

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 10, 2022**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

At the outset of the meeting, nine Board members were present and voted on all items on the agenda: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Peter Filiberto, Vice Chair (D5); and John Hopengarten (BPS).

Bruce Moia (D5) was present for Items H.14 & H.15 only.

Lorraine Koss (D2 - Alt) was present, but did not participate from the dais.

Staff members present were: Tad Calkins, Planning & Development Director; Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Kyle Harris, Associate Planner; Virginia Barker, Natural Resources Management Director; Darcie McGee, Natural Resources Management Assistant Director; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Approval of the November 15, 2021, P&Z/LPA Minutes

Motion by William Capote, seconded by Peter Filiberto, to approve the P&Z/LPA minutes of November 15, 2021. The motion passed unanimously.

Scott Minnick

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.15 acres, located on the northwest corner of U.S. Highway 1 and Glenn Rd. (3510 Glenn Rd., Mims) (Tax Account 2102550) (District 1)

The applicant did not appear.

Ron Bartcher stated this will be the second time the board tabled this request because of the applicant's failure to appear, and it seems the applicant doesn't have an interest in moving forward.

Peter Filiberto stated he has no objection tabling it one more time, and deny it if he does not appear next month.

Motion by Peter Filiberto, seconded by William Capote, to table the request to the February 14, 2022, P&Z meeting as the applicant failed to appear. The motion passed 8:1, with Ron Bartcher voting nay.

KJ Group FL, LLC

A CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a Private Club, in a BU-1 (General Retail Commercial) zoning classification. The property is 2,400 square feet, located on the west side of West Ave., approx. 400 ft. north of Aron St. (686, 688, & 690 West Ave., Cocoa) (District 1)

Jeffrey Ball clarified that the staff comments reflect the request as beer and wine, but it is for full liquor and was advertised as such.

Lawrence Lytleville stated an AmVets Post 2450 is being established in Port St. John, it is a nonprofit organization that raises money for the community and helps veterans.

No public comment.

Motion by Peter Filiberto, seconded by William Capote, to recommend approval of a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a Private Club, in a BU-1 zoning classification. The motion passed unanimously.

Robert Griffith

A change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to TR-1 (Single-Family Mobile Home). The property is 1 acre, located on the east side of Old Dixie Hwy., approx. 100 ft. north of Roosevelt Rd. (3435 Old Dixie Hwy., Mims) (Tax Account 2102136) (District 1)

Kyle Harris noted the item needs to be tabled due to proper sign posting.

Motion by William Capote, seconded by Liz Alward, to table the request to the 02/14/22 P&Z meeting for proper sign posting. The motion passed unanimously.

Steven H. Long

A change of zoning classification from GU (General Use) to AU (Agricultural Residential). The property is 4.81 acres, located on the south side of Providence Rd., approx. 977 ft. west of Tucker Ln. (3323 Providence Rd., Cocoa) (Tax Account 2538150) (District 1)

Steven Long, 827 St. Michel Drive, Rockledge, stated he would like to rezone his property so his family can use it on the weekends.

Peter Filiberto asked if Mr. Long wants to build a house on the property. Mr. Long replied no, not at this time.

Ron Bartcher asked if Mr. Long plans on having horses on the property. Mr. Long replied yes.

Public comment.

Druanne Tucker, Cocoa, asked the difference between GU and AU.

Kyle Harris stated AU allows for the raising and grazing of animals, and other agricultural pursuits; whereas, GU would only allow horses on parcels over five acres.

Motion by Ron Bartcher, seconded by John Hopengarten, to recommend approval of the change of zoning classification from GU to AU. The motion passed unanimously.

Bruce Fernandez

A Small Scale Comprehensive Plan Amendment (21S.06) to change the Future Land Use designation from RES 1:2.5 to RES 1. The property is 3.48 acres, located on the east side of Springfield Ave., approx. 0.42 mile south of Aurantia Rd. (4705 Springfield Ave., Mims) (Tax Account 2005100) (District 1)

Bruce Fernandez

A change of zoning classification from RRMH-2.5 (Rural Residential Mobile Home) to RRMH-1 (Rural Residential Mobile Home). The property is 3.48 acres, located on the east side of Springfield Ave., approx. 0.42 mile south of Aurantia Rd. (4705 Springfield Ave., Mims) (Tax Account 2005100) (District 1)

Bruce Fernandez, 4598 Addie Avenue, Mims, stated there is a 30-year old mobile home on the 3.48 acres; it is the last house at the end of Aurantia Road. He said his son would like to build a 3,000 to 4,000 square-foot house on the rear of the property in order to take care of foster children.

Public comment.

Joe Guiterez stated he owns the property next to Mr. Fernandez and he would like to know the reason for the change.

