

April 15, 2021

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, April 15, 2021

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:00 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 Zonka

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 John Tobia, District 3

Commissioner Tobia led the assembly in the Pledge of Allegiance.

F.1. Waiver Request, Re: Waiver of Wall Requirement for Cypress Trust Company (21AD00003)

Commissioner Smith stated Tad Calkins, Planning and Development Director, was in his office regarding this issue; he noted that Mr. Calkins suggested this might be a good one to have the Commissioners look at and have brought back for legislative intent, because the issue comes up frequently; he indicated that Mr. Calkins advised it can be tweaked so it is not so common; and he motioned the Board ask Mr. Calkins and his staff to review it and bring the legislative intent back to the Board.

Commissioner Lober seconded it for discussion; he commented to Commissioner Smith that whatever he wanted to do with this, he would vote with him; he mentioned he has a couple thoughts about it, and however Commissioner Smith felt about it, he is with him; when he read it, he noticed it stated an existing, enhanced six-foot fence; he was not certain whether an enhanced fence was a term of art, if it actually meant something, or if it was just on account of the pillars; and after speaking with Planning and Development (PD), he discovered it was just on account of the pillars. He added that after looking at what Natural Resources' input was,

with respect to the wall potentially reducing or somehow impacting drainage, he is not certain; he would cautiously guess that any wall or situation would likely have some impact on drainage, because the foundations for the wall have to be dug in; it would obstruct at least the surface water that is running in the direction of the wall; and it could potentially cause problems with that. He indicated he did not have an issue with it; he understands that the County has a

requirement to have a wall, and he is not certain a requirement is necessary in this circumstance; if it is an enhanced, six-foot fence then it is something staff could look at potentially defining if it is something sufficient and will not create problems; and he desired to bring those thoughts to the Board's attention, but whatever Commissioner Smith wanted to do is fine with him.

The Board of County Commissioners, in regular session on April 15, 2021, directed Mr. Calkins to review and come back to the Board with legislative intent for granting the waiver requested by Cypress Trust Company (21AD00003) of Section 62-3202(h)(10) requiring 6-foot masonry or solid wall for when commercial developments within BU-1, BU-2, or Industrial zoning classifications are adjacent to residential zoning.

Result: APPROVED

Mover: Curt Smith

Secunder: Bryan Lober

F.2. Appointment(s) / Reappointment(s)

On the recommendation of Commissioner Curt Smith, the Board of County Commissioners, in regular session on April 15, 2021, acknowledged Cole Oliver to the Charter Review Commission. Said term of appointment expires December 31, 2021.

On the recommendation of Commissioner Curt Smith, the Board of County Commissioners, in regular session on April 15, 2021, acknowledged Sue Schmitt to the Charter Review Commission. Said term of appointment expires December 31, 2021.

On the recommendation of Commissioner Curt Smith, the Board of County Commissioners, in regular session on April 15, 2021, acknowledged Tom Jenkins to the Charter Review Commission. Said term of appointment expires December 31, 2021.

On the recommendation of Commissioner Bryan A. Lober, the Board of County Commissioners, in regular session on April 15, 2021, acknowledged Nicole Morgan to the Merritt Island Redevelopment Agency. Said term of appointment expires December 31, 2024.

Result: APPROVED

Mover: Bryan Lober

Secunder: Kristine Zonka

G. PUBLIC COMMENTS

Alex Greenwood thanked the Board for allowing him to make an informative presentation that is not necessarily for zoning, but it does have the value associated to zoning; in the paperwork that he provided to the Board, circled items number one and two are the ones he will use as an

example; he is here to bring information to the public that he noticed is a potential mistake; this property, number one and two, are one in the same; he made an offer to buy the property, but not for the amount the sellers were asking, which was \$1.325 million, he was out of the ball game; and the sellers did not accept his offer. He indicated that since the property's change of ownership, the amount that it was bought for was listed as \$1.325 million for both parcels; in reality, the amount should have been split in half so each parcel should list a sale price of half of \$1.325 million; and the reason he has brought this to the Board's attention is because he owns the property next door. He went on to say that it affected him on having a valuation of over \$70,000; he wonders if this could have happened to other properties; he is familiar with some other examples; he did not want to take any more of the Board's time, but this is not the only property he has seen this happen to.

Chair Pritchett thanked Mr. Greenwood and noted she saw him at the Value Adjustment Board meeting.

Mr. Greenwood responded affirmatively.

Chair Pritchett mentioned he was given the recommendation to take the next step forward.

Mr. Greenwood replied yes, and he is going to go through with that.

Chair Pritchett stated to let her know what happens when he gets done.

Mr. Greenwood respond yes, he certainly will; he expressed he had wanted to add a little more information, because he did not come to the Value Adjustment Board meeting with the documents he provided to the Board today; he wanted to present it so that the Board would be more familiar with it; and he did not know if there was some kind of notice that could prevent this from happening again, since he has seen it on other properties already.

