

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 4, 2019**, at **3:00 p.m.**, in the Commission 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: Ron Bartcher; Ian Golden; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Bruce Moia; Peter Filiberto, Vice Chair; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; Darcie McGee, Assistant Director, Natural Resources Management; Bach McClure, Engineer, Natural Resources Management; John Denninghoff, Assistant County Manager; and Jennifer Jones, Special Projects Coordinator.

Approval of the October 7, 2019, Minutes

Motion by Bruce Moia, seconded by Brian Hodgers, approve the minutes of October 7, 2019. The motion passed unanimously.

1. Think Green Brevard, LLC (Stuart Buchanan)

A request for a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant and wedding venue, in an IU (Light Industrial) zoning classification. The property is 7.86 acres, located on the northwest corner of Parrish Road and U.S. Highway 1. (2030 U.S. Highway 1; 2900 Parrish Road; and 2920 Parrish Road, Titusville) (Tax Account 2104639) (19PZ00066) (District 1)

Jeffrey Ball, Planning and Zoning Manager, advised the board staff is requesting that if approved, a special condition be added to the motion that the applicant provide documentation as to the site meeting the County's parking standards, per Section 62-3206, prior to approval of the alcoholic beverage license.

Stuart Buchanan, PO Box 1545, Titusville, Florida, stated the site subject property is 7.86 acres and is part of a larger 14-acre parcel, which contains approximately six acres of vegetative trees that act as a buffer to the neighborhood to the west. The property is located on U.S. 1, which is an established commercial corridor. For many years, the subject property was not used and it fell into neglect; it was originally a citrus packing plant. One of the North Brevard Economic Development Zone's (NBEDZ) goals of its strategic plan is the redevelopment and re-use of citrus plant buildings. On October 11th, the NBEDZ awarded a grant of \$250,000 to support the redevelopment of this project. He stated there is an existing fence on the north property line between the subject property and the four residential houses, and that is not included in the staff comments because it cannot be seen on an aerial, but he will provide photos prior to the Commission meeting.

Ian Golden stated he noticed sewer not yet to the site, but limited portions of the property that are in the Indian River Lagoon capture, and asked how that will be addressed. Mr. Buchanan replied the City of Titusville will be the sewer provider. Ron Bartcher asked when sewer will be available on the property. Mr. Buchanan replied the pipes are currently being installed, but he's not sure when hook-up will be required.

Mr. Bartcher stated he sees the plan is to have the main access off of U.S. 1 through the north end of the property, and the driveway goes across the rail trail, but the trail was not made for vehicular traffic, and asked if there will be improvements to that portion of the trail. Mr. Buchanan replied that

particular portion of the trail was designed for vehicle access, and those plans were submitted to staff. He said not only did FDOT (Florida Department of Transportation) install all of the signage to account for vehicle access, but they also put in a deceleration lane for cars coming off of U.S. 1. Mr. Bartcher clarified he is talking about the trail itself. Mr. Buchanan stated that was fully incorporated in the plans when FDOT did the construction, and a copy of those plans were provided by the Space Coast Transportation Planning Organization and submitted to Planning and Development staff. Mr. Bartcher asked if the road base has been improved beyond what was put in for the trail. Mr. Buchanan replied yes, and signage was installed by FDOT so it could continue being used for vehicle access.

Bruce Moia asked if the project is in the site plan process. Mr. Buchanan replied yes, and stated for CUP's there is a conceptual site plan that gets submitted, and for a CUP site plan, the code requires it be prepared by an engineer or surveyor, and the site plan itself has to be signed and sealed by an engineer. Mr. Moia asked who the engineer is for the project. Mr. Buchanan replied it is Ralph Brown. Mr. Moia asked if he works for a local firm. Mr. Buchanan replied Mr. Brown works for St. Johns River Water Management District. Mr. Moia asked if he is performing the engineering work on his own. Mr. Buchanan replied the site plan is being handled by the engineer and the surveyor, and Ralph Brown is the engineer and Loys Ward is the surveyor.