Mr. Fernandez stated he would like to rezone in order to build a 3,000 to 4,000 square-foot house at the end of Springfield, on 3.5 acres. He said the property is part of the original 11 acres that his family owned.

Peter Filiberto asked how the new house will be accessed. Mr. Fernandez replied, the pavement ends, but the road itself goes to the end; the gravel road was only paved up to a point. He said he can either break up the property into two even rectangles, or he has to create legal rights of way.

Jeffrey Ball stated Mr. Fernandez will have to meet the code for access before he can get a building permit. He will have to split the property with the appropriate access on the county-maintained portion of the road. If he does not have that, then he will not be able to get a building permit.

Motion by Ben Glover, seconded by Peter Filiberto, to recommend approval of the Small Scale Comprehensive Plan Amendment from RES 1:2.5 to RES 1. The motion passed unanimously

Motion by Ben Glover, seconded by William Capote, to recommend approval of the change of zoning classification from RRMH-2.5 to RRMH-1. The motion passed unanimously.

Cobb 192, LLC (Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2. The property is 2.11 acres, located on the north side of W. New Haven Ave., approx. 0.28 mile west of Katherine Blvd. (No assigned address. In the Melbourne area.) (Tax Account 2800098) (District 5)

Bruce Moia, MBV Engineering, stated the property is on a commercial corridor with frontage on U.S. 192; it has two different zonings, BU-1 and BU-2 in the back, and his client would like BU-2 on the entire property. There is BU-2 in the area, so it is consistent and compatible, and would allow a storage facility. He said the storage being proposed will be a multi-story indoor facility, similar to Cube Smart on Viera Boulevard.

No public comment.

Motion by Peter Filiberto, seconded by William Capote, to recommend approval of the change of zoning classification from BU-1 and BU-2 to all BU-2. The motion passed unanimously.

David C. and Cynthia Ramage

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 4.25 acres, located on the east side of Turpentine Rd., approx. 312 ft. north of Lion Ln. (2121 Turpentine Rd., Mims) (Tax Accounts 2101027 & 3020477) (District 1)

David Ramage, 1830 Tomato Farm Road, Mims, stated he would like to rezone in order to split the property for his son to build a house.

Henry Minneboo asked if one-acre lots are common in that area of Mims.

Jeffrey Ball replied yes, last month the Board approved an application for The Heather Calligan Trust, off of Turpentine Road with 6,500 square-foot lots.

Mr. Minneboo asked if it was well-received in the area. Mr. Ball replied during the public hearings there were quite a few people in opposition, mostly for environmental concerns on the property, considering there are quite a few wetlands on the property, and stormwater issues.

Liz Alward asked what the applicant could put on the property if he subdivided. George Ritchie replied, the request for RR-1 is a one-acre minimum lot size.

Ben Glover stated if approved, it would reduce the potential amount of structures he could build.

No public comment.

Motion by Liz Alward, seconded by William Capote, to recommend approval of the change of zoning classification from AU to RR-1. The motion passed unanimously.

Howard Gasman (Mary Gasman)

A change of zoning classification from GU (General Use) to AU (Agricultural Residential). The property is 1.72 acres, located on the north side of Cangro St., approx. 617 ft. west of Osprey Ave. (5640 Cangro St., Cocoa) (Tax Account 2402174) (District 1)

Mary Gasman, 4660 Tangerine Street, Cocoa, stated she is planning to buy the subject property and would like to have chickens and a building for yard equipment.

Liz Alward asked if there are other properties in the area that are AU with farms. George Ritchie stated they are not all farms; they are just residential.

Ms. Alward stated her concern is the other uses allowed in AU, which could be high-end commercial, industrial, and hog farms. She noted there is another zoning classification of AU(L) that prohibits high-end commercial and industrial uses and is more compatible with RR-1 and would allow horses.

Ms. Gasman stated she doesn't want horses, but she does want chickens, and she doesn't want to be commercial except to sell eggs to family and friends.

Jeffrey Ball stated the difference between AU and AU(L) is that product cannot be sold on the property. If Ms. Gasman would like to sell eggs, she would have to find a commercial site to sell from.

Mr. Ritchie stated hog farms are a separate conditional use permit and requires 10 acres.

William Capote stated he doesn't see a problem with AU.

Ben Glover stated there are several AU properties near the subject property, and he is in support.

No public comment.

Motion by William Capote, seconded by Ben Glover, to recommend approval of the change of zoning classification from GU to AU. The motion passed unanimously.

Carter & Jessica Hayes

A change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential). The property is 2.79 acres, located on the west side of N. Courtenay Pkwy., approx. 0.38 mile north of Hall Rd. (4645 N. Courtenay Pkwy., Merritt Island) (Tax Accounts 2318403 & 2318404) (District 2)

Jeffrey Ball stated the North Merritt Island Special District Board heard the request on January 6th and recommended approval as SR with BDP (Binding Development Plan). He noted the BDP is not necessary because the comprehensive plan and zoning regulations already provide consistency.

