

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on August 4, 2016 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Robin Fisher	Commissioner District 1	Present	
Jim Barfield	Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Curt Smith	Vice Chairman/Commissioner District 4	Present	
Andy Anderson	Commissioner District 5	Present	

INVOCATION

The invocation was given by Father Demetri Tsigas, St. Katharine Greek Orthodox Church, Melbourne.

PLEDGE OF ALLEGIANCE

Commissioner Fisher led the assembly in the Pledge of Allegiance.

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezonings and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness testimony showing that the request meets the Zoning Code and the 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, inspections, 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 of 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.

ITEM III., PUBLIC COMMENTS

Pam LaSalle stated she addressed the Board about Ethics Regulations and an Inspector General in May; she made a Citizen's Request on July 27, 2016; her requested action was as follows: "in view of the recent jeopardy to the Charter's Tax Cap Limit, and pending additional tax burdens, I request that the BOCC create a referendum to allow citizens the opportunity to vote for Ethics Regulation, to create a Code of Ethics, and the establishment of an independent Inspector General's Office, to have authority over all elected and appointed officials and employees in the County, all entities and persons other than employees of the County that provide goods or services to the County under contract for compensation, only with respect to provision of such goods or services." She added a lot has happened in July, such as the risk to the tax cap, and then next week there is a possible referendum being passed for \$300 million tax obligation, and she thinks the citizens should have a chance to have independent oversight of the County's money. She stated she put this request in on July 27, 2016, and it was denied, and she quoted: "The County Manager said he will not be placing this Item on the Agenda, as the Board has previously considered her request and not taken any action." She noted she did not know that the County Manager decided everything that goes on the Agenda; and she thought that citizens making reasonable requests, and she thinks this is a reasonable request, she thinks there were quite a few things that were said at the end of the last meeting that need to be countered with information. She pointed out she is very disappointed, the Board will sit here next Tuesday with people wanting \$300 million and there is no independent oversight, the Board is not going to hear this; and the Board needs a designated driver for this money. She advised the Board needs someone who is independent, who has no political influence over it, to be able to go into all aspects of this County and make sure that the government is functioning properly, and that the citizens are getting what they are paying for. She stated she is appalled.

Commissioner Infantini stated she planned on addressing a lot of the issues with regard to the referendum suggestion at the Tuesday meeting, so she will not be bringing them up right now; she added Ms. LaSalle is bringing up a lot of important topics, as well as the fact that the Board needs somebody to scrutinize a lot of this work; and decide who is going to be the primary overseer, she noted she is not really altogether comfortable with that, but she will probably be bringing it back, most of that discussion, on Tuesday.

Ms. LaSalle stated it is not just that \$300 million, there is a billion dollar budget annually, and the County needs independent oversight.

Larry Vavroch expressed his thanks to staff for providing him with the Joint Planning Agreement (JPA) from the last meeting; he stated he is following up on the location of where a former pit mine has been inactive for five years and had been reclaimed in environmental permits for mining; and mining in that location expired five years ago, and there has been no activity. He went on to say now there has been an application to be annexed into Palm Bay and being a pit mine; rural, single-family, and future use requests were changing the zoning from agricultural to agricultural residential of Brevard County to general use; the changes in the Conditional Use Permit (CUP) is now a seven times larger mine than the 17 acres that was presented to Planning and Zoning; and there is now a rock crusher onsite and it was explicitly said at the Planning and Zoning Meeting for Brevard no dust to dawn operation. He stated the two slides being shown are just showing the differences; and now that this is going across city limits, the impacts on the neighborhood do not understand city limits such as noise and dust, and the impacts to the aquifer, groundwater, and surface water do not suddenly stop because there is a city limit between the residential neighborhood north of it and the pit mine. He stated he believes if there ever has been case or will be a case that the JPA applies to, this is it, a 128-acre mine next to a residential community; and he asked the Board to exercise the JPA and make comments to the City of Palm Bay requesting that

August 4, 2016

the zoning stay like it is now to be rural residential and that the CUP for 128-acre pit mine adjacent to that residential community be denied.

