not familiar with EEL, it is the Environmentally Endangered Lands Program, which acquires, protects, and maintains environmentally endangered land for resources, stewardship, and ecosystem management; EEL protects the rich, biological diversity in Brevard County for future generations; and the Micco Scrub Sanctuary protects 1,322 acres of Brevard's remaining scrubby flatwoods and mesic flatwoods habitat and is directly across the street from where SunTerra wants to change the zoning. She noted this mosaic of seasonal marshes and dry flatwoods shelters many indigenous species of plants and animals that cannot be found anywhere else in this County; these indigenous species and endangered animals are right across the street from where they want to build 3,200 homes; obviously, this is not compatible with the existing environment; next to the scrub sanctuary was a mine that is now privately owned; the owner has refused to sell any portion of that property to anyone and plans on it being for her family; and it is considered R1:2.5. She stated to the southeast of Deer Run is the St. Sebastian River Preserve Park and to the southwest is the T.M. Goodwin Waterfowl Management Area; they are surrounded by Brevard County's environmentally endangered plants and animals; in Deer Run, they get to see and enjoy their endangered neighbors, the Gopher Turtles, Florida Scrub Jays, Sand Hill Cranes, Bald Eagles, and Osprey, just to name a few; they love the fact that these endangered animals have made a home in their area; and Chapter one of the Brevard County Comprehensive Plan, Policy 96, states that prior to development of any County-owned property, an environmental assessment should be completed, which would analyze the impact of the proposed development on the natural resources and wildlife habitat of the property. She advised SunTerra is not providing a study to

ensure the wildlife habitat of the existing property, making sure it is not affected; they want it rezoned now, without the information of what will be affected if 3,200 homes are added; they claim they will do this after it is rezoned; she asked how can an area be rezoned without valid information of what kind of damage would be caused to the existing wildlife and natural resources; she stated she feels this is something to not take lightly; and she asked the Board not to allow a developer to put the cart before the horse, know the specifics, and do not rush into making a decision that generations for years will pay for. She stated SunTerra wants to rezone the property to R4, with the commitment of building a maximum of three dwellings per acre, with a density count; the reality is there will be 3,200-plus homes that they plan on building, not three per acre, but more like 13 homes per acre; at the SunTerra meeting held prior to the Planning and Zoning meeting, SunTerra explained that some houses will be on a 40 by 80 plot, yet they say it will be a smooth transition; Deer Run has one house per two and one-half acres, to one house on 40 by 80, which is not a smooth transition and is completely illogical to the existing neighborhood; Zoning and Planning is recommending a RES 2, which would equate to 2,164 homes and over 4,300 additional vehicles; and this is also not a logical transition from an R1:2.5, as if it was R1:2.5, there would be approximately 432 homes in the area. She continued by saying at the Zoning and Planning meeting, SunTerra was asked if they would be willing to zone R2; the developer should not be asked if they are willing to do so, the Brevard County Comprehensive Plan, which clearly states what a logical transition is, should be followed; a request for a zone change must be consistent with the Comprehensive Plan for the area and be consistent with surrounding usages; rezoning an area that has low density, to high density, is not consistent with the Comprehensive Plan; and SunTerra will state that Waterstone and Cypress Bay are R4, as well as some others, but the fact is, they are all Palm Bay developments, not Brevard County. She suggested it needs to compare apples to apples, as people all know that Palm Bay will annex and build anything for tax revenue; they do not care about the environment or the impacts to roads, neighbors, or natural resources; they have mishandled the funding from the Department of Transportation (DOT) in regards to St. Johns Heritage Parkway, hence the inconsistency with their own 10-year plan, and needing revenue to pay back the \$9 million loan that was taken to complete the Parkway; they are still awaiting completion of the St. Johns Heritage Parkway alternate corridor to alleviate traffic in that area, as there are 14 miles not completed; and they want to add 4,000 to 6,000 more cars in the area, knowing it is not funded. She stated the County has prided itself in keeping consistent with transitions that are logical; the County's Comprehensive Plan states being logical over and over throughout the Plan...