Carter Hayes, 4645 N. Courtenay Parkway, stated the property no longer meets the minimum size requirements for AU, and if he were to sell one of the lots he couldn't advertise it as AU because it couldn't be used as agricultural. He said they would like to change the zoning to RU-2-4 under the RES 4 land use, in order to build townhouses or duplexes. He stated as a general contractor he will build the units himself, maintain ownership, and rent them out. He said the buildings will be very nice, one-store, and in the range of 1,800 to 2,000 square feet, with a target demographic of young adults who need a nice, safe place to live. He referred to the staff comments and noted page 3 states, "A multi-family use may be considered transitional from North Courtenay to the single-family residential areas to the west". He said N. Courtenay has commercial, neighborhood commercial, and high-density across the street, and his project is will be a nice transition. He said in 2013 the DEP, Army Corps of Engineers, and the St. Johns River Water Management District have been to the property and de-marked the wetlands, and then his surveyor marked those spots. He said one-third of the lot is wetlands. The wetlands area could be a natural barrier to the single-family homes to the west. He said he is going to leave the wetlands alone. He stated some of the comments from his neighbors include concerns about stormwater management, but that will be addressed during the permit process. He concluded by saying he believes his request is consistent with the comprehensive plan and compatible with the surrounding neighborhoods.

Jessica Hayes, 4645 N. Courtenay Parkway, Merritt Island, stated all of N. Courtenay Parkway is commercial and multi-family, and she thinks multi-family fits the area, and also helps with the housing shortage.

Public comment.

Don Barker, 4540 Deanna Court, Merritt Island, stated there is a large canal in the back of his property that goes through the back of Deanna Court, and the nature in the back of the property is like a second ecosystem. The subject property is in the floodplain and two-thirds of the property is affected. He said he bought his house because of the wetlands behind him, and he doesn't want 11 rentals at his back door. He said when there is a rainstorm the canal overflows and is full all the time. He stated the proposed project is not compatible with the neighborhood nor North Merritt Island.

Mike Yauch, 565 Indian Bay Boulevard, Merritt Island, stated he is the Vice President of the North Merritt Island Homeowners Association, and the HOA disagrees with the proposed rezoning. He said neighboring residents to the west of the subject property expressed concerns associated with flooding, increased density, traffic, and that the proposed use is not consistent with the current use of the surrounding properties. The HOA also concluded that the proposed rezoning is not compatible with Administrative Policies 3, 4, 6, 7, and 8, and also Section 62-1151(c). He stated a substantial part of the property is wetlands, and it seems likely that before any construction they will probably have to increase the elevation before construction begins, so additional runoff will be created that has to go somewhere. He said behind the subject property is several single-family homes on half-acre lots and they are not rental properties. An apartment building seems inconsistent with single-family homes. He concluded by saying Deanna Court is a nice quiet place that backs up to wetlands, and the HOA supports the North Merritt Island Board's recommendation.

Brittany McCloud, 4530 Deanna Court, Merritt Island, stated she is not only a concerned resident, but also an Environmental Engineer. She said Brevard County's GIS map shows that two-thirds of the property is in wetlands. In order to make the land buildable, the topographical level would need to be elevated, making the land higher than its neighboring properties which could easily cause flooding not only to the properties behind, but on the road itself. If the land is built up higher than the properties around it, the water will have to be displaced elsewhere. If something were to be built on the property, the parts of land that were not deemed wetlands would now be a concrete footprint, which would prevent more drainage. If that water is then diverted into the creek behind the property as well as the homes behind Deanna Court, it could easily cause the water level and water table to rise causing major concern for the existing homes along the creek. The creek consists of a thriving and sustainable ecosystem, and has an abundance of wildlife, including the American Eagle, and there are also many fish and amphibian species in the creek. There are many environmental concerns with the request, and North Merritt Island should continue to set the standard for environmental awareness and appreciation and continue to develop North Merritt Island, but in a way that makes it beautiful.

Ann Duset, 4560 Deanna Court, stated the change affects her because it's her back yard. She said she doesn't want to tell anybody what to do with their property, but she feels the density is too high and they should ask for a different zoning. She said the canal floods often and is a major factor in the drainage. The current water level has been affected by the recent drainage updates to the north of her subdivision; it now stays high, and during the rainy season it encroaches properties. A change to RU-2-4 is too much density for the canal to handle.

Alan Carpentier, 4550 Deanna Court, Merritt Island, stated his parcel is directly behind the subject property. The stormwater runoff is a major concern in his neighborhood, and his property is currently eroding because of the canal. The clearing of wetlands for multiple-unit houses will add pressure to the canal. He said he bought his property because it wasn't around multi-family, and studies show that when multi-family units are built around single-family homes, property values decrease.

