

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 7, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Jason Steele

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi Judicial body when it hears requests for rezoning and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

C. PLEDGE OF ALLEGIANCE

Chair Steele led the assembly in the Pledge of Allegiance.

F.1. Waiver Request, Re: Waiver of Parking Area Design Criteria for Fortenberry Road Apartments (23WV00010 and 23WV00009) (23SP00009)

The Board granted a waiver of Section 62-3206(c)(13) to allow for surface parking and eliminate the need to construct one level of parking within the principle habitable structures proposed for the redevelopment of the subject parcels; and granted a waiver of Section 62-3206(d)(26) and 62-3206(d)(2) to allow for reduced parking count requirements from 708 to 647 spaces.

Result: Approved

Mover: John Tobia

Seconder: Rob Feltner

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

G.1. Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra J. Douglas (Brittany LeCun) Request a Change of Zoning Classification from IU-1 to BU-2 (23Z00023) (Tax Account 3010512)

Chair Steele called for a public hearing on a request by Charles Steven Douglas and Debra

Kay Douglas, Trustees and Sandra J. Douglas for a change in zoning classification from IU-1 to BU-2 for application 23Z00023, tax account 3010512, and located in District 3.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Charles Steven Douglas and

Debra Kay Douglas, trustees, and Sandra J. Douglas request a change in zoning classification from IU-1 to BU-2; the application number is 23Z00023, and tax account number is 3010512; it is located in District 3; and this request will remove a Binding Development Plan (BDP) stipulation to allow for mini storage.

Chair Steele inquired if Commissioner Tobia wishes to hear the speaker or if he has a motion.

Commissioner Tobia advised he is going to open up and let Brittany LeCun speak if she wants to; first of all, this change comes at the request of the applicant because of a non-competitive clause; this change removes mini storage from the BDP, so it actually makes the BDP more restrictive instead of less restrictive; he moves to approve the request to remove mini storage as an allowable use for the BDP; and of course she is more than welcome to speak, but he wanted the Board and Ms. LeCun to know where he stands on this.

There being no comments or objections, the Board approved the request by Charles Steven Douglas and Debra Kay Douglas, Trustees and Sandra J. Douglas for change in zoning classification from IU-1 to BU-2 for application 23Z00023, tax account 3010512 located in District 3, removing mini storage as a permitted use within in the BDP.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

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

G.2. Paulk Family Trust Requests a Small Scale Comprehensive Plan Amendment (23S.19), to Change the Future Land Use Designation from RES 1 to RES 2 (23SS00019) (Tax Account 2100923)

Chair Steele called for a public hearing on a request by Paulk Family Trust for a Small Scale Comprehensive Plan Amendment (23S.19) to change the future land use designation from RES 1 to RES 2, application 23SS00019, tax account 2100923, and located in District 1.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.2. and G.3., are companion applications; he will read them into the record at the same time, however, separate motions for each will have to be provided; Item G.2. Is the Paulk Family Trust requests a Small Scale Comprehensive Plan Amendment, 23S.19, to change the future land use designation from RES 1 to RES 2; application number is 23SS00019, tax account number is 2100923, located in District 1; Item G.3., is Paulk Family Trust requests a change of zoning classification from AU to SR; and the application number is 23Z00063, tax account number is 2100923, located in District 1.

Chair Steele inquired if Commissioner Pritchett has any comments in regards to this.

Commissioner Pritchett stated this is super simple and it completely fits; it helps part of the water issue; and she made a motion to approve this Item.

Denise Carmody stated she actually owns property right next to this land; she was unable to

attend the first meeting; she sent her voiced comments to Ms. Jennifer Jones in an email regarding her concerns; she is not sure if the Board received that or if it was forwarded to anyone; she watched the meeting online and she feels there was a bit of misrepresentation by Mr. Paulk or the Family Trust with regards to his three-quarters of an acre; she has one-half acre immediately next to him, her mother has one-quarter of an acre right behind her, so they both about his three-quarter acre; and in his comments he stated he feels like he should be able to build a small home there because there are several homes in the area that are on lots smaller than his. She went on to say she did a little research and there are about five homes that are in that immediate area that are smaller lots than his; they are all, with the exception of one, zoned agriculture; her concern is drainage; when it rains out there, the water has a tendency to sit and if he is building next to her, her concern would be the water coming into her property; and if there is not a plan to address that, whether it be a ditch or something, that is a very large concern. She mentioned another concern is if the Board allows a three-quarter acre to be zoned SR then those five homes that are on less than three-quarters of an acre should also be allowed to have their zoning changed; and she just wants that on record and hopes it is taken into consideration.