Chair Steele interjected by stating he has added five more minutes for Ms. Torsiello.

Ms. Torsiello replied if it does, it is going to be 20 total, because it was instead of having 55 minutes, or each speaker could come up.

Commissioner Tobia asked if there was concern that it is providing more time to the individuals as opposed to the applicant, as he finds an inconsistency.

Chair Steele remarked what he is hearing is that the Board gives Ms. Torsiello a total of 20 minutes or hear each of the speaker cards; he left it up to the Commission on what to do; and personally, he would like to let her get through this and waive the rest of their times and move forward, but he is willing to do whatever the Commission desires.

Commissioner Pritchett stated she is not sure what to do; she knows in the past, it never allowed somebody to take over another person's time at this type of thing; and this is totally different for her, so it is new territory.

Ms. Torsiello mentioned if it helps, she has done this in the past for Deer Run with a different Commission.

Morris Richardson, County Attorney, noted the rules allow for that; it is at the discretion of the Chair and the Board in the case of a Quasi-Judicial item; but this is Legislative, so the Chair has a lot of leeway in running the meeting.

Chair Steele remarked he is going to compromise and give her another 10 minutes.

Ms. Torsiello replied she would try to go as fast as she can; to the north of SunTerra are individual land owners who are zoned as R1:5; to the south is Deer Run, zoned R1:2.5; SunTerra will be surrounded by single-family homes on two and one-half acres minimum; and she asked how is the logical transition from Deer Run, one house on two and one-half acres, to 13 homes, and back to one house on two and one-half acres, which is Willowbrook. She added there is absolutely nothing logical about that; it needs to not look at what is four miles down the road, but what is directly next door and what will be adversely affected; the logical response, according to its written words of the Brevard County Comprehensive Plan, is that the zoning should be R1:2.5, keeping it consistent with the existing properties that surround SunTerra; Deer Run is approximately 1,600 acres, larger than SunTerra, with one entrance; SunTerra is proposing five entrances on Babcock Street; and SunTerra will be adjacent to the Deer Run entrance, taking a quiet residential entrance and making it a highway, since the crossroad is Micco Road. She noted Deer Run is County, so people know one of the entrances to SunTerra will connect with Deer Run and adversely impact those who live at the beginning of Deer Run; the traffic of up to 6,000 vehicles, 3,200 homes, two cars per home as criteria, will turn the Deer Run entrance into an entrance of a huge development; it would create a dangerous situation for the residents who ride horses and cross Babcock Street to go to the scrub sanctuary trails, for the endangered animals who cross the road daily, and it will disrupt the quality of life for residents in Deer Run; a wildlife corridor is an area of habitat that connects wildlife population, separated by the human activities or structures; it is known there is a wildlife corridor crossing Babcock Street; and by adding a massive development, increasing Babcock Street to a four-lane highway, she asked how it is proposed to protect these endangered animals. She stated South Brevard is unique in that these endangered animals have chosen to live; Policy 912, Brevard County Natural Resources Management Habitats will comply with the Countywide Scrub Jay habitat; if 13 homes per acre are allowed, that will wipe out the natural habitat that already exists on the SunTerra property, as these animals are already there; they also have concerns about the infrastructure, and she asked how Babcock Street can withstand another 6,000 vehicles, each home averaging two vehicles; and the impact fees will assist, but she asked will they help in two or four years after so many houses are sold. She mentioned an interesting article in Business Markets last week, noted two states where home prices are falling because there are too many houses being built currently, Florida and Texas; Brevard is inundated, as Palm Bay is number two in the State of Florida for the most foreclosures; part of the Comprehensive Plan states that the County must ensure that new development will not bring down existing prices; it is known there are homes currently being built and making the zoning not consistent with the surrounding areas, will impact the quality of life that Deer Run already has; and she asked how it will avoid their prices from dropping. She stated nowhere else in the County will one find homes in a development with a minimum of two and one-half acres; the average new home in Deer Run are valued at \$800,000 to \$1.1 million, currently today; SunTerra comes before this Commission without looking into consistent transition of the neighborhood; they asked SunTerra if they would look at R1:2.5, no, they do not do that; and there is no reason that SunTerra does not keep consistent with the area. She went on to say it should also be noted that Babcock Street from southern corporate limits of the City of Palm Bay to the Indian River County line, is considered a scenic route in the State of Florida; she asked how that route is going to continue when it is disrupted with a four-lane highway going through the scrub sanctuary; she asked who is going to be responsible for the long-term maintenance on Babcock Street; SunTerra is talking about different phases being built-out; and that means loads of dump trucks going in and out of the area for years, breaking up Babcock Street. She asked when each phase is completed, will it be SunTerra's responsibility to be out there