Mr. Golden stated page five of the staff comments mentions the number of seats associated with on-premises consumption of alcoholic beverages, and he noticed the applicant wants the CUP to include the covered patio area, but did not specify any seating for that area or for the tasting bar. Mr. Buchanan replied there will only be one wedding held at the property at a time, so it's the same patrons going from one area to the next; the only exception is the tasting bar, which is associated with the uses inside the building. Mr. Golden asked if it is concurrent seating. Mr. Buchanan replied yes, because there will not be multiple weddings held at the same time. Mr. Golden noted there is concurrent parking because there is no parking set aside for the chapel versus the other facilities. Mr. Buchanan replied yes, it will be the same patrons. Mr. Golden asked if that is specified in the CUP. George Ritchie, Planner III, stated the updated plan submitted by the applicant shows 101 new parking spaces being provided through the access off of U.S. 1, and staff has determined, based on the building size and the number of seats in several of the buildings, that 105 spaces would be needed for the CUP, so staff has identified the site is four spaces less than required by code.

Mr. Buchanan noted that is the consideration Mr. Ball mentioned at the beginning of the meeting, that the applicant has agreed to meet those conditions before an alcoholic beverage license would be issued. Mr. Golden stated that is something he would be in support of as part of the approval of the request. He said if there are 105 spaces, there could conceptually be 210 individuals, and there are 150 seats to be covered by the CUP for alcoholic beverages, and there could be more people than seats. Mr. Buchanan clarified that Mr. Golden is asking that staff add a maximum seating occupancy, as well as saying they have to comply with 105 parking spaces.

Mr. Ball stated yes, over all they are limited based on the CUP they've applied for, as well as parking, and that's to try to minimize the impacts of offsite parking.

Mr. Bartcher asked if fruit will be grown on the property for the tasting room. Mr. Buchanan replied no, the owner would like to see the industrial building returned to industrial uses, such as a microbrewery, which is why the NBEDZ granted money to the project.

Mark Wadsworth called for public comment.

Bob Shayller, 3285 Westwood Drive, Titusville, stated he has known the owners of Think Green of Brevard for years and has never had a bad experience at their establishment.

Patricia Brinker, 2912 Brandywine Circle, Titusville, stated the back of her house faces old citrus plant and she is concerned with loud music and traffic. She said she has not yet seen an entrance from U.S. 1, only from Parrish Road. She stated she is concerned about the owners not moving the trash and trailers off of the north part of the property, and noted there is not enough room to park, even if they take the trash off of the property.

Oleta White, 2912 Brandywine Circle, Titusville, stated she is the daughter of Ms. Brinker, so the proposed project also affects her directly, and she is concerned about the project having a direct impact her property value. She said her biggest concern is the ingress and egress; the applicant has stated traffic will come from the north side, but on the north side of the building, people have to drive around an outbuilding, and then go around the warehoused building. She stated on the empty acreage is garbage, cars, and commercial travel trailers, and that is the entrance to the front of the facility. She pointed out that the applicant refers to a covered patio, but there is not one on the property. She asked, if the intention is to use the north side as the ingress and egress, then why isn't it being used now, instead of coming across Parrish Road. She said the applicant mentioned foliage and trees protecting the site from the residential area, but there are only trees on the west side, and no trees on the south side, and the chain link fence has not been maintained. She stated noise is a major issue; there have already been a few celebration parties at the facility with approximately 30 people who used the Parrish Road entrance. She said the packing plant doesn't have insulation and the noise from the music inside has been very loud and there hasn't been an end time.

Mr. Buchanan stated the buildings referred to on the conceptual plan have not been constructed, but they will be on the north side of the existing building, which is why U.S. 1 will be the entrance. He said the wedding venue will be on the north side of the building and there is a small portion of the building being used as a tasting room. He noted all junk has to be removed, including the security trailer. He further stated the County has a noise ordinance, and if someone makes a complaint, either the Sheriff's Office or Code Enforcement will visit the site with noise meters and enforce the ordinance.