Chair Steele asked if there were any oppositions to this.

Mr. Ball advised at Planning and Zoning there were a couple citizens who spoke in opposition.

Chair Steele commented but it passed.

Mr. Ball affirmed.

Chair Steele noted the Commissioner is also in favor of it.

Commissioner Pritchett stated with the water, she understands that; for him to build they are going to make him contain his own stormwater which actually helps alleviate some of the situation if one has it; and whenever people are building, it really helps neighbors quite a bit, so it is actually a good thing.

Ms. Carmody inquired when she goes to request zoning, what would that mean for her.

Commissioner Pritchett explained if she is within the same type of zoning, because this zoning change really does fit in the area, so that is what the Board will look at, to make sure it is not causing any harm; she suggested to put it in if she needs to; and the Board will look at the same circumstances for the entire area right there.

There being no further comments or objections, the Board adopted Ordinance No. 23-32, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the 12th Small Scale Amendment of 2023, 23S.19, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled, Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled, The Future Land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date; and changing the Future Land Use designation from RES 1 to RES 2.

Result: Adopted

Mover: Rita Pritchett

Second: John Tobia

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

G.3. Paulk Family Trust Requests a Change of Zoning Classification from AU to SR (23Z00063) (Tax Account 2100923)

Chair Steele called for a public hearing on a request by the Paulk Family Trust for a change in zoning classification from AU to SR for application 23Z00063, tax account 2100923, and located in District 1.

There being no further comments or objections, the Board approved the request by the Paulk Family Trust to change the zoning classification from AU to SR, application 23Z00063, tax account 2100923, and located in District 1.

Result: Approved

Mover: Rita Pritchett

Seconded: John Tobia

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

G.4. Linde, Inc. (Kim Rezanka) Requests a Small Scale Comprehensive Plan Amendment (23S.21), to Change the Future Land Use Designation from RES 4 and CC to all CC (23SS00021) (Tax Accounts 2103325 & 3019428)

Chair Steele called for a public hearing on a request by Linde, Inc. for a Small Scale Comprehensive Plan Amendment (23S.21), to change the Future Land Use designation from RES 4 and CC to all CC, application number 23SS00021, tax accounts 2103325 and 3019428, located in District 1.

Jeffrey Ball, Planning and Zoning Manager, stated Items G.4. and G.5. are companion applications; he will read them into the record at the same time, however, the Board will have to have separate motions for each; Item G.4. is Linde, Inc. requests a Small Scale Comprehensive Plan Amendment, 23S.21, to change the Future Land Use designation from RES 4 and CC to all CC; application number is 23SS00021, tax account numbers are 2103325 and 3019428, located in District 1; Item G.5., is Linde, Inc. requests a change of zoning classification from AU and BU-1 to all BU-2; and the application number is 23Z00072, tax account numbers are 2103325 and 3019428, also located in District 1. He advised the Board that Ms. Rezanka submitted a concept plan during the Planning and Zoning meeting; that concept plan is non-binding to the Board; and it has not been reviewed against the County Code and Regulations.

Commissioner Pritchett stated this is a really lovely fit for the area; it is right on the main road; she knows when they start turning in all of their items to build this, her only recommendation would be, and she knows she cannot hold them to it, but if it could be more of a natural buffer on some of this because there are some lovely trees on the property, as well, and she thinks that would be a lovely fit; and she made a motion to approve.

There being no further comments or objections, the Board adopted Ordinance No. 23-33, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the 13th Small Scale Plan Amendment of 2023, 23S.21, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled, Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled, The Future Land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date; and changing the Future Land Use designation from RES 4 and CC to all CC.

