

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 22, 2024**, 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.

Board members present were: Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Director (Planning and Development); Alex Esseesse, Deputy County Attorney; Billy Prasad, Deputy Director (Planning and Development); Jeffrey Ball, Planning and Zoning Manager; Trina Gilliam, Senior Planner; Paul Body, Senior Planner; George Ritchie, Planner III, and Kristen Champion, Special Projects Coordinator.

Henry Minneboo stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

John Hopengarten disclosed that he had communicated the with Assistant County Attorney some months ago pertaining to item G.7. Live Local Act.

### **Approval of the June 10, 2024, P&Z/LPA Minutes**

Motion by Brian Hodgers, second by Robert Sullivan, to approve the Planning and Zoning/Local Planning Agency minutes of June 10, 2024. The motion passed unanimously.

Henry Minneboo invited Jeffrey Ball to share some housekeeping information. He announced for the Board that Bruce Moia and David Bassford have resigned from the Planning and Zoning Board effective immediately. Henry Minneboo said a few words on behalf of Bruce in regards to his knowledge and shared time working in the County.

**G.1. Paul Turner & Jackie Allen (Eddie Small) requests a Small-Scale Comprehensive Plan Amendment (24S.03), to change the Future Land Use Designation from RES 2 (Residential 2) to NC (Neighborhood Commercial), on property described as Tax Parcel 750. The property is 6.92 acres, located east of N. Hwy 1, approx. 1,120 south of Parrish Rd. (24SS00003) (1955 N. Highway 1, Titusville. Tax Account 2104754) (District 1) This item was continued from the June 10, 2024, P&Z/LPA meeting.**

**G.2. Paul Turner & Jackie Allen (Eddie Small) request a change of zoning classification from RU-2-10(5) (Medium-Density Multiple-Family Residential) to RVP (Recreational Vehicle Park) with a BDP (Binding Development Plan), on property described as Tax Parcel 750. The property is 6.92 acres, located east of N. Hwy 1, approx. 1,120 south of Parrish Rd. (24Z00008) (1955 N. Highway 1, Titusville. Tax Account 2104754) (District 1) This item was continued from the June 10, 2024, P&Z/LPA meeting.**

Trina Gilliam read the companion applications into the record.

Bruce Moia spoke to these items. He opened with a statement saying too much of his business was coming before the Board to be on it as well as well present to it and the Commission, and so he unfortunately had to step down. Speaking to the items, Bruce stated they are asking for a land use amendment on almost 7 acres of property in Mims. The land use is currently residential, but there is Neighborhood Commercial (NC) directly to the south directly abutting this property, Community

Commercial to the west, and a vacancy in the south property. The applicants intend to put in an RV park, stating that would be more appropriate for NC zoning.

Ron Bartcher asked for an explanation of what kind of buffering is planned for the east side of the property that is adjacent to the residential.

Mr. Moia responded that the property to the east is single family detached residential, manufactured homes. He stated that they would meet the requirements of the county for whatever the requirements of that buffer would be. It was stated that a RV park is residential, and a residential to residential would have a typical rear lot landscape buffer that the county requires.

John Hopengarten asked if people will be living in these RVs or are they for storage only. Mr. Moia stated that it for temporary lodging.

John Hopengarten further asked if these would be hardened pads. Mr. Moia was unsure, and stated that they could be pads, pavers, or compacted marl and that the market would dictate what was required. He added that he has seen it multiple ways in his own RV camping in the State of Florida, and regardless would meet the minimum code criteria.

John Hopengarten added that this property is right on Route 1 with high visibility, and asked what amenities or looks are in mind. Mr. Moia agreed this is an important consideration and stated there will be a clubhouse, office, pool and some sort of recreational activity like shuffleboard available. John Hopengarten then asked about the view from the highway, and Mr. Moia stated it will meet standard type B roadway frontage buffer required by code and be aesthetically pleasing.

Henry Minneboo mentioned that this property is City of Titusville water and sewer, and wondered about that for the RV park. Mr. Moia stated that they will be extending city water and sewer to the property.

No public comment.

Motion to approve Small-Scale Comprehensive Plan Amendment (as requested) from RES 2 to NC by Ron Bartcher, seconded by Brian Hodgers. The vote was unanimous.

Motion to approve rezoning from RU-2-10(5) to RVP with a BDP by Ron Bartcher, seconded by Brian Hodgers. The vote was unanimous.