checking to make sure Babcock Street is still good, or will they be long gone and the taxpayers get to foot the bill as it has been doing; she asked about hurricane evacuation routes, as adding these vehicles in the area is also a concern; in 2004, when she evacuated, it took nine hours to get to Georgia, and Interstate 95 is not changing; but the area they live in has, with too many vehicles now, and they do not have sufficient ways of getting out. She noted the traffic study that SunTerra talks about on Babcock Street is over a year old and prior to the build-outs of Waterstone and Cypress Bay on Micco Road; these concerns should not be pushed aside as they are real and affect those who live there; staying consistent with zoning, as the Comprehensive Plan states, will ensure they can manage with existing infrastructure; increasing zoning to numbers that their existing infrastructure cannot handle is not logical; land use capability with existing and future development must include the established neighborhoods; and the planning of the complete streets program also needs to be considered, and all users, including horse riders, need to be considered. She added they are an existing equestrian development and that must include the safety as well as sidewalks for pedestrians and bike lanes, but there was no talk about that; everything SunTerra brings in here is with the caveat that it will be resolved in the PUD, in the future; they live here now and do not want to wait for the future of what is going to occur; the Commissioners do not change the Plan to increase revenue as Palm Bay has, as it has been consistent from Titusville down to Palm Bay with ensuring that existing neighborhoods are not negatively impacted; and it has always put the existing taxpayers first, and they are asking it to continue to do so. She stated SunTerra will tell people there will be natural buffers, but once the invasive trees are removed, there are no natural buffers left; there is a canal, it is not 100 feet wide, and it will not stop the noise; some homes will have a 50-foot buffer to that recreational lake; and there are homes that will have multiple sides facing SunTerra. She asked who the recreational lake is for, as it is not a gated community, meaning anyone can utilize the lake with motorboats, seadoos, parties, fireworks, and traffic in and out; this backs right up to Deer Run; she asked who is going to regulate this with thousands of people coming in and out; when talking about transitioning, SunTerra likes to bring up Palm Bay developments; that is not being discussed here; and she asked to please only use what the County has. She continued by saying what surrounds SunTerra is all land that is R1:2.5; one of the other administrative policies, in addition to the factors specified in administrative policies 2, 3, and 4, is reviewing a rezoning Conditional Use Permit (CUP) or other applicant for development approval; the impact of the proposed use or uses on transportation facilities; the criteria is whether adopted levels of service will be compromised, yes, that is easy to see; and police, fire, schools, and infrastructure is all going to be compromised. She noted the closest police that they have is on Malabar Road; there is no fire department, with the closest in Barefoot Bay; Palm Bay will be putting up a new fire department but they do not have emergency medical or paramedic services, so the only County Rescue they have is next to Bayside High School; and she asked how it is going to handle all this County. She stated the projected traffic impacts of the proposed use would materially and adversely impact the safety and welfare of residents in existing residential neighborhoods; without a doubt, the homes in front of Deer Run will be negatively impacted by extra traffic, impacting horse trails; Deer Run homes that surround SunTerra on two sides will be negatively impacted as well as the neighborhood; and everyone in Deer Run will have a change because of SunTerra. She went on to say she wanted to talk about drainage problems, as that is a big concern in Deer Run; stormwater drainage was discussed and, surprisingly, SunTerra said they will pump in the Sotille Canal, which currently has a \$3.57 million stormwater park being built to help capture the pollution from the Sotille Canal prior to entering the Sebastian River, which is a major tributary; the lagoon in Sebastian River is horribly polluted, yet SunTerra wants to add another 3,200 homes to drain off into the stormwater drainage; if it does not pump into the Sotille Canal, they go into Santori Lake, which the County put a pump in to stop the flooding into Deer Run; additional stormwater from 1,100 acres will flood Deer Run; and she asked if the County is ready to install a permanent pump in Deer Run and an auxiliary pump ready for back-up. She asked who will pay for this, as Deer Run gave up 10 years of road paving for that pump and has no intention of doing it again; that could be avoided with logical decisions; a