Result: Adopted
Mover: Rita Pritchett
Second: John Tobia
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.5. Linde, Inc. (Kim Rezanka) Requests a Change of Zoning Classification from AU and BU-1 to BU-2 (23Z00072) (Tax Accounts 2103325 & 3019428)

Chair Steele called for a public hearing on a request by Linde, Inc. for a change of zoning classification from AU and BU-1 to BU-2, application number 23Z00072, tax accounts 2103325 and 3019428, located in District 1.

There being no comments or objections, the Board approved the request by Linde, Inc. to change the zoning classification from AU and BU-1 to BU-2, application 23Z00072, tax accounts 2103325 and 3019428.

Result: Approved
Mover: Rita Pritchett
Second: John Tobia
Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.6. Charles K. and Judith A. Donaldson (Kim Rezanka) Request a Change of Zoning Classification from AU to RU-2-15 (23Z00070) (Tax Account 2416959)

Chair Steele called for a public hearing on a request by Charles K. and Judith A. Donaldson for a change of zoning classification from AU to RU-2-15, application number 23Z00070, tax accounts 2416959, located in District 1.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Charles K and Judith A. Donaldson request for a change in zoning classification from AU to RU-2-15; the application number is 23Z00070, and tax account number is 2416959, located in District 2; and just to let the Board know, Planning and Zoning recommended RU-2-4 as the zoning classification.

Chair Steele asked Commissioner Goodson if he has any comments.

Commissioner Goodson advised he does; and he stated he would like to make a motion to consider changing from RU-2-15 to RU-2-4.

Chair Steele inquired if Ms. Rezanka is okay with that.

Clair Jaussi stated he owns the property directly north.

Chair Steele asked if he filled out a card; mentioned he can come up and speak but must fill out a card afterwards.

Mr. Jaussi stated he is not necessarily opposed to the change of the zoning; the property is north at three acres, north is his property, and it is zoned AU; it also has a wetlands designation; he thinks part of this existing property also has a wetlands designation; it was a survey that was done back in the 1980's; his main concern is Tropical Trail; North Tropical Trail is essentially the West side belt route to Courtenay; and there is no other way to get from 520 to 528 on that side of the Island except taking North Tropical Trail. He continued by saying that

property is on what he would call a blind curve; three times in the last two years he had his mailbox destroyed by impaired drivers who simply did not make the curve, smashed the mailbox, and threw it away; he knows even with an AU designation, that the Donaldson's could get a building permit; he thinks development on the east side, fronting Hill Avenue, probably makes sense, but he is very concerned about any further development on North Tropical Trail because of the busyness on that street, the speed on that curve; and in that respect he just wanted to make those concerns.

Chair Steele noted there was a major reduction in the zoning from RU-2-15 to RU-2-4; and he understands Mr. Jaussi's request, but at this particular point in time he is going to take the vote.

There being no further comments or objections, the Board approved the request by Charles K. and Judith A. Donaldson to change the zoning classification from AU to RU 2-4, application 23Z00070, tax account 2416959.

Result: Approved

Mover: Tom Goodson

Second: Rita Pritchett

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

G.7. Sundev Inc. of FL (Kim Rezanka) Requests a Change of Zoning Classification from TU-2 to BU-1 (23Z00071) (Tax Account 2800709)

Chair Steele called for a public hearing on a request by Sundev Inc. of FL for a change of zoning classification from TU-2 to BU-1, application number 23Z00071, tax account 2800709, located in District 5.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Sundev Inc. of Florida requests a change in zoning classification from TU-2 to BU-1, application number is 23Z00071, tax account number is 2800709, and it is located in District 5.

Chair Steele advised this is his District and he has no problems with it; and if Commissioner Pritchett will take the Chair he will make the motion.

Commissioner Pritchett advised she will make the motion.

There being no comments or objections, the Board approved the request by Sundev Inc. of FL for a change of zoning classification from TU-2 to BU-1, application number 23Z00071 and tax account number 2800709.