Chair Pritchett suggested Mr. Greenwood go to the Property Appraiser.

Mr. Greenwood replied he has already.

Chair Pritchett stated to let her know what happens at the end of it.

Mr. Greenwood explained that he is just trying to prevent anything worse from happening; he wants the citizens to be aware of it also, because a lot of times they do not read it the way he does; he noted that he is a licensed builder for the State of Florida and also a licensed Realtor so he is around it often; and it went out like a red flag to him.

Chair Pritchett reiterated she is really interested when he gets some information back after he does the due process.

Mr. Greenwood stated if the Board had any questions, he is more than happy to answer them.

Commissioner Lober indicated that he had a chance to touch base with Eden Bentley, County Attorney, before the meeting; he is going to work with her to do a little more due diligence on this; he advised there could be some potential safeguards put in place to hopefully keep people in good stead; he also wants to be mindful of not stepping on an autonomous constitutional officer's toes; and it is going to take a little while to dig into it, but he will certainly work with her and reach out to Dana Blickey, Property Appraiser, to see if a better place can be reached with respect to these issues.

H.1. All Space Storage Requests a Change of Zoning Classification from BU-1 to BU-2. (20Z00043) (Tax Account 2317234)

Chair Pritchett called for a public hearing on a request from All Space Storage for a change of zoning classification from BU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.1., All Space Storage requests a change of zoning classification from BU-1 to BU-2, into the record.

Chair Pritchett stated she was comfortable with this if someone would like to make a motion.

There being no further comments or objections, the Board approved changing zoning classification from BU-1 to BU-2.

Result: APPROVED

Mover: Curt Smith

Seconder: Bryan Lober

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

H.2. Kaydenlew, LLC (David Menzel) Requests a Change of Zoning Classification from BU-1 to BU-2. (21Z00003) (Tax Account 2605988)

Chair Pritchett called for a public hearing on a request from Kaydenlew, LLC (David Menzel) for a change of zoning classification from BU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.2., Kaydenlew, LLC (David Menzel) requests a change of zoning classification from BU-1 to BU-2, into the record.

Commissioner Smith stated he was good with this.

There being no further comments or objections, the Board approved changing zoning classification from BU-1 to BU-2.

Result: APPROVED

Mover: Curt Smith

Seconder: Bryan Lober

H.3. SDLD, LLC (Scott Demasso) Requests a Change of Zoning Classification from AU to EU. (21Z00001) (Tax Accounts 2501421 and 2501422)

Chair Pritchett called for a public hearing on a request from SDLD, LLC (Scott Demasso) for a change of zoning classification from AU to EU.

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.3., SDLD, LLC (Scott Demasso) requests a change of zoning classification from AU to EU, into the record.

There being no further comments or objections, the Board approved changing zoning classification from AU to EU.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.4. Robert Van Horn and Gerald K. Houck Request a Small Scale Comprehensive Plan Amendment to Change the Future Land Use Designation from NC to CC. (21PZ00001) (Tax Account 2501307)

Chair Pritchett called for a public hearing on a request from Robert Van Horn and Gerald K. Houck for a Small Scale Comprehensive Plan Amendment to change the Future Land Use Designation from NC to CC.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.3. and H.4. are companion applications; and he read aloud Item H.4., Robert Van Horn and Gerald K. Houck requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use Designation from NC to CC, into the record.

There being no further comments or objections, the Board adopted Ordinance No. 21-08, setting forth the first Small Scale Plan Amendment of 2021, 21S.01, changing the Future Land Use designation from NC to CC.

Result: ADOPTED

Mover: Bryan Lober

Second: Curt Smith

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

H.5. Robert Van Horn and Gerald K. Houck Request a Change of Zoning Classification from RU-1-9 to BU-2. (21Z00004) (Tax Account 2501307)

Chair Pritchett called for a public hearing on a request from Robert Van Horn and Gerald K. Houck for a change of zoning classification from RU-1-9 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.5., Robert Van Horn and Gerald K. Houck requests a change of zoning classification from RU-1-9 to BU-2, into the record.

Commissioner Lober inquired which Item the Binding Development Plan (BDP) is tied to.

Mr. Ball replied it should be tied to Item H.5.

Commissioner Lober stated he had a chance to speak to the applicant about a BDP a few moments before this meeting started; he apologized and said he should have mentioned it before Item H.4. was voted on; if anyone wants to reconsider the vote, he is happy to do that; however, the applicant agreed to have restrictions only on the following; and the applicant will be permitted to do anything that is permitted in BU-2, except for the following: aquariums, auditoriums, billiard rooms and electronic arcades, bottling beverages, bowling alleys, cafeterias, dancing halls and academies, fraternities and sororities, hospitals, commercial parking, pet kennels, seafood processing plants, and theaters.