Commissioner Infantini stated she was not sure if Mr. Vavroch knows that this case in 2011 has already been turned over to the County Attorney; this specific pit mine has been coming before the Board for years; for years this very Board has turned it down; she explained what is in question is a property owner would like to build a big burrow pit, which they currently have one, but he wanted it to be expanded; it is located in unincorporated Brevard County; and this gentleman lives in a residential community that abuts the property where they would like to expand the burrow pit. She went on to say if the burrow pit was far enough away from other residences, she would not have a problem with it, because that is where the County gets a lot of rock and dirt; the problem is it abuts their property and the property owner is trying to annex into the City of Palm Bay, so those property owners would be in unincorporated Brevard County, and that new property owner would be in Palm Bay; and right now there is ability to issue a letter stating that the Board objects to the use of the CUP for the burrow pit to be expanded. She went on to say there was a Finding of Facts done in 2001, which actually stated the applicants request to expand the rock mining operating is not compatible with the character and existing land uses of adjacent nearby properties, it would result in substantial and adverse impact on adjacent properties due to noise, dust, increased traffic, and nuisance; and she asked the Board, pursuant to a JPA with the City of Palm Bay that if it annexed property, they would not do so that it would be detrimental to the adjacent property owners, and that the Board could weigh in the decision. She is encouraging and making a Motion that the Board weighs in and staff is asked to attend the Palm Bay meeting, and allow them to know that the Board is not happy that they are planning on giving a CUP to expand the burrow pit operations to the detriment of this community; she stated the Board is their elected officials and is the only voice that they have; for the last seven years, the Board has stood up and behind them; and once this property is annexed, they are not going to have much of a voice anymore.

Chairman Barfield stated he has a Point of Order to ask Scott Knox, County Attorney, because when a public comment comes up he does not believe that the Board can make a motion on something effective, it has to be put on an Agenda.

Commissioner Infantini stated she does not think the Board has to put in on an Agenda. Chairman Barfield inquired if that is correct. Attorney Knox responded pursuant to Resolutions for governing procedures, it is not normally done; but those may be waived if the Board wanted to.

Motion by Commissioner Infantini to voice opposition to the burrow pit expansion and require the property to stay zoned as is.

Chairman Barfield advised that the Board needs to waive Policy first.

Commissioner Anderson stated this goes back to the Home Rule issue and he does not want to set precedence for other cities so he is not going to vote in favor; he suggested if any individual Commissioner wants to send a letter sighting their concern is fine; but it should not be done as a Board.

Commissioner Infantini stated it is actually not really a Home Rule, they are within and he is asking the Board because right now the property has not yet been annexed; what the City of Palm Bay did was they rezoned they property that is adjacent to Mr. Vavroch's, prior to even annexing it; and she does not know how it could be rezoned that one does not own, but they are doing that. She advised this is Mr. Vavroch's last course of action before the meeting on the 16th.

August 4, 2016

Commissioner Smith stated he will second the Motion, because he would like to hear more comments from Board Members that were here in 2011; he agrees with Commissioner Infantini that Mr. Vavroch should have some voice but he also understands Commissioner Anderson's concern of Palm Bay deeming it is necessary, or to their advantage, to annex it which is really the City's issue; and he reiterated that he would like to hear what the Board Members have to say regarding this.

Chairman Barfield advised there are two more comments for the same issue.
Commissioner Fisher stated he would like to hear the other comments before voting.

Deborah Bohnsack stated Mr. Vavroch is her neighbor in Deer Run; the folks in the community have been through a lot; they have been heard by Brevard County Planning and Zoning Board in 2010, which rejected this mine; they have been heard by this Board in 2010, which rejected the mine; in 2015 the Planning and Zoning Board and staff wrote extensive notes and this Motion was also denied by the P&Z Board in 2015 by a 7:1 vote; the Board has plenty of research already on hand that was completed by staff; and the Board had agreed that this mine's location is inconsistent with the Comprehensive Plan. She went on to say there normally is an attorney and a certified planner present with her, but they are not present today; she read aloud a statement: "The recently adopted Joint Planning Agreement between Brevard County and the City of Palm Bay has a paragraph that I would like to call to your attention, because it relates to the use and enjoyment of my property, and that of my neighbor's in the Deer Run equestrian subdivision located in unincorporated Brevard County. On page eight, paragraph two, it reads within the joint planning area all development orders granted by the City or the County, shall be consistent with this Agreement if the land uses, densities, and intensities permitted by such order are found to be compatible with and further the goals described in both the City and County's Comprehensive Plan". She added, the Board absolutely has the power to interject without any money or further research; and it has already been done for the Board. She continued to read aloud, "All can agree that a Conditional Use Permit to operate a mine, and you might also call it a land alteration is in fact a development order. In November of 2015 your Planning and Zoning Department heard an application for a Conditional Use on this parcel. It is adjacent to our Subdivision in unincorporated Brevard among the evidence presented in this case was a lengthy staff report from your Planning Department, and while it is not your custom to receive recommendations of approval or denial from your staff, the staff report set forth an extensive analysis of the application based upon the County's Comprehensive Plan. The application filed by Roy Yates received a recommendation of denial by a vote of 7:1. Under ordinary circumstances an application of this type would have been forwarded to the Board of County Commissioners for final action, but not in this case. The applicant chose to go permit shopping, by filing four distinct approvals with the City of Palm Bay, an annexation, a Future Land Use element amendment, a rezoning, and finally the Conditional Use Permit for the mine. The council had conducted its first readings on all three and has voted unanimously to precede the second reading on August 16 a very short time away. On Wednesday, the 3rd Planning and Zoning Board in Palm Bay voted to deny the Conditional Use Permit with a tie vote of 3:3. The Conditional Use Permit to operate the mine will now join the other three applications in the hearing on the 16th". She asked the Board to remember this property that she is talking about is located in Brevard County; throughout this process she is profoundly disappointed that Brevard County has not stood up for the residents in unincorporated Brevard County; it had been done in the past; and she inquired what has changed. She concluded by saying she has watched as Palm Bay has pursued the annexation of the Ace Property, and watched as their staff has actively asked and enabled a breathtaking expansion of the mine. She added, the Board denied a 30-acre mine with no rock crushing by it being incompatible with surrounding areas; it has now been expanded to 128 acres with rock crushing, but has remained silent. She stated the Board may wonder