Mr. Moia stated the County requires a 15-foot Type A landscape buffer along the right-of-way, so there will be a buffer provided where there isn't one now. Mr. Buchanan stated the right-of-way was originally a railroad track and purchased by FDOT as part of the trail system, so it is a situation of what used to be a railroad track flush against a private industrial site, and then U.S. 1 is 20 feet away.

Mr. Moia pointed out there will have also have to be a 15-foot Type A buffer along Parrish Road for the residents across the street. Mr. Buchanan agreed, and stated that is part of the process.

Mr. Moia referenced the four letters of support for the request from the Titusville Police Department, the Women's Center, the SPCA, and a veterans organization.

Brian Hodgers asked about the ingress and egress, and stated one of the pages in the agenda packet says, "EX entrance", which is the one off of U.S. 1, and asked if that is an exit only. Mr. Buchanan replied it was designed and is functioning as an entrance and exit, and it is directly aligned with a full median break on U.S. 1. Mr. Hodgers noted another concern from the speakers was traffic to the site off of Parrish Road, and asked if there will be only one entrance coming off of Parrish

Road. Mr. Buchanan replied U.S. 1 is the primary entrance and exit, and there would be no reason to have guests coming off of Parrish Road because they would have to walk 900 feet to the venue.

Peter Filiberto asked if the applicant is willing to comply with the parking requirements suggested by staff. Mr. Buchanan replied yes. Mr. Filiberto stated he will make a motion to approve because it is consistent with the land use and there are no churches or schools within 400 feet of the building.

Motion by Peter Filiberto, seconded by Brian Hodgers, to approve the request for a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant and wedding venue, in an IU zoning classification.

Ben Glover asked if the property could be a concert hall or amphitheater if the applicants decide not to move forward with the wedding venue. Mr. Ritchie replied no, the request is for alcohol in conjunction with a restaurant and wedding venue only.

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

2. Bonnie E. Douglas, Trustee (Connie Douglas)

A request for a change of zoning classification from RU-1-9 (Single Family Residential), BU-1 (General Retail Commercial), and TR-3 (Mobile Home Park) to all TR-3, with a BDP (Binding Development Plan) limiting the number of mobile home sites to the current number of 173. The property is 31.36 acres, located on the west side of U.S. Highway 1, approximately 250 feet south of Garrett's Road. (8440 U.S. Highway 1, Micco) (19PZ00108) (District 3)

Connie Douglas, 2275 Grant Road, Grant, stated her parents purchased the mobile home park in 1979, and the front building on U.S. 1 has been their residence, as well as a sales office for the park. She said they would like to make the property consistent with the rest of the park. She noted there was a strip across the front that was all BU-1, and staff suggested they try to make everything RU-1-9, except for a smaller portion on the front that would remain BU-1.

Mark Wadsworth called for public comment, and seeing none, he brought the item back to the board.

Motion by Bruce Moia, seconded by Ben Glover, to approve the change of zoning classification from RU-1-9, BU-1, and TR-3 to all TR-3, with a BDP limiting the number of mobile home sites to the current number of 173. The motion passed unanimously.

3. Kim Fischer and Brian Scott Hall

A request for a change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan), to all BU-2 and removal of BDP. The property is 1.12 acres, located on the south side of State Road 520, approximately 0.24 miles west of Lake Poinsett Road. (No assigned address. In the Cocoa area.) (Tax Account 2444757) (19PZ00113) (District 1)

Jeffrey Ball pointed out that the existing BDP limits the sales and trailer storage to the back 200 feet, so the removal of the BDP would allow for the storage of those vehicles anywhere within the property.

Kim Fischer, 1614 White Dove Drive, Winter Springs, Florida, stated having split zoning makes it difficult since they will not be selling trucks and trailers. She said their intent is to have an office warehouse, and having consistent zoning would give them more opportunities.