**G.3. Put It In Me Storage, LLC (Vaheed Teimouri) requests a change of zoning classification from IU (Light Industrial) to BU-2 (Retail, Warehousing and Wholesale Commercial), on property described as Lot 5, Block B, Port St. John Center. The property is 2.46 acres, located on the east side of Curtis Blvd., approx. 1,735 ft. north of Fay Blvd. (24Z00010) (3840 Curtis Blvd., Cocoa) (Tax Account 2322557) (District 1)**

Paul Body read the application into the record.

The Applicant was not present. Jeffrey Ball informed the Board that this item was a unique circumstance where it was part of a companion application with a Land Use change, and that there

was some confusion on where this application would land. It was determined that it needed to put in front of the Board. The Land Use change pertaining to this item already was already approved by the Board last month. It was confirmed that the applicant had been informed that their presence would be required at this Board meeting.

Motion to continue application to the August 12, 2024 Planning and Zoning/Local Planning Agency meeting by John Hopengarten, seconded by Robert Sullivan. The vote was unanimous.

**G.4. MJ COOP, LLC requests a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as Lot 5.04, Block 6, Indian River Park; and Lot 5.06, Block 6, Indian River Park. The property is 2 acres, located on the east side of Blounts Ridge, Rd., approx. 1,605 ft. north of Patty Ln. (24Z00018) (No assigned address. In the Mims area.) (Tax Accounts 2000674 & 2000676) (District 1)**

Paul Body read the application into the record.

Michael Coop stepped forward to speak for the item. He stated he had two pieces of property that were zoned prior to 1968, and his understanding was that they get "grandfathered" into current code.

No Board comment.

No public comment.

Motion to approve rezoning from GU to RRMH-1 by Robert Brothers, seconded by Ron Bartcher. The vote was unanimous.

**G.5. Walter Chlewicki requests a change of zoning classification from RU-1-13 (Single-Family Residential) to RU-2-4 (Low-Density Multiple-Family Residential) with a BDP (Binding Development Plan), on property described as Tax Parcel 34. The property is 1.77 acres, located on the west side of US Highway 1, approx. 450 ft. south of Allen Hill Ave. (24Z00020) (2450 Shoff Ln., Melbourne) (Tax Account 2624912) (District 4) This item was continued from the June 10, 2024, P&Z/LPA meeting.**

George Ritchie read the application into the record.

Applicant was not present.

Motion to continue application to the August 12, 2024 P&Z/LPA meeting by John Hopengarten, seconded by Robert Sullivan. The vote was unanimous.

Alex Esseesse, Deputy County Attorney addressed the Board saying he needed to look up in the code about the limit of tabling requests, as he thought there was a limit of one to table based on the actions of the applicant, and if the Board would move to the next item while this is confirmed.

**G.6. KMM-FL, LLC (Chris Romandetti) requests a change in zoning classification from RU-2-10(6) (Medium-Density Multiple-Family Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial), on property described as Lots 1 through 9, Block 40, Plan of Town of Pineda. The property is 1.31 acres, located on the east side of Waelti Dr., approx. 1,367 ft. north of Wickham Rd. (24Z00024) (7235 Waelti Dr., Melbourne) (Tax Accounts 2601612 & 2617260)**

Jeffrey Ball read the application into the record.

Chris Romandetti spoke to this item. He stated the history of the property and that it had been zoned IU and then business. The applicant, Advantage Concrete, owns everything around the property in question. There are seven or eight properties around that are all in Business Use zoning, and the property of this item is last acre not zoned Business Use. Mr. Romandetti stated the property was purchased with the intention of getting it into compliance about two or three months ago with the intention of building a storage facility.

Brian Hodgers asked if the storage units would be self storage or warehouse units. Mr. Romandetti responded that the intention is to avoid having to spend the money and build a wall for compliance with the current zoning and remove the eyesore of what was previously there. With the land available, there would only be room for five to eight warehouse units.

Henry Minneboo asked Jeffrey Ball to confirm the presence of a Binding Development Plan (BDP) on the property to the north. Mr. Ball confirmed there an existing BDP to the north and north east of the property as well as a property to the south as BU-2 zoning. Henry Minneboo asked when this that was done, and Mr. Ball responded that it was in 2014 and 2015 for the north property and in 2019 for the south property.

Maggie Schultz, President of the Lake Point Homeowners Association stepped forward to address the Board. She stated her party was not for or against the item, but came in place of their regular representative to speak in regard of the 2015 BDP related to the item. The request of that representative was to ensure the same compliance and agreement will be in place for the new property as the old. She added the street that the houses are back to often has tractor trailers that are not cautious of pedestrians.