Ken Marino, 4510 Deanna Court, Merritt Island, stated he is concerned about the runoff from the subject property. The applicant could put in drywells in, but no one knows where the water will actually go. He said there is an abundance of wildlife in the wetlands and in the creek, including bobcats, turtles, and alligators, and now there will be runoff coming from the parking lots that will have oil and gasoline. He said if the zoning is approved it will set precedence for other multi-family.

Ben Glover asked if the HOA owns the canal. Jeffrey Ball replied, from the Property Appraiser maps, it looks like it could be shared. Mr. Glover asked how much of the wetlands can be built upon. Mr. Ball replied there can be a 1.8% maximum impact to wetlands.

Mr. Glover asked Mr. Hayes if he plans to have 11 units. Mr. Hayes replied the number is a function of the designation and math. Based on the wetland map he doesn't know how much buildable space he has because the survey he had done is only good for five years.

Mr. Glover asked staff the cap of the number of units. Mr. Ball replied the cap in density is governed by the Future Land Use, which is 4 units per acre, and by rights of the land use, it is 11 units. He said whether Mr. Hayes can develop that is up to him and his engineer. Mr. Glover stated that is unlikely as there is wetlands present, and asked if water retention would be part of site planning. Mr. Ball replied it is not really a zoning issue, but his understanding is that they would have to retain all of the stormwater on site.

Darcie McGee, Natural Resources Management, Assistant Director, stated the proposed development is in the North Merritt Island overlay for additional stormwater treatment. She said Mr. Hayes is going to have to compensate for any fill in the flood plain; he has to compensate for the rate and the volume, because he's north of Hall Road. She noted the North Merritt Island overlay and the wetlands will be a guiding force to his design, because there are enhanced stormwater requirements on North Merritt Island.

Mr. Glover asked if there were any negative reports from schools for increasing the housing. Mr. Ball replied the school district has said there is capacity to serve the potential students.

Peter Filiberto asked Mr. Hayes if he plans to hook up to sewer and water. Mr. Hayes replied yes.

Mr. Filiberto asked staff the difference between RU-2-4 with 11 units and SR (Suburban Residential). Mr. Ball replied SR is a half-acre lot, and RU-2-4 is a low-density multi-family zoning classification that allows for apartments and townhomes on a 7,500 square-foot lot. Mr. Filiberto asked if there could be 6 or 7 single-family homes on the property instead of multi-family. Mr. Ball replied that is correct, but it will be up to Mr. Hayes and his engineer to determine how many units he is able to develop.

Mr. Filiberto stated he feels duplexes or townhomes is high-density for the area, and he doesn't see any RU-2-4 in the surrounding area; however, there are no negative concurrency impacts for schools, utilities, transportation. He said as of right now, he would like to see the applicant compromise and agree to SR.

Mr. Ball stated if the board has concerns about the apartment-type use, there is another zoning classification the board can consider, which is RA-2-4 and only allows for townhomes. The RA-2-4 zoning exists just outside of the purview of the maps provided, and was rezoned in 2017. He said RA-2-4 would allow the same type of density, but it does not allow for apartment-type units.

Mark Wadsworth asked Mr. Hayes if he would be opposed to RA-2-4. Mr. Hayes replied he has not studied RA-2-4 nor SR, but he wants to build units to own and rent.

Henry Minneboo stated not too long ago, the board approved 48 units at the southwest quadrant of Porcher Road and N. Courtenay. He said the board has always been concerned about having multi-family units on North Merritt Island, because it is not conducive. He said the stormwater system

cannot tolerate more intrusion. He said the board approved the 48 units and hoped not to see another similar request. He stated he is against anymore multi-family on North Merritt Island, and approving this request will set a precedent. He noted the 48 units that were approved four or five years ago still aren't built, and to him, that is an indication that it's not conducive.

Mr. Hayes stated there are at least four other locations with townhouses or duplexes on North Merritt Island, and some of them are entire neighborhoods of duplexes. He said he can't be under AU anymore because it doesn't meet the requirements.

Ms. Hayes stated their property fronts Courtenay Parkway which is commercial and multi-family. There are no single-family homes on N. Courtenay Parkway and to make them build single-family homes is not conducive. She said she knows they won't get 11 units, but they are asking for the zoning and they might only end up with eight.

John Hopengarten asked Mr. Hayes if he has done any developments before. Mr. Hayes replied no, but he built his own house; and he mostly does remodeling, but he is also a marine contractor for seawalls and boat lifts.