development should not adversely impact Deer Run and cause flooding; SunTerra had no ideas about the flooding issues Deer Run had, so obviously, the research into what will be impacted by this development is sorely missing information; and the area needs to be kept consistent with zoning to not impact existing neighborhoods. She stated the schools are all at capacity now, not at 85 percent; one can go on the Brevard County site and see that four schools are now frozen; Deer Run would love for this area to be zone R1:2.5, to have continuity, to enjoy the wildlife and peaceful setting; and they all have seen the County's plans for this area for years and they loved it. She added they do not want to look out into their backyards and see rows of houses on top of each other; there is a sense of inner peace looking out and seeing nature, animals thriving, and the sounds of birds; they get to see this breathtaking scenery, a peaceful living in wonder and tranquility is what one finds in Deer Run; Brevard County's vision has always respected the environment to protect it for future generations; and they are asking the zoning request to be denied for anything other than a RES1.

Chair Steele asked if the Board has any questions for Ms. Torsiello before he turns this over to Commissioner Pritchett.

Ms. Rezanka reiterated this is just a transmittal hearing for Future Land Use (FLU), it is not zoning; 99 percent of what the President of the HOA brought up is zoning matters; this is FLU, it is not high-density, it is RES 4, low-density; the Comprehensive Plan does not require it to be adjacent; and it actually says consistency with emerging patterns of surrounding development. She stated FLU Objective 1 requires development to meet or exceed established levels of service, which this project will do if it gets to the zoning stage and the PD stage where they actually have lot lines; the lot lines will actually show the transition to the sizes and these very large buffers, as the Board can recall from the bubble plan we have presented; again, this is baby steps, not all of the engineering has been done; what has been done has been necessary to get to this stage; more will be required before they will even come to the Board with a Planned United Development (PUD) zoning; and they will have to have a development agreement in place and proportionate fair-share agreements. She went on to say the level of service issue is especially provided for in Florida Statutes and contemplated, so growth can move forward; that is what they are trying to do, to move growth forward; it is already there, there is more coming; these roads, schools, fire, and safety issues will all be addressed through proportionate fair shares and development agreement; and with that she requests that the Board approve the Residential 4, and also there is a small community commercial component of 27 acres, so it is actually one motion, but there are two different Future Land Uses. She advised if there are any questions, the team and engineers are here.

Chair Steele asked Commissioner Goodson if he has any questions; he noted he does not want to ignore him because he cannot see him.

Commissioner Goodson replied no, sir, he does not.

*Chair Steele passed the gavel to Vice-Chair Pritchett.

Commissioner Feltner asked if he can ask Ms. Rezanka a question; he thinks one of the things that were interesting was that there is going to be this open lake, and that will be available to people who do not live there; and he asked if this is a deed-restricted community and that will be part of an HOA.

Ms. Rezanka replied yes, sir, it will be an HOA; that is intended to be private, that lake; there may be public parks to be open; but those will be closer to Babcock Street; and it is not anticipated that, that 110-acre lake will be open to the public.