Ron Bartcher addressed Mr. Romandetti and asked if he remembers the 2015 BDP. He answered that no, he was not a part of that. He said that he will look at it but doesn't think they are doing anything different than what was in it.

Mr. Bartcher stated that it sounded like Maggie Schultz's intention was for the same BDP to be attached to the property in question.

Mr. Romandetti responded that he without reading it and consulting with the owner it wouldn't be right to agree to anything. He acknowledged the tractor trailers, but said they are related to a different business down the street and unrelated to the storage business and this property in question.

Brian Hodgers as a point mentioned that in the BDP U-Haul service was mentioned prohibited, and asked to make sure that this wouldn't be occurring on the new property.

Mr. Romandetti confirmed there would be no U-Haul and added the most this property would ever be is five retail stores. He gave the example of a cabinet maker with a storefront with loading in the rear, or just a warehouse with loading in the rear.

Henry Minneboo stated that he was in favor of maintaining the BDP for the sake of uniformity. Jeffrey Ball responded that there is an extensive list of prohibited uses, and regarding the example Mr. Romandetti gave of cabinet making and carpentry that those are uses are prohibited by the BDP. The other prohibitions limit the height of a free standing sign to 10 feet in height, the gross floor air ratio not to exceed .75 to be consistent with neighborhood commercial, along with a list further uses that are prohibited.

Mr Romandetti responded that they don't have a cabinet maker, it was just an example. He offered to take the BDP and go out into the hallway and confer with the owner. Henry Minneboo said that would be his preference, and Brian Hodgers agreed stating there was only one more item on the agenda for this meeting.

Henry Minneboo stated that the Board would move on to the next item.

**G.7. Recommendation to the Board of County Commissioners: Revisions to BCC-100, "Evaluation Procedures for Development Proposals Pursuant to the Live Local Act Which Are Not Otherwise Permissible."**

Billy Prasad read the item into the record.

Billy Prasad spoke to the item. The request is for the Board to issue recommendations regarding an update to the board policy BC 100 which implements the Live Local Act. Mr. Prasad said members of this board may recall that saw a recommendation with the initial version of this policy in September of last year. The Board of County Commission did adopt that policy, but since that time the legislature made some changes to keep parts of the act via Senate Bill 328, which has since become law. Some of the changes just reinforce what is already in the policy but there were some substantive changes that require an update.

Some of the key updates include modifications to height requirements and reduced parking requirements. Last year this was accompanied by an ordinance change to define major transit stop, and this board issued a recommendation on that as well. Senate Bill 328 amended major transit stops and now it just says transit stop. Mr. Prasad added that is expected to be on the Board agenda next month and with that is seeking the Board's recommendations.

John Hopengarten asked about item 2a adjacent 2, an added separation by a public road, wondering where that came from.

Mr. Prasad responded that he believed it was taken directly from amendments to the section 125.01055 of Florida statutes, and that most of these were copied and pasted language from the statutes.

Mr. Hopengarten then asked how that affects the statement on H2, if the proposed development is not adjacent to on two or more sides of the parcel zoned for single family residential use, which is

within residential development with at least 25 contiguous single family homes and if that includes that public road.

Mr. Prasad answered that because of the definition of adjacent to does not include property separated by a public road that is imputed into "adjacent to".

Mr. Hopengarten gave the example that if somebody wanted build across the street, they could do so. Mr. Prasad said yes, H2 would not apply in that case since it is not adjacent to it.

Mr. Hopengarten continued with 2B on the airport impact area, stating he found it interesting that it says from the end of the runway for a distance of 10,000 feet and that normally, when the FAA restricts development around an airport, they do it as a trapezoid because planes do not take off from the end of the runway, which could be a couple hundred feet before the end. He wondered about this language not reading as the FAA requires.

Mr. Prasad replied that the act refers to statute 333.03 and he believed the definition was pulled directly from that.

Mr. Hopengarten wondered then if the wording of the statute took into account what the FAA requires and mentioned that this something the Board has run into a lot on buildings around an airport.

Further, Mr Hopengarten addressed 5 A.I.A and 5 A.I.I Major Transportation Hub and Transit Stop

Mr. Prasad stated that the act revisions take place two ways. There had already been provision 582, that if the development is within 1/4 of it, it used to say Major Transit Stop. The legislature made some minor modifications that are reflected there, but they also added in that piece above it. They are kind of two different tracks that are designed to be that way. He said he was unsure why the legislature did that, but one is kind of discretionary in our part and one is a requirement on our part.

Mr. Hopengarten stated that the discretionary part is worrisome because it leaves it up to the staff to do what they want.