Mr. Hopengarten stated he is an advocate for development, and the board would want a successful development, but he wouldn't want Mr. Hayes to start the development and then lose money and make it an eyesore in the neighborhood. He said Mr. Hayes has not presented his plan in a way that he feels comfortable. He asked Mr. Hayes if it would have been better if he had done some preliminary engineering and invested a little bit of money to see if this is going to work or not. Mr. Hayes replied no, when he started the process the County said he didn't need a site plan for a zoning change. He said once he gets past this phase, the next phase is when he determines how much land he has to work with, because he's not asking to impact the wetlands.

Liz Alward stated she doesn't agree that there is plenty of multi-family in the vicinity. Everything to the west is SR, and along Courtenay Parkway is AU, a couple of BU-1-A's, and some commercial. She said she is concerned there is not one RU-2-4 on the entire zoning map. She said she doesn't think an apartment complex or townhomes are compatible. She agrees with a lot of the neighbors that they built there with the understanding that it was 1 - 1.5 units per acre and they had some expectation that even with AU, he would only have been able to put one unit on it with the existing zoning, so bringing it to 11 units is pretty high density. She stated she would support the North Merritt Island Board's recommendation to consider the SR zoning, which with 2.79 acres would be five units.

Mr. Hayes noted there is a mobile home park across the street. Ms. Alward replied he isn't abutting the mobile home park, he is abutting a subdivision with half-acre lots or larger.

Ron Bartcher asked Mr. Hayes' plans for the wetlands. Mr. Hayes replied he does not want to build anything on the wetlands. Mr. Bartcher asked if he is going to be cleaning up the pepper trees. Mr. Hayes replied he would like to take out the pepper trees.

Mr. Bartcher stated as far as coming to the board with a plan, there have been a lot of developers who have come to the board without a plan. It has never been a requirement. It's nice to have, but for a lot of developers it's a big investment and he doesn't consider that to be something to hold against them. He said one-third of Mr. Hayes' property is not going to be developed, and it may be even more. That one-third of his property faces those houses in Citrus River Groves. If he doesn't clean out

the pepper trees those people will never see what is happening on that property, nor hear it. He said he doesn't see a problem with the development.

Mr. Glover stated he believes the density of the mobile home park across the street is far higher than 11 units. He said Mr. Hayes is not going to get 11 units; he might get 6 or 7, but that is speculation.

Motion by Ben Glover, seconded by Ron Bartcher, to approve the change of zoning classification from AU to RU-2-4. The motion failed 4:5, with Henry Minneboo, Liz Alward, Peter Filiberto, John Hopengarten, and Robert Sullivan voting nay.

Mr. Glover asked Mr. Hayes if he would be willing to limit the development to six units.

Mr. Hayes asked if he could stay with RU-2-4, but limit the density, as opposed to a different zoning classification.

Mr. Ball stated he could keep the request as RU-2-4 and agree to a BDP to cap the density at two or three units per acre.

Mr. Glover asked staff how many houses he can build with the SR zoning. Mr. Ball replied five houses, which would be two units per acre.

Ms. Alward stated that would be compatible with the neighborhood to the west.

Mr. Glover stated five houses would cause more water issues than if he builds townhouses. Ms. Alward pointed out he would have to follow the same stormwater procedures.

Mr. Glover stated he is going to build up the foundation of the house, and there's going to be a swale and it will run wherever it runs. Mr. Bartcher stated water has to be retained on the property. Mr. Glover stated that is typically 25% of the parcel.

Mr. Filiberto stated staff mentioned RA-2-4, and he's willing to go with that, or SR. Mr. Bartcher stated RA-2-4 means he can't rent them out, and keeping them as rentals gives him a source of income.

Mr. Filiberto asked staff if SR can be rented. Mr. Ball replied SR is a single-family zoning classification and cannot be rented.

Mr. Wadsworth stated the main concern is the stormwater and wetland impacts, but those will be regulated through the permitting process.

Motion by Ben Glover, seconded by William Capote, to recommend approval of the change of zoning classification from AU to RU-2-4 with a BDP limiting density to three units per acre. The motion passed 7:2, with Liz Alward and John Hopengarten voting nay.

Justin M. Falscroft

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 3.96 acres, located at the north end of Friday Rd., on the south side of S.R. 528. (3000 Friday Rd., Cocoa) (Tax Account 2404081) (District 1)

Justin Falscroft, 3000 Friday Lane, Cocoa, stated he would like to utilize the 3.69 acres and build a shop to house horse trailers and other equipment. The size restrictions in RR-1 limits the size of shop he would like to build. He stated he has no interest in having any animals other than a horse or two.

No public comment.

Motion by Peter Filiberto, seconded by William Capote, to recommend approval of the change of zoning classification from RR-1 to AU. The motion passed unanimously.