Chair Pritchett inquired if Mr. Van Horn was comfortable with everything in the BDP.

Mr. Van Horn responded affirmatively.

There being no further comments or objections, the Board approved changing zoning classification from RU-1-9 to BU-2, with a Binding Development Plan excluding aquariums, auditoriums, billiard rooms and electronic arcades, bottling beverages, bowling alleys, cafeterias, dancing halls and academies, fraternities and sororities, hospitals, commercial parking, pet kennels, seafood processing plants, and theaters.

Result: APPROVED

Mover: Bryan Lober

Secunder: Curt Smith

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

H.6. Scott W. and Debora A. Speer Request a Change of Zoning Classification from RR-1 to AU. (21Z00002) (Tax Account 2316763)

Chair Pritchett called for a public hearing on a request from Scott W. and Debora A. Speer for a change of zoning classification from RR-1 to AU.

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.6., Scott W. and Debora A. Speer request a change of zoning classification from RR-1 to AU, into the record.

Commissioner Lober inquired if Mr. Ball had a chance to speak to the applicants about the concerns of agritourism and the animals.

Mr. Ball replied that his staff contacted the Speers, and he was told they are open to have a voluntary Binding Development Plan (BDP) to restrict the uses to not allow agritourism and to restrict the farm animals to two donkeys and two pigs.

Commissioner Lober stated this is one of the more interesting ones than he has had in the past; he mentioned after looking at the notes that accompanied the Agenda Item, he wanted to point out a comment in the North Merritt Island Dependent Special District Board minutes; he read aloud, "not knowing what is going on with the pig, there are definitely going to be two donkeys."; he remarked that he got a kick out of that; and he inquired if Ms. Speer was only going to have one pig.

Ms. Speer replied she already has one pig, and it temporarily lives on her friend's farm; the reason being is she moved from Titusville to North Merritt Island; the pig had to live with her friend until she gets approved to have a pig; and in the meantime, her pig acquired a boyfriend.

Commissioner Lober asked if the pig did.

Ms. Speer replied yes, his name is Mikey; if she takes the pig, then she has to take Mikey; and she is not certain whether she will take both pigs or just let them stay at her friend's farm.

Commissioner Lober remarked that he is not one to knock true love; and he went on to say that if Ms. Speer is amenable to a BDP.

Ms. Speer stated she has no idea what that is.

Commissioner Lober stated it is a Binding Development Plan; he explained that basically she would voluntarily limit herself, and in the this case, not to conduct agritourism and not to have other farm animals; he noted that he is not talking about dogs and cats, but things like horses and cows; and he informed her that she would be restricted, in reference to farm animals, to no more than two pigs and two donkeys.

Ms. Speer reiterated two donkey, two pigs; and she added that she was also going to have a lemon and lime orchard.

Commissioner Lober replied that was perfect; and if she was good with that, he will go ahead and contemplate that as part of the motion to approve Item H.6.

There being no further comments or objections, the Board approved changing zoning classification from RR-1 to AU, as recommended with a BDP, limited to not conducting agritourism, and only allowing two donkeys and two pigs.

Result: APPROVED

Mover: Bryan Lober

Second: Kristine Zonka

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

H.7. Port St. John Small Area Study

Jeffrey Ball, Planning and Zoning Manager, read aloud Item H.7., into the record; he stated that in October 2018 the Board directed staff to conduct a Small Area Study for the Port St. John area; Staff was directed to look at issues such as: population demographics, housing, land use, zoning, and infrastructure; he informed the Board that there are different options to look at from the total of five recommendations that came from the Port St. John Small Area Study Committee, the Planning and Zoning Advisory Board, and the Port St. John Independent Special District; they are enclosed in the Agenda Packet; recommendation one was not acknowledged by neither the Port St. John Independent Special District nor the Planning and Zoning Advisory Board; and he noted that the Board can acknowledge the other recommendations or choose to revise any of the recommendations, as it sees fit.

Chair Pritchett informed the Board that she would like someone to make a motion to acknowledge the receipt of the recommendations.

Commissioner Lober motioned to acknowledge receipt of the recommendations of the Port St. John Small Area Study.

There being no further comments or objections, the Board acknowledge the receipt of the recommendations of the Port St. John Small Area Study.

Result: APPROVED

Mover: Bryan Lober

Second: John Tobia

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

L.2. Eden Bentley, County Attorney

Eden Bentley, County Attorney, informed the Board there are some developments in the Opioid Litigation; staff will be receiving documents from the Attorney General and probably outside counsel; and either she, outside counsel, or both of them will be contacting the Board to discuss it shortly.