Bruce Moia asked the purpose of removing the existing BDP. Ms. Fischer replied the BDP was for trucks and tractors, and they will not have anything that intense on the property. Mr. Moia asked if they would be doing more of a contractor office, showroom, and storage. Ms. Fischer replied yes, and any materials would be stored inside the building, there will not be any outdoor storage. She said there would be space for three or four tenants.

Mr. Ball advised the board that BU-2 allows for outside storage, so regardless of if the BDP is removed, BU-2 allows for outside storage.

Mark Wadsworth called for public comment.

Mary Sphar, 825 Clifton's Cove Court, Cocoa, Florida, stated the subject property is different than most of the properties along the south side of State Road 520 in that it has great potential to be a beautiful commercial development. The portion near the road has lovely specimen Live Oaks, with a grassy area in the back, and then more Live Oaks. She asked that the specimen Oaks be preserved and incorporated into the landscape design. One drawback to the property is that it is not served by water and sewer, although both are available from State Road 520. She suggested the board approve the request with a replacement BDP with the conditions of sewer connection and preservation of the specimen Oaks.

Ms. Fischer stated Florida Statutes and Environmental Health will require sewer connection within a certain distance of the property. She said as far as the trees, they will meet all of the codes.

Bruce Moia stated the property has Community Commercial land use, it's on a major arterial corridor, and Ms. Fischer is correct that the State will dictate whether the project gets sewer or septic, and the specimen tree ordinance will dictate that they have to preserve or mitigate for them, so he does not see the need for another BDP on the property.

Motion by Bruce Moia, seconded by Brian Hodgers, to approve the change of zoning classification from BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP (Binding Development Plan), to all BU-2 and removal of BDP.

Local Planning Agency Agenda

1. An ordinance amending Floodplain Protection and Land Alteration.

Darcie McGee, Assistant Director, Natural Resources Management, stated at the August 20, 2019, Commission meeting, the Board considered options addressing community concerns regarding possible flood risks associated with development and placement of fill on North Merritt Island. Specifically, the area is Hall Road north to State Road 405, excluding the Federal lands. The Board directed staff to bring back code modifications to clearly demonstrate that development shall comply with current code, including causing no adverse effect to other properties. The Board also requested the requirement of both compensatory and certification by an engineer that there will be no adverse impacts due to any improvements. She further stated Natural Resources is in the process of developing a stormwater model that will be specific to North Merritt Island and it is expected to be completed in late 2020; once completed, the model will be used by all applicants, making the certification portion of the code more straight forward. She continued, the proposed modifications are going to be applicable before and after the model is complete and will be used going forward if

approved. As for the adverse impacts, current State criteria states that applicants must manage the discharge rate of stormwater runoff, which means how fast the water comes off of the site. The goal is to prevent adverse impact by managing both the rate and the volume of water discharged from the site, so the volume will be how much water flows off of the site. The County manages water volume through compensatory storage. The modifications will be applicable to both development of structures, and land alteration, which is going to be simple grading of properties, which means filling or excavating on property. The proposed code establishes submittal and maintenance criteria, and it also addresses single-family residential parcels created prior to the effective date of the ordinance to allow for grandfathering. There is a waiver from compensatory storage that provides model criteria to be used by engineers until the County model is available for use. Properties demonstrating discharge of site runoff directly to the Indian River Lagoon are exempt from the compensatory storage requirements. Land alteration and grading are prohibited unless reviewed and approved by the County, and a minor land alteration permit has been established for small amounts of fill in the area and provides permit criteria.

Bruce Moia asked the difference between the proposed code and the existing code. He stated the code currently requires floodplain compensation in certain floodplains, and it sounds like it's being done whether riverine or not.