Edic and Ashley Moreno

A change of zoning classification from GU (General Use) to RR-1 (Rural Residential). The property is 1.11 acres, located at the west end of Sue Dr., approx. 0.15 mile west of Clearlake Rd. (1640 Sue Dr., Cocoa) (Tax Account 2423907) (District 1)

Ashley Moreno, 1640 Sue Drive, Cocoa, stated she and her husband would like to rezone in order to build a house.

No public comment.

Motion by Ben Glover, seconded by Peter Filiberto, to recommend approval of the change of zoning classification from GU to RR-1. The motion passed unanimously.

Sunil Rjan, Sudhir Rajan, and Suresh Rajan (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment (21S.09) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 0.92 acres, located on the east side of N. Courtenay Pkwy., approx. 0.11 mile south of Skyline Blvd. (No assigned address. In the Merritt Island area.) (Tax Account 2412234) (District 2)

Jeffrey Ball stated typically, a request in the MIRA area is heard first by the MIRA board and then the Local Planning Agency. Due to a scheduling conflict, this request has not yet been heard by MIRA for a recommendation, but it is up to the board if it should be tabled to allow the request to be heard by MIRA.

Liz Alward asked if MIRA will meet before the February 3rd County Commission meeting, and if the LPA hears the item today, can MIRA hear it later, before the County Commission meeting.

Mr. Ball stated he believes MIRA would be able to hear it by the end of January, but typically, the LPA would know MIRA's recommendation before moving it on to the County Commission.

Ben Glover stated the LPA should respect MIRA and wait until they meet.

Motion by Ben Glover, seconded by Peter Filiberto, to table the item to the February 14, 2022, meeting.

Kim Rezanka, Lacey Lyons Rezanka, stated she understands that MIRA should have the opportunity, but that was due to no fault of her client. She asked that the LPA move forward today and hear the item and if MIRA has a problem they will come back to the LPA. She noted her client has already been to FDOT for pre-application and is ready to apply for a site plan.

Henry Minneboo asked if FDOT is going to allow the driveway. Ms. Rezanka replied the engineer of the project believes so.

Ms. Alward stated she would prefer hearing it today, then sending it to MIRA, and if there are any issues after the MIRA meeting it can always come back to LPA.

Mr. Glover stated he does not want to withdraw his motion and he would prefer to table it.

Mark Wadsworth called for a vote on the motion as stated, and it passed 7:2, with Henry Minneboo and John Hopengarten voting nay.

Creation of Proposed Chapter 46, Article XI, Landscape Irrigation, Relating to Watering Schedules consistent with St. Johns River Water Management District Model Ordinance

Amanda Elmore, Deputy Director, Natural Resources Management, stated the item is proposing language modeling the St. Johns River Water Management District model ordinance with respect to irrigation scheduling without the enforcement provision. She pointed out that the change will allow the County to continue to be eligible for cost-share. There are four other municipalities in Brevard that have already adopted it. The BCAC heard the item last week and recommended approval.

Peter Filiberto asked if the change would be regulating the irrigation schedule to occur between 10:00 a.m. and 4:00 p.m. Ms. Elmore replied it can never occur between 10:00 a.m. and 4:00 p.m., but during Daylight Savings Time it is limited to two days, and during Standard Time it's one day.

Liz Alward stated if the ordinance is not passed, staff will not get the opportunity to get the cost share grants that St. Johns makes available. She said she is glad the enforcement has been removed.

Henry Minneboo asked if the ordinance is designed for subdivisions. Ms. Elmore replied it regulates residential and commercial use. It's more than just subdivisions; it's also individual homeowners.

Mr. Minneboo stated it seems to be designed more around subdivisions than landowners in excess of one acre. There are unique situations where a lot of people irrigate and during those other times.

Ms. Elmore stated if someone has larger acreage they are probably not irrigating all of the acreage anyway, and it doesn't apply to agricultural property or sod farms. She noted there is currently no enforcement.

No public comment.

Motion by Liz Alward, seconded by Peter Filiberto, to recommend approval of the creation of proposed Chapter 46, Article XI, Landscape Irrigation, relating to Watering Schedules consistent with St. Johns River Water Management District Model Ordinance. The motion passed unanimously.

Public Hearing, Re: Adoption of EAR Based Amendments, 2017-2.2. DEO #17-3ER

Jeffrey Ball, Planning and Zoning Manager, stated the proposed amendment, 2017-2.2, includes 13 new Coastal Management Element policies developed specifically to comply with Section 163.3178(2)(f), Florida Statutes, Peril of Flood, as well as text modifications that were previously transmitted to DEO in 2017.

Darcie McGee, Assistant Director, Natural Resources Management, stated inadvertently, during transmittal, there was part of the floodplain protection and a couple of other sections that for some reason were omitted. There are things in the agenda packet highlighted in yellow that was put back in and although it looks new things were added, the only new element is the Peril of Flood.

Ron Bartcher asked if the County's stormwater utilities program for periodic and scheduled inspections cover only stormwater facilities on County land the County maintains, or is it also on private land.