L.4. Bryan Lober, Commissioner District 2

Commissioner Lober stated he has a couple of suggestions, and he will probably put together a memo at some point in the next two weeks; he mentioned he has already addressed in a prior memo at a prior meeting some ideas about doing Small Business Grants and offsetting a portion of the Fire Assessment that is proposed to be up for vote on April 20; he advised these are additional, potential uses; he referenced that the Tourist Development Tax (TDT) has approximately \$3.5 million in lost revenue for the year; and he is not certain if \$3.5 million is the correct amount. He went on to say that he would be amenable to using some of the received stimulus funds to offset that loss; the reason is, when he attended the last TDT meeting, there was quite a bit of concern expressed by the beachside community residents that the County is uncomfortably low on the revenue side for the TDT and things like beach renourishment; and he continued that if the Board continues to spend the way it has in the past, it may run out of money if an issue comes up. He expressed that it troubles him that money that traditionally came from the TDT over the past several years to focus on water quality cleanup for the Lagoon is being proposed to stop for a time; he does not mind stopping that as long as another source of funding can be identified so that the County does not reduce the overall amount it is contributing to the cause; he advised there is another source of funding; he does not want to stop contributing, even if it is a small drop in the bucket compared to the Save Our Indian River Lagoon (SOIRL) half-cent tax; he does not want to lose any footing, with respect to the lagoon; and he suggests that the Board think about the willingness to put potentially up to \$3.5 million, but not necessarily that high, from the forthcoming stimulus funds into the TDT to replace the lost revenue on account of COVID-19. He further added that, although he does not know how other districts are doing, his district has been hammered with missed pickups from Waste Management regarding recycling, yard waste, and regular service; he mentioned he spoke with Waste Management, and he knows Waste Management took some corrective actions; and he hopes that things will be better now, but he suggested the possibility of doing a feasibility study, that was discussed during the Solid Waste Bid that went out a while ago, to look at bringing trash collection in-house, much like Titusville and Rockledge. He suggested the Board may want to look at allocating some amount of money, a relatively small percentage of the overall pot, to fund something like that to give the Board options down the road; even if the Board elects not to pursue any of those options or just one option, it certainly cannot hurt to give the Board additional, potential leverage by saying the County can collect its own trash, especially if the bids that come back next time are ridiculous or overly high; he noted that these are a couple things for the Board to think about; he will put more effort into it and get some particulars down; and he hopes to have this discussion in the next meeting or two.

L.6. Curt Smith, Commissioner District 4

Commissioner Smith thanked the Candlelighters of Brevard, Inc.; he stated the Candlelighters were formed back in 1990's by two local mothers, who both had children going through cancer at the same time; the mothers discovered there was no support group for families like theirs, so they created this; their catch phrase is, "Children can't fight cancer alone."; and he read aloud the certificate, "Candlelighters of Brevard, because kids can't fight cancer alone; Certificate of Appreciation awarded to Commissioner Smith, presented April 2021, in recognition of the critical financial support provided to Candlelighters of Brevard by the Brevard County Board of County Commissioners." He mentioned that it was presented to him, but it was for the Board; the Board provided the funds that went out to businesses, like Candlighters and many others, that have helped them during this COVID-19 experience; and he gives thanks alongside their thanks to the Board.

L.5. John Tobia, Commissioner District 3

Commissioner Tobia stated a boat without water is nothing, and a man without dreams is nothing.

Chair Pritchett inquired if he told his aide that he would fit that it in somewhere.

L.7. Kristine Zonka, Commissioner District 5, Vice Chair

Commissioner Zonka expressed gratitude to staff; she mentioned that one only has to watch one of staff's briefings about COVID-19 vaccinations, the efforts in distributing funds, and updates on community services to recognize how nice it is watch; and she noted that she was really impressed with Don Walker, Communications Director; John Scott, Emergency Operations Management Director; Matt Wallace, Public Safety Director; and Ian Golden, Housing and Human Services Director. She commented that every time she is able to tune in she is impressed with the information that is given to residents; her office is receiving less calls, because staff is doing a better job of getting the information out; and she gave kudos to staff and thanked them.

Chair Pritchett agreed with Commissioner Zonka and stated it is working really well, too.

L.3. Rita Pritchett, Commissioner District 1, Chair

Chair Pritchett indicated that Commissioner Tobia sent out a memo to each Board Member; she likes it; the Board is working on this, so the things that are most important will rise up to the top, and the Board will be able to make those choices and decisions; she expressed she just wanted to tell him that, because she could not earlier; she mentioned that Attorney Bentley called her up and told her not to even think about answering, and her response was no ma'am; she reiterated that she likes the thought and idea, and she advised it is a good one; and she decided she wanted to throw that in now.

April 15, 2021

Upon Consensus of the Board, the meeting was adjourned at 5:27 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

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