Commissioner Steele stated time does not stand still; he stood out off of Babcock Street in 1982 when Deer Run was being built; there were drainage problems then, there are still drainage problems today; he would like to share the reason he is not going to make some happy tonight, at least with his motion; that is for a variety of different reasons; he provided the Board with an aerial of the property; and he stated when the Board looks at this aerial it will see where Heritage Parkway is, Babcock Street, SunTerra's Project is, and it will see a lot of property. He made disclosures to the County Attorney regarding him going to the site, he spoke with Mr. Dunn twice, he spoke to Ms. Rezanka once; but the most important thing to him, because this is something that is in his District, is the County has to figure out how it is going to fix all of that nonsense that is down there; trust him when he tells people it pains him to sit here in front of these good folks and say, sorry, and guess what, Deer Run is not the only project in the world in Brevard County; and there is tremendous growth that is going to happen. He advised the beltway out there is going to alleviate a variety of projects, a variety of the backup in traffic; he appreciates the comments in regard to this, but he has talked to the property owners out there so he knows what is going on as well; that beltway has got to be completed; Babcock Street has got to be done; in his motion he is going to ask that SunTerra give the County a two-acre parcel for a fire station there; the County has so many problems there that the only way they will ever be fixed is impact fees and a development plan; and he guarantees everyone that they are not going to be the only ones coming down there. He stated he talked to three other people that have like 7,000 acres that are going to be doing the same thing; the only way the County can increase the ad valorem taxes is get the money it needs to improve all of the things that are down there is to get some units built; and he would like to say time stops and a person can have the same thing he or she had in 1982, but it does not. He made a motion to approve the Residential 4 with a cap of 3, with a contingency that they give the County two acres of land for a fire station, and 27 acres of commercial.

Commissioner Tobia stated he was just going to add in community commercial; and he asked if Chair Steele wants him to add in the plan amendment numbers and all that good nonsense.

Chair Steele asked if Mr. Ball or Mr. Calkins thinks that needs to go into the motion, or is it all right doing it the way he just did it.

Attorney Richardson advised he thinks the motion is sufficient.

Vice-Chair Pritchett advised she has a motion; and she asked if there is a second.

Commissioner Tobia seconded the motion.

Vice-Chair Pritchett called for a vote on the motion. There being no further comments or objections, the Board conducted the public hearing and approved transmittal of a Large-Scale 2024-1 Spring Cycle Comprehensive Plan amendment package for JEN Florida 48, LLC, to change the Future Land Use designation from RES 1:2.5 to RES 4, with a cap of three units, CC (on 27.33 acres), and a contingency to provide the County with a two-acre site for a fire station, at the time of zoning.

*Vice-Chair Pritchett returned the gavel to Chair Steele.