Virginia Barker, Director, Natural Resources Management, stated every other year staff inspects all of the permitted stormwater treatment systems to determine compliance, and they can get a 25% credit for maintaining their stormwater, and they can get a larger fee-based credit if they go above and beyond the minimum treatment requirements.

Ron Bartcher asked since the document is from 2009, have all the various developmental requirements listed been put into land development regulations.

Mr. Ball stated right now, it's just the policies being dealt with, and the next step, if the Board decides to move forward and DEO accepts it, is to address the policies in the land development codes.

Ron Bartcher stated in the Parks Recreation Open Space Element, it appears that it is being changed so that the number of acres per 1,000 people is now countywide as opposed to being in each one of the three recreation districts.

Tad Calkins, Director, Planning and Development, stated that change was proposed by Parks and Recreation during transmittal. The document was transmitted in 2017 and staff received comments back from the State, mainly regarding the Peril of Flood, so everything was put on hold. Normally, there is a 40-day window after transmittal, but because Peril of Flood had to be addressed, DEO sent an ORC letter, and then staff obtained grants to get information to build a database. The changes the board is considering today are the changes that have been proposed by the departments. They were transmitted in 2017 and they were approved by the LPA and the County Commissioners.

Mr. Bartcher stated in Policy 1.8, it used to say a greenway network will be created, and then the wording changed to, 'we're not going to create this network, but if someone else does we'll work with them'. He said that to him, it says the County doesn't want a greenway network.

Mr. Calkins stated Parks and Recreation are saying there isn't the ability to have that greenway network, but there are many programs, such as EELs, that has obtained a lot of environmentally sensitive land. The wetland impact ordinance is very restrictive, so there is that conservation element and the County has proactively sought out lands to manage, which would essentially be a greenway network, just not connected.

Henry Minneboo asked if it is helpful for Parks and Recreation. Mr. Calkins replied he believes it is.

Mr. Minneboo asked if they are not more restrictive. Mr. Calkins replied he doesn't know if they are more restrictive or not restrictive, but it's more what they're able to achieve and it's inline with what was originally in the comprehensive plan.

Mr. Bartcher stated in the Coastal Management Element, the coastal high hazard areas, Policy 6.2 says in part, "improvements may only be considered when facilitation of such improvements is needed to support the densities in the future land use", and asked staff to explain.

Ms. McGee stated that is a policy that can be found throughout the comprehensive plan when talking about County infrastructure and putting infrastructure in a riverine floodplain or a wetland or surface water buffer.

Mr. Bartcher stated what concerned him is the language that says, "support densities programmed on the future land use." It seems to him that the County is saying because the future land use allows a certain density, they don't care if it's in the coastal high hazard area.

Mr. Calkins stated it is a concern when considering a future land use that you wouldn't have the ability to take the coastal high hazard into consideration.

Mr. Bartcher stated it's like saying there is a coastal high hazard area but the County doesn't build in it, they want to restrict the building, but if the future land use says a certain amount of density can be on it then it doesn't make a difference if it's in a coastal high hazard area or not. He said future land use is the number one requirement, as opposed to a coastal high hazard area being the number one requirement.

Mr. Calkins stated there would be multiple policies that would come into effect in making that determination. When looking at the coastal high hazard area there is multiple policies, and there is one that says there can't be any public infrastructure in that area, and then with the peril of flood, when there is density on property that has been established there is some development rights. Staff had to be careful when coming up with the peril of flood policies, and provide some engineering ways for people to still be able to maintain the ability to get some of that density. If the comp plan says 10 units per acre, a development rarely gets to 10 units per acre because of infrastructure needs.

Ms. McGee stated sometimes a future land use supports a higher density than the zoning, so someone has to come in to ask permission to change the zoning and at that point the infrastructure can be looked at.

Mr. Calkins stated on just about all of the zoning changes the board heard today, the staff reports say a zoning classification may be considered compatible. It may be considered compatible by the matrix; however, the whole comprehensive plan has to be taken into consideration when determining whether it is compatible or not compatible.

Mr. Bartcher stated in the Coastal Management Element, the coastal development and redevelopment section, the word 'should' is used instead of the word 'shall', and asked why.

Ms. McGee stated using 'should' is not as definitive as using 'shall'. If there were to be 'shall' for all of these policies and staff had to implement them all right away, they would be in violation of the comprehensive plan because there are 13 policies and staff is going to have to take steps to get to each of these things, so using 'should' gives staff a chance to figure out what the Board sees as priorities. She said just because it says 'should' doesn't mean the County is not doing it.