Result: Approved

Mover: Rita Pritchett

Second: John Tobia

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

G.8. Lori A. Clark (Chace Bourdon) Requests a Change of Zoning Classification from BU-1 to BU-2 (23Z00069) (Tax Accounts 2004828 & 2004829)

Chair Steele called for a public hearing on a request by Lori A. Clark for a change of zoning classification from BU-1 to BU-2, application number 23Z00069, tax accounts 2004828 and 2004829, located in District 1.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Lori A. Clark requests a change in zoning classification from BU-1 to BU-2, application number is 23Z00069, tax account numbers are 2004828 and 2004829, and it is located in District 1.

Chair Steele asked Commissioner Pritchett if she has any comments or if she wants to hear from the applicant.

Commissioner Pritchett commented she thinks it is good; she asked Mr. Ball if they are going to be storing cranes.

Mr. Ball advised he believes the applicant can address what the proposed use is; and staff's understanding is that they operate a crane business and they are going to be storing their equipment there.

Chase Bourdon stated he runs a crane business with his identical twin brother, CNC Crane Works; they have been out of Titusville, Florida, for probably about four and one-half years now; they are growing their business and they are running out of room where they are at and looking to move to Mims; it is a BU-1 zoned property at the moment; and they are looking to get the rezoning for the BU-2 to park the equipment to grow their business.

Commissioner Pritchett stated they have a lot of nice trees around that property, so when he is working on a buffer she asked if he would try to maintain as much of a natural buffer, and she would really appreciate it; and she made the motion to approve it.

There being no comments or objections, the Board approved the request by Lori A. Clark for a change of zoning classification from BU-1 to BU-2, application number 23Z00069 and tax account numbers 2004828 and 2004829.

Result: Approved

Mover: Rita Pritchett

Seconder: Tom Goodson

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

G.9. FL and NC Investment Properties, LLC (Don & Janice Opatha) Requests a Change of Zoning Classification from RR-1 to AU (23Z00066) (Tax Account 2106726)

Chair Steele called for a public hearing on a request by FL and NC Investment Properties, LLC for a change of zoning classification from RR-1 to AU, application number 23Z00066, tax account number 2106726, located in District 1.

Jeffrey Ball, Planning and Zoning Manager, stated this item is Florida and NC Investment Properties, LLC request a change of zoning classification from RR-1 to AU, application number is 23Z00066, tax account number is 2106726, and it is located in District 1; if the Board remembers this Item, it was continued from the November Board meeting for the applicant to meet with staff to discuss the possibilities of a Binding Development Plan (BDP); and subsequent to that, the applicant has decided not to entertain a BDP to limit the use of the property.

Chair Steele mentioned his is confused by that; and he inquired if the applicant is moving forward with this or if he removed it.

Commissioner Tobia stated he will go over a little bit of what happened here; at the November

2, Zoning meeting, Commissioner Pritchett stated she was not comfortable with this Item, and asked the applicant to work with staff to create a BDP that protected the neighborhood against intense agricultural use, noise, and so on; Mr. Opatha stated he was willing to work with staff regarding a BDP; as the Board found out, Mr. Opatha has met with staff but does not actually wish to agree to that BDP, and help alleviate the concerns of Commissioner Pritchett, as well as the Board; the neighborhood in which this lot resides is residential in character; and the request is intended to introduce an intense agriculture use which is not consistent with the neighborhood. He continued by saying AU could include packing, processing, and sale of commodities, or even a private golf course; because of this, as well as large amounts of public concern regarding noise resulting from agriculture use in a residential community, he will not be supporting this; however, he will make a motion to deny the request of zoning classification change from RR-1 to AU and direct the County Attorney's Office to provide a Finding of Fact.

Chair Steele asked Jamie, Craig, and Shirley, who filled out public comment cards if they are okay with this; he just wanted to make sure nobody wants to speak on this at this particular point in time; and he mentioned the Board is getting ready to deny this, so if they sit tight they will be able to roll out of here with the right decision that they wanted.

Chair Steele commented the County Attorney will send that letter.