Result: Approved

Mover: Jason Steele

Seconded: John Tobia

Ayes: Pritchett, Tobia, Feltner, and Steele

Nay: Goodson

K. PUBLIC COMMENTS

Frank Caufield stated on February 6th, he called Code Enforcement to ask which part of the County Code pertains to building residential docks in unincorporated Brevard County; he left a voice mail requesting a call back; Denny Long, a Code Enforcement supervisor, returned his call on February 8th, and shared with him that Section 62-2118 of the Brevard County Code must be followed when building docks or piers in Brevard County and he emailed him a copy; the Code violations involved in the application process and the construction of the double dock at 424 Port Royal Boulevard are clearly defined in Section 62-2118; he submitted a Code violation complaint to Denny Long on February 12th, case number 24CE00167 was assigned; he submitted an addendum to the original complaint on February 22nd, citing specific Codes and statutes the homeowners and Building and Permitting failed to follow; and including Building and Permitting as part of his Code violation complaint changed the direction of the investigation, in his opinion. He added when professional relationships come into play during an investigation, there is a perceived need to protect the organization that is worked for; throughout Mr. Long's investigation, he staunchly defended the County's approval of the building permit; it was impossible for him to find the homeowner in violation of any State or County Code; to do so would require him to find Building and Permitting had failed to follow State or County Code during the building permit approval process; that is a difficult position at best; and he has spent the past three months researching and studying the Brevard County Florida Code of Ordinances, as well as State Building Codes and statutes. He noted while the Department of Planning and Development has discretion in enforcing laws, it does not have the authority to ignore or supplant the County Code; there are limits to how far it can deviate from its obligation; on April 1st, Billy Prasad, Deputy Director of Planning and Development, sent an email to him stating the County's position; he is confident the Board of Commissioners will support his position; he understands where that confidence comes from, after serving this Country for 21 years in the United States Army and Brevard County Communities for 26 years as a classroom teacher; and he understands the sense of loyalty and trust that develops within an organization. He stated those in leadership positions, such as the Board, trust the guidance and information provided to them by members of the organization to be based in fact and rule of law; unfortunately, in some cases, errors are made; he believes errors were made in this case; he spent several weeks cross-referencing the County's position as stated by Mr. Prasad, with State and County Codes and requirements; but the position taken by Mr. Prasad does not stand-up under that review. He continued to say he believes Mr. Prasad's position runs contrary to several Florida statutes and more than a dozen County Codes.

Chair Steele noted that Mr. Caufield's time is up.

Mr. Caufield remarked he did not get to the point why he was here.

Chair Steele replied he does not know; and he would have to ask himself that question.

Mr. Caufield stated the reason why...and he asked if he could ask the Board what he can...

Commissioner Feltner interjected that Mr. Caufield is one of his constituents; and he asked if it would be amenable to yield him a couple of minutes to finish his thoughts.

Chair Steele replied that is fine.

Commissioner Feltner asked Mr. Caufield if two minutes would suffice.

Mr. Caufield remarked he is sorry he went over his time, as he rehearsed this several times; he added he also has information from the County that contradicts Mr. Prasad's position; that is what brings him here tonight; he and his wife bought their forever home in 2017 and they

worked their whole life to get it; he believes the investigation that was conducted was conducted in error; he requests the opportunity to present that as an Agenda Item to the Commissioners; and he is requesting that someone sponsor him so he may come before the Commissioners as an Agenda Item to explain his findings in this case.

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

Frank Abbate, County Attorney, stated the County Manager's Office received a call yesterday from Space Florida; they are in the process of requesting a Federal Community Project funding of \$5 million that Congressman Posey's office is looking to sponsor and move forward with the Appropriations Committee this Friday; this is for redirecting wastewater from U.S. Space Force treatment facility on the barrier islands to the Sykes Creek facility; and they would like a letter of support from the Commission. He added he has a draft of that letter; if the Board approves it, it could move forward and have the Chair sign it this evening; he has to give it to a Space Florida representative tomorrow morning; this Project is aligned with the larger regional wastewater treatment plant facility concept that they are trying to get grants for that relate to Port St. John; and it is also consistent with grant applications and planning documents that are associated with the Sykes Creek Wastewater Treatment Plant and the future regional plant that will be on the mainland. He stated if the Board would like to move forward on this, he would need a motion and then have the Chair sign the letter that he handed out and get it to Space Florida tomorrow.

Commissioner Feltner stated he would make the motion to direct the Chair to sign the letter.

Commissioner Goodson noted the County has constantly asked them to let it drain the water into their ditch on North Merritt Island and they acted like it was a hot iron on their behind; and he asked why would the County not get something out of this bill that if the County is going to help them, why would they not help the County.

Mr. Abbate replied this request came in yesterday afternoon, so he has very limited information; he does know the reason they requested this is for them to move forward with any expansion up there in the Space Florida area; they have reached capacity with the current facility that Space Force is dealing with; the County does have the capacity available at Sykes Creek; and they are partnering with the County, as it looks for the mere resiliency grant to help with a project on the mainland. He added this is all in an effort to get the facilities, eventually including the Sykes Creek facility, moving over all that wastewater treatment to the mainland; this would be done because there is capacity at Sykes Creek available, and they do not have any; therefore they would not be able to move forward with any additional projects that Space Florida is trying to do; and he could read the draft of the letter to Commissioner Goodson if he would like.