Ms. McGee replied currently there is estuarine floodplain, which is associated with the Indian River Lagoon and has outlets to the ocean; there is a riverine floodplain, which is the St. Johns River floodplain, and that requires compensatory storage; the Indian River Lagoon estuarine floodplain does not require compensatory storage under current code; and lastly is the isolated floodplains that also require compensatory storage because with the St. Johns system and the isolated systems, there's not room for the water to go anywhere. What is happening in North Merritt Island is that it is behaving like a riverine floodplain in that it's not being inundated by the brackish waters of the Indian River Lagoon, it's being flooded by the stormwater and fresh water coming from rain. The way the code defines it right now, it doesn't meet the definition of riverine; therefore, Natural Resources doesn't require compensating storage. By this floodplain and North Merritt Island functioning as a riverine, the proposed code is specific to that area because of the way it functions.

Mr. Moia asked if this area of North Merritt Island would be treated like an isolated floodplain unless you were directly abutting the river.

Bach McClure, Engineer, Natural Resources Management, replied yes, and that is the way most of the system on North Merritt Island functions, but because of the way the estuarine and riverine are defined it's all estuarine.

Mr. Moia stated that will change the definition, but add the criteria. Mr. McClure stated if the definition is changed there will be unanticipated impacts. Mr. Moia asked if Ms. McGee said the County is doing a study. Mr. McClure replied staff has selected a consultant and is negotiating the rate, and will be putting together a detailed stormwater model, which is a hydrology and hydraulics model that includes ground water as well as existing tailwater conditions. We have an existing model but it does not include the linkage to ground water, and the new version of the model will include that linkage as well as additional details that make it more accurate when it comes time to plug in the development to see if it is adequate or if there needs to be additional modifications.

Mr. Moia asked if the only exemption is if the discharge is going directly to the river, and asked what happens if there is a lot that discharge into a canal that discharges into the river. Mr. McClure said the problem is determining where to draw the line. It wouldn't be exempt; however, demonstrating there are no adverse impacts to the neighbors would be fairly straight forward. Mr. Moia asked if it would apply to one single-family residence on one acre. Mr. McClure replied yes.

John Denninghoff, Assistant County Manager, stated no one has ever been in a position where they could damage somebody through the development of their property; that has never been a legal thing to do. Defining that in the review and development process is what is really being changed. The basic definition, or purpose, or function, is to protect innocent property owners who have nothing to do with a land development, it is just being defined in a different way than previously, and staff is also providing the tools to be able to accomplish that in a reasonable way. Nevertheless, staff doesn't have the model today, but there is the option for someone else to do it in their own if they want to try to do it, but the ordinance defines what they have to consider and include in their analysis, and what ultimately has to be signed and sealed by an engineer to be able to demonstrate they complied with the intent of the code, which is to prevent harm to others.

Mr. Wadsworth asked staff if the ordinance will only apply to the North Merritt Island, north of Hall Road. Ms. McGee replied yes, and noted there is an exemption for compensatory storage for lots established prior to the date of the ordinance.

Mr. Moia asked when the ordinance would go into effect. Ms. McGee replied the ordinance states, "Compensatory storage for fill in the area shall be required for single-family parcels created prior to the effective date of this ordinance". She stated the ordinance goes on to read that if someone doesn't have a compensatory storage area available due to depth and groundwater they can obtain a waiver from the County.

Mr. Moia asked who the 'County' is, and asked if it was the County Commission or the County Manager. Ms. McGee replied it is the County Manager or designee. Mr. Moia asked if it could be administrative and not a public hearing. Ms. McGee stated it is not the intent to take it to the Board, it's to take it to the County for an administrative waiver. Mr. Moia stated he would like to make sure that is clear, because that's a big difference.

Peter Filiberto asked staff, if a hurricane were to happen people lost 10 feet of their property to the river, would they be allowed to fill in the property they lost. Ms. McGee replied that is a different situation and would be driven by the State. Normally, the State does not allow people to reclaim property lost through erosion in State waters; however, after a catastrophic event, such as Hurricanes Frances and Jeanne, the State allowed people to reclaim property if they did it in a timely manner, having to do with the date of the emergency order, but it is up to the State.