There being no further comments or objections, the Board denied the request by FL and NC Investment Properties, LLC, to change the zoning classification from RR-1 to AU, application number 23Z00066 and tax account number 2106726; and directed the County Attorney to provide a Finding of Fact.

Result: Denied

Mover: John Tobia

Second: Tom Goodson

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

K. PUBLIC COMMENTS

Sandra Sullivan stated she guesses a fire in West Melbourne today was on one of the properties that is looking at 102, but it is kind of interesting; she was late today so she missed the agenda Item on the Fortenberry Road, otherwise, previously on an Agenda known as the Wittfield Project, so the Board is probably familiar with that; it is almost across the street from where they are putting in the amphitheater that the County is paying, she guesses, it is about a \$30 million project; in staff reports before, she thinks it is largely 97 percent wetlands; and it does not have a wetlands permit yet because she checked again yesterday, and St. Johns has not issued a wetlands permit. She went on to say it was kind of interesting reading the staff report and the response; so this was using public investment that was constructed to enable the redevelopment of Merritt Island Redevelopment Agency (MIRA) and this property, as proposed; that is talking about \$7 million in taxpayer's money for a stormwater system on a property that is wetlands; then there is the amphitheater across the road; at the last meeting, there was a discussion about noise ordinances; and she asked what the Board thinks is going to happen when they put high-rise development next to an amphitheater. She noted the County has a problem with having an amphitheater without adequate parking; it is putting all this investment, \$7 million into Fortenberry stormwater for that amphitheater project and for the surrounding area, but there is no parking, maybe 2,000 spots are being negotiated with some local businesses, but the need is 5,000 spots; then there is the project that was only permitted to have four units on it because it is wetlands; it was approved to change the zoning to PUD for 377 units; and those are going to be 377 units that are going to be complaining about the noise

Ordinance. She add what a cluster. She inquired if things are actually planned for in the County or if it is all willy-nilly because that mall, apparently those guys are not particularly cooperative to work with; she asked if the County thinks it is going to get the parking out of that situation; she mentioned the County invests all this money before it gets a plan in place; and to her it is just crazy.

J.5. John Tobia, Commissioner District 3, Re: Board Report

Commissioner Tobia stated today is National Cotton Candy Day; the useless Florida fact is the battle of Olustee was the largest Civil War battle fought in Florida and was won by the confederates; this day in Florida history, on this day in 1972, the United States last manned mission to the moon, Apollo 17 lifted from Kennedy Space Center; the County employee recognition would be Jennifer Jones; she is the Special Projects Coordinator for Planning and Development; she has 23 years of service for the County and 16 with Planning and Development; and this is a little unique because he has the adulation for Ms. Jones from two different groups. He continued by saying he will start with District 4: District 4 said Jennifer is a model employee, she is always friendly, knowledgeable, dependable, and efficient; anytime they have a question or need assistance, she is always willing to help with a positive attitude; and they cannot say enough good things about Jennifer and her work ethic. He went on to say this one is from a friend and former co-worker; he read, Jen is a minute transcription wizard, she is almost not human and she ruined the curve for all the people who used to have to work for her in transcribing her minutes so fast; her nicknames include Jonesy, Jobin, green bean and stoves; he noted just the fact that she has four or five nicknames says a lot about her; and then fun facts, which there are some good ones, and he mentioned she has no idea what he is about to say. He stated they are all positive; he read, Jennifer breaks down her year into two seasons, cross-stitch season and beach season, she enjoys cold beer on the beach; he likes this about Jennifer, she is a devoted Dave Matthews fan and has seen the band at least 12 times, she enjoys watching Friends, roller skating, girls weekends out with her homegirl crew; spending time with her husband Pete is also at the top of the list, who owns Pete's Bike Shop in Rockledge; he mentioned she was the first County employee to get great words from two separate groups; and he commented they appreciate all she does to make these meetings run so efficiently.

Upon consensus of the Board, the meeting adjourned at 5:34 p.m.

ATTEST:


RACHEL M. SADOFF, CLERK


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

Approved by the Board on December 19, 2023