Mr. Prasad responded that is how the act is written for whatever reason. He added that he mentioned last time this came up that there already are certain affordable housing incentives in our code, including for parking requirements, and so it is going to be easier for any developer just to go under that. In most cases the act will have very little impact it is required to have it in this policy. What was already in the code for affordable housing incentives is still in the code and available to everybody whether you fall under the Live Local Act or not.

Mr. Hopengarten then brought up 5 A.I.I.A reading as part of this analysis, staff may request the applicant to provide data supporting a reduction in parking requirements prepared by a professional engineer. He asked what would be looked for there, as that's not an engineering issue and more a request to change the parking requirement. Jeffrey Ball stated that our code already has a provision in there where they can do an alternative parking study where a professional engineer can sign and seal a study that says their analysis.

Mr Hopengarten asked then if Mr. Ball would accept the results of that study, to which Mr. Ball then responded we have the ability to accept it and that it is discretionary.

Robert Sullivan asked a general statement to staff if they are in agreement with this legislation in bypassing building and zoning.

Mr. Prasad responded that he can't comment on the policy and that he realizes it is controversial. He added that this is as pure an implementation as could be done with what the law requires.

Mr. Sullivan stated that he is very much against this entire legislation, and also has concerns about some of the technical aspects such as what Mr. Hopengarten mentioned about the FAA requirements. He added it also does not meet DOD requirements. He pointed to section 4D, staff shall confirm the proposal is not within a quarter of a mile of a military installation. He asked if the existing air space restrictions could be used instead of one quarter mile language.

Mr. Prasad said that the Live Local Act under the revisions does not apply to that.

Mr. Sullivan responded that the Board has the discretion to modify this so it meets DOD requirements. He used the example of not being able to fly a drone at his own house that is a bit further than a quarter mile from Patrick Space Force Station because of being in existing restricted military air space. He stated the act should meet the FAA 107 requirements.

Mr. Prasad responded that with the way the act is written it is an exemption from county code requirements. If you meet these requirements you don't have to follow certain county code, so it can't be over inclusive than what the act requires because by we can't use the policy that exempts county ordinance unless we have enacting legislation that allows us to.

Mr. Sullivan questioned that should not the local ordinances be following the same guidelines as federal requirements.

Mr. Prasad said that those restrictions by county code, state statute, and federal law still apply. The Live Local Act only exempts certain regulations to do with density, height, parking requirements, and things of that nature.

Mr. Sullivan asked where that language that says they have to meet the federal and DOD requirements was in the legislation.

Mr. Prasad pointed to section 4 review criteria H5, staff shall determine that the proposed development is otherwise consistent with the Brevard County Comprehensive Plan and Brevard County Code of Ordinances. He added that based on what Mr. Sullivan was saying that maybe some language should be added as part of his recommendation to be consistent with state and federal law.

Mr. Sullivan next asked where the numbers on some of the percentages in the review criteria came from, in particular items F and G. Mr. Prasad answered that they come from the amendments to section 125.01055 and Florida statutes.

Mr. Sullivan clarified that this means that only 40% of a residential unit can be classified as affordable, so they're bypassing Planning and Zoning with 60% not being affordable. Mr. Prasad said yes, there is that potential.

Under the language of item H under review criteria, Mr. Sullivan suggested instead of "Shall not require the proposal", "it shall maintain the requirement to obtain a land use and zoning change".

No public comment.

Brian Hodgers questioned if the Board or County Commission has the ability to make changes to this considering the state is the one who passed this amendment.

Mr. Prasad answered that we are required to implement state law, so the short answer is no.

Mr. Hodgers said that the Board can ask staff to make changes, but if the changes are not in compliance with what the state has passed, the Board approving this motion is useless.

Mr. Prasad said that any recommendations made will be forwarded to the Board of County Commissioners but again that we are required to implement state law and that we don't have discretion on things like the 40% threshold.

Deputy County Attorney Alex Esseesse added that those numbers don't seem to have changed even from the initial iteration of the Live Local Act with regards to the 40% minimum.

John Hopengarten asked the Board that sitting here and discussing this while not being able to change anything then what is the purpose of this.

Mr. Esseesse answered that he thinks the purpose is to make the Board aware of what Live Local Act requirements are in place and to make the public aware of an alternative avenue for administrative authority that's given to staff by the state legislature. He added it is also for the feedback and concerns raised that can make the Board of County Commissioners aware.

Motion to provide advisory of the points made to the Board of County Commissioners by Robert Sullivan, seconded by John Hopengarten. The vote was unanimous.

Upon consensus, the meeting adjourned at 4:09 PM.