Commissioner Goodson replied no, that is not it; he is just asking why the County would give up something and not get something in return.

Chair Steele asked Commissioner Goodson is the Board has sent a letter to them asking for that.

Commissioner Goodson replied he has asked, his office has asked, and Susan Jackson has asked, because of the constant complaint of flooding, and have gotten nowhere that he is aware of.

Chair Steele asked if a letter has been sent, an official letter.

Commissioner Goodson replied no, they have not; but at the same token, it seems like every

time the Board votes on something, it is hurry up and get it done, it is overnight; and it is giving up 15 percent of the County's sewer plant, wastewater, for a private entity; and he stated let them build a bigger plant.

Commissioner Feltner asked if it would be preferred to put this on the Agenda for the next Commission meeting.

Chair Steele remarked he thinks it cannot, it is a timing issue.

Mr. Abbate stated he was told that the funding request for this particular grant request for the Community Project Funding, that Space Florida received a phone call from Congressman Posey's office saying that they needed this Friday morning; it was received yesterday afternoon, otherwise he would not be bringing it to the Board this evening; and it is for a grant.

Chair Steele suggested the Board try to figure out where it is.

Commissioner Feltner noted he thinks this is part of a larger, future grant that the Department of Defense (DOD) is going to do for a wastewater treatment facility to help the County move off of Merritt Island.

Mr. Abbate replied no, that is a separate grant; this is a Community Project grant that Congressman Posey would be sponsoring; this is for a line from their facility to the Sykes Creek Facility; it is aligned with a longer term, different grant project that the County is looking to build a facility on the mainland, but that is several years down the line; and the County is working on grants for Planning and Development of that particular project as well.

The Board authorized the Chair to sign a Letter of Support for the Space Florida-led endeavor to secure a Community Project Funding of \$5 million to redirect wastewater presently going to a U.S. Space Force treatment facility, now at capacity, and send it to a Brevard County (Sykes Creek) treatment facility.

Result: Approved

Mover: Rita Pritchett

Second: Rob Feltner

Ayes: Pritchett, Tobia, Feltner, and Steele

Nay: Goodson

Chair Steele asked Commissioner Goodson if he would be kind enough to draft something and sponsor an Agenda Item for this; maybe the Board could get something done on an official letter; he agrees with Commissioner Goodson and thinks that it needs to do it in an official capacity.

Commissioner Goodson replied he does not know how much more (inaudible); but if he thinks it will do good, he will be glad to give it to him.

Chair Steele remarked he thinks if a letter is sent that is approved by the whole County Commission, that would be easier or better, and carry more weight than just somebody calling up there and asking to do it.

Commissioner Pritchett commented maybe think of a project to do with it.

Commissioner Goodson replied right, he does not think Susan Jackson is somebody, or staff is somebody, when they are trying to alleviate flooding in North Merritt Island and help the residents; and if Chair Steele wants it in blood, he will get it to him.

Chair Steele thanked Commissioner Goodson and remarked he thinks it is a great idea; and Susan Jackson is obviously part of the County, but when the whole Board does it, it gets a little bit more power than Susan Jackson.

Commissioner Pritchett mentioned she understands what Commissioner Goodson is saying and they need to go work on that; the part that gets her attention is to be able to have future permits for different types of space industry, because that is really helping the economy; that is why she really wants to get rid of this wastewater going onto the barrier island and maybe bring it more inland; the County is working on a project to bring it up to a certain area; but she appreciates it.

Commissioner Goodson replied he is overly joyed.

Upon motion and vote, the meeting adjourned at 6:04 p.m.

Result: Approved

Mover: Rita Pritchett

Seconder: Rob Feltner

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

ATTEST:

RACHEL M. SADOFF, CLERK

JASON STEELE, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Approved by the Board on July 9, 2024