Mr. McClure stated the properties immediately along the river are recognized that the odds of them directly impacting somebody else by adding fill is fairly small. He stated if someone has their own drainage system going out to the river and not blocking anyone else's flow, then they're good, whether they put in a foot of fill or 10 feet of fill. If affecting their drainage system, that's where staff would ask them to show that they are not adversely impacting people upstream.

Mr. Wadsworth stated he was going to suggest the County provide stormwater runoff. Mr. McClure stated once the model is done, staff will have done the pre-condition for every piece of property in the

affected area covered by the ordinance. Mr. Wadsworth asked, if there are parcels of land that do not have the volume for the compensating storage, will they not be able to build. Mr. McClure replied that is where someone could build a single-family residence and minimize the footprint. Mr. Wadsworth stated the compensating storage would delineate the square footage of the structure. Mr. McClure replied, potentially yes, but if someone is limited on how much compensatory storage volume can be created because the groundwater is so high, that's where the waiver would come into effect. He said if the zoning is for a 2,500 square-foot house, the footprint could be done with whatever the minimum is for the septic tank, the house, and access, and it could also go three stories high and up to 7,500 square feet, as long as the footprint is for the 2,500 square foot minimum.

Mr. Denninghoff stated it will not be up to staff to solve the problem for development; developers will have to figure out how to solve the problem themselves. He said it may be that there is another opportunity for them to demonstrate compliance and doing no harm by providing improvements someplace else, or it could be that they are going to remove material in a different location that provides more compensatory storage someplace other than on their current site, so there is more than one way to do it, but nevertheless, they will have to come up with a solution themselves, staff will not do that for them. He stated staff is preparing the model that will help them figure out what their impacts might be for a given development concept, and then what they might have to do to compensate or to comply with the code with respect to that concept, and they may have to alter the concept in order to comply with the code.

Mr. Moia asked if the affected area of the ordinance is all one basin, or is it made up of multiple sub-basins where offsite compensation could be done anywhere in the affected area, or would it have to be within the sub-basin. Mr. Denninghoff replied the model being prepared will define what the flood area is, because the water stages up and one level might be different than what it is when it is at a higher level, and Merritt Island is especially susceptible to that because it's so flat. As a result, the model will figure that out and will project the stages based on the development plan, and then if it's anything higher than previously occurred, they are going to have to make an adjustment, and where that adjustment is made will be driven by the existing conditions of the land and the water table, as well as the rainfall. The model will predict that for them and if they're proposed solution to the problem works, then they might get their approval, assuming they've complied with the other codes.

Mr. Moia asked if the model will be prepared by the consultant and then available to any consultant doing work in that basin. Mr. Denninghoff replied that is correct, it's very similar to the way it is done with traffic modeling. Mr. Moia asked what program the model will be in. Mr. McClure replied ICPR-4. Mr. Moia stated he is sure it's going to be a bulky model, but hopefully it can be compartmentalized and not so cumbersome and large that it will take eight hours to run on a computer. Mr. McClure stated he has been told that the new program runs considerably faster than the old program, even with the existing models. He stated staff has not started talking with the consultant about how to implement it, and it may be that it can be broken out into portions and set boundary conditions for a small portion where a certain area of development is concerned.

Mr. Moia asked if it is proposed to pursue this ordinance regardless of the fact that the model will not be available for one to two years. Mr. McClure stated there are existing systems available, especially for properties bordering the Lagoon, or larger discharge channels adjacent to the Lagoon. He said proving no adverse impact will be fairly simple with the tools currently available, it's the inland properties that will have more of an issue.

Mr. Denninghoff noted the County Commission directed staff to bring it back as soon as possible.

Mr. Wadsworth called for public comment.