Mr. Calkins stated staff deliberated on 'should' and 'shall' for quite some time, and the feeling was that since a new element was being introduced to the Board, 'should' would be more palatable with

some of the things being recommended, but there is the opportunity for 'shall' in the second step, which is when codes are drafted. He said once staff gets creates the land development codes and the engineering practices, that's when the board will see 'shall'.

Mr. Bartcher asked why the coastal high hazard map was deleted. Ms. McGee replied it was deleted because if there was a static map in the document it could become outdated. Instead, there are GIS layers that if anyone needs to know where a coastal high hazard area is, then staff would provide that information.

Mr. Bartcher asked if the map is updated periodically. Ms. McGee replied, yes, the Regional Planning Council is constantly making updates.

John Hopengarten asked if there were any design architects involved in preparing the document. Ms. McGee stated the Regional Planning Council had Randall Parkinson, who is an engineer; there were two public hearings, there was an online survey, and staff encouraged the development community to be involved.

Robert Sullivan commended staff on the comprehensive report. He noted that one of the issues for the County's GIS is that it needs to have the same vertical datum. One of the issues, particularly for the coastal flooding zones, the surveying datum should be the same for GIS, and the same for the markers. He said he can understand where the interactive maps would be difficult, particularly if one section is using NGVD 1929 and another one is 1984, so staff should make sure that when it comes time for the details, there should be the same vertical datums and put EOC on the map with evacuation routes.

Public comment.

Mary Sphar, 825 Clifton's Cove Court, Cocoa, stated she supports the effort to improve the policies and include peril of flood considerations. [Ms. Sphar provided a handout to the board. The handout can be located in the Planning and Development Department] She stated one of her suggested changes would be to Policy 14.6, to change the word 'should' to 'shall'. She stated she believes the environmental community and the engineers could benefit by the County 'shall' amend the Land Development Regulations to reduce obstacles that hinder nature-based design standards and/or Low Impact Development. She stated her suggested change for Policy 14.7, is to replace 'should identify' with 'shall adopt'. The suggested change for Policy 14.9, is to replace the word 'should' with the word 'shall'. She stated the City of Titusville has done what is in Policy 14.9, which is to encourage or require nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts. She said her suggestion for Policy 14.3, is to also change the word 'should' to 'shall', and stated it should be easy to do because the Regional Planning Council has done a lot of the work. She said her last suggestion is for Policy 7.1, and she recommends, "Brevard County shall not increase residential density to these vulnerable properties on the south beaches or properties in the coastal high hazard area", which is what would be inundated by a Category 1 storm.

Motion by Robert Sullivan, seconded by Liz Alward, to approve the plan with the inclusion of the items brought forward to identify 'shall' instead of 'should'.

Bruce Moia stated going through every property in the County as opposed to what has already been done in the south beaches will impose density restrictions on every piece of property in the coastal high hazard area. He said he would be against that without a lot of input and research by staff. He noted that the word 'should' is in the plan for a reason, and holding the County accountable to implement all of the items by using 'shall' will put them on the hook to have to implement them, not including the additional requirements staff would be forced to do. He said it would be a burden on staff to have to develop the new incentives and program requirements. He stated when staff brings back the Land Development Regulations, that is when things will be required. He said he does not support the motion.

Ben Glover stated he agrees with Bruce and he does not support the motion.

Liz Alward asked if the board can make a recommendation to look at Ms. Sphar's suggestions, but the County Commission will have the final vote.

Mr. Moia clarified that the City of Titusville did not put this in their comprehensive plan, they passed an ordinance to add Low Impact Development allowances in their code, not in their comprehensive plan. He said if the County Commission directs staff to start looking at these items and come up with language to address it, that's fine, but he doesn't want to force staff to have to do these things if it's not something the Board wants to do.

Mr. Bartcher stated when he addressed 'shall' and 'should', he heard comments from staff that this is something they would like to see changed, and there will be an EAR in 2023, and because of the comments he heard from staff it's likely that some of the 'shoulds' will change to 'shall' in that next iteration.

Ms. Alward stated she is conflicted because she hasn't had a chance to talk to staff about how it will affect their ability to implement, so she is withdrawing her second to the motion.

Mark Wadsworth called for a second to Mr. Sullivan's motion, and seeing none, the motion failed for lack of second.

Motion by Ben Glover, seconded by Bruce Moia, to recommend approval of the Adoption of EAR Based Amendments, 2017-2.2. DEO #17-3ER, as-is.

Mark Wadsworth called for a vote on the motion as stated, and passed unanimously.

Chair and Vice Chair Nominations

Motion by Peter Filiberto, seconded by Bruce Moia, to nominate Mark Wadsworth as Chair. The motion passed unanimously.

Motion by Bruce Moia, seconded by Liz Alward, to nominate Peter Filiberto as Vice Chair. The motion passed 10:1, with Hopengarten voting nay.

Upon consensus, the meeting adjourned at 5:50 p.m.