Mary Sphar, 825 Clifton's Cove Court, Cocoa, stated she thought the ordinance change was supposed to reduce flooding on North Merritt Island by requiring compensatory storage and certification by the engineer that his project won't make flooding worse for the neighbors. She said there was no indication in the motion by Commissioner Lober that a waiver was supposed to be included as part of the ordinance. She said the riverine floodplain compensatory storage requirements don't have such a waiver. The existing stormwater models are not adequate for North Merritt Island, and that's why the County is spending the money and effort on a new model. She said the storm that is used for reference when input is put into the models is not specified, and the County has had documentation for a long time that shows staff believes that the 100-year, 24-hour storm, measured at hour 36 is the appropriate one to use for North Merritt Island. There is not a requirement for verification of the test results, and there's no requirement to not increase the nutrients. She said she has a problem with Part D of the ordinance and she would like it qualified. She stated if the ordinance is to be used before and after Mr. Denninghoff's model is done, then it should be made clear that this waiver can be granted by using the new model he is going to be responsible for creating. She asked why a new stormwater model is being done if the computer-based models are adequate. She asked the board to modify Part D to protect the Merritt Island residents who have suffered flooding for too long.

Darlene Hunt, 125 West Crisafulli Road, North Merritt Island, stated she was the Chair of the Small Area Study for four years, and this proposal was one of the results from the Small Area Study. She said she supports Ms. Sphar's comments, and she requests the board vote to approve the ordinance with Ms. Sphar's suggested amendments.

Ms. McGee stated the ordinance talks about waiver criteria and submitting a model for approval by the County, and what is included in the proposed ordinance that is not currently included is that developers have to account for groundwater and volume. Instead of doing modeling based on the rate of the water off the site, they will have to do modeling of groundwater and volume, so that's two additional criteria included above and beyond the current models.

Mr. Moia mentioned the minor land alteration permit for land less than three-quarters of an acre, and asked what is different about being a minor land alteration than the rest of the code. Ms. McGee stated staff recognized that one of the other problems on North Merritt Island, besides development of homes and businesses, is land filling. She said there is a land alteration permit that someone can get to alter their land for a field, but it doesn't kick in until three-quarters of an acre, so for half-acre parcels it can become cumulative over an area, and the minor land alteration permit is a mechanism for staff to look at the smaller projects without subjecting them to a true land alteration permit, which is expensive and is really for mining and borrow pits.

Mr. Moia asked if the minor land alteration permit would be available to other areas in the County. Ms. McGee replied right now it's only applicable to area affected by the ordinance.

Ron Bartcher stated he would like to see staff add the phrase, "from stormwater" in paragraph 4(b), after 'adverse impacts'. He said when he first read, 'adverse impacts', he wondered if it was environmental impacts or property values. He thanked staff for including rate and volume in the

model, because that has been a problem and he has not understood why it wasn't fixed in the first place.

Ms. McGee replied staff will clarify that to indicate flooding.

Dane Theodore made a motion to approve the ordinance as amended.

Mr. Moia asked if the motion includes Mr. Bartcher's comments and his own comments regarding the County being the County Manager and not the Board of County Commissioners. Mr. Theodore replied yes.

Mr. Theodore clarified that his motion stands as amended by Mr. Bartcher.

Ms. McGee noted County Manager or designee is in paragraph 4(d), but paragraph 4(e) just says County, so staff will clarify that.

Ben Glover second the motion.

Mr. Wadsworth called for a vote on the motion as stated and it passed 5:3 with Bruce Moia, Peter Filiberto, and Mark Wadsworth voting nay.

Mr. Moia stated he's not necessarily trying to fix flooding in the area, it's a standard he's opposed to because sometimes there are unintended consequences. He further stated he's not crazy about regulations to begin with.

Mr. Filiberto mentioned what Mr. Moia said about the land alteration permit, and it seems a little dicey, and that is why he's voting in opposition.

Upon consensus, the meeting adjourned at 4:25 p.m.