August 4, 2016

why she is so passionate about this case, it is because she lives in an equestrian community with horses that will be startled by the noises coming from the site from dawn to dusk, six days a week; she is concerned about the silica dust, traffic, and water pumping that will affect individual wells that is relied upon for water; and she provided the Board with a copy of the staff report from its November Planning and Zoning meeting to look at the analysis that is already prepared regarding the Comprehensive Plan. She asked the Board to look at the ratified paragraph of the JPA these past few weeks; she stated this mine does not further the goals of the City's and the County's Comprehensive Plan; JPA specifies that development orders must coincide with both City and County Comprehensive Plans; this does not advance Brevard County's goals; as a citizen and a voter of unincorporated Brevard County, she is not asking for a snap decision about the consistencies of this development; and she asked the Board to send a letter of objection to the Palm Bay City Council relating to the mine until the Board can sit down to go over the plan together. She added, it is very disappointing to her and she is a fairly new resident in Deer Run to send a letter, or see one of my neighbors letters addressed to her Commissioner, and have a written reply by a staffer saying sorry it is out of his jurisdiction; by Statute they cannot help her; and she realizes that Commissioner Anderson has taken a job with the City, and there is probably a large conflict of interest here.

Commissioner Anderson stated he takes exception to that because he is the Economic Development Director and he has nothing to do with Planning and Zoning; if this was Cocoa he would object; the Board knows in 2008 he ran because of Home Rule issues when the County was interjecting with municipal concerns; and Ms. Bohnsack may not have been here then, but a lot of Commissioner's know why he is so passionate about Home Rule, even if not in his district he would fight for the City because in the past previous commissions ruled with an iron fist over the cities, and is one reason that he ran for office.

Ms. Bohnsack stated she is not in the City nor is she being annexed into the City; the item she is speaking about here affects his constituents in unincorporated Brevard County.

Commissioner Anderson stated the Board can certainly send a letter, because under Florida Statutes through the County Attorney, the annexation is not going to stop.

Ms. Bohnsack asked Commissioner Anderson to read the JPA that was only signed last month to go over it, and issue this letter; the Board has basis in the agreement to stop this mine because staff has already determined that the mine would be inconsistent with its own Comprehensive Plan.

Commissioner Anderson advised that he does not have a problem with a letter being issued.

Arlene Murray stated everyone knows this has been going on for 10 years; she has lived in Deer Run for 22 years; she has a petition that was signed by the residents and it says, petition summary Deer Run Equestrian community residents felt the effects of the mining and warning next door in 2006; water levels in ponds dropped, water wells suffered as a result, and hers went dry; there has been increased water problems, all day noise and dust, ground vibration, traffic, Babcock Street is almost a dirt road, and it is unsafe to ride the horses next to this active mine; and the value of homes will diversely be affected and they do not allow mining next to a residential equine community, as they are not compactable. She added, she has 190 signatures that she provided the Board.

Commissioner Fisher advised he has always had a bit of concern of Home Rules, and he expressed his appreciation for the professionalism of Mr. Vavroch's letter and comments addressed to the Board; he is supportive of the Board writing a letter to the City of Palm

August 4, 2016

Bay, providing them with all of the research done by Brevard County up to this point, and how the County came to its conclusion; the Board does have a concern about the mine being located next to residents; these residents will become the City of Palm Bay's neighbors at some point in time if that annex happens; the City needs to be able to answer to all of the residents of Palm Bay; but he is not supportive of the motion on the floor. He advised he is not saying the City has to do anything but he thinks they need to be noticed of the Board's concern about the change; and it is on the record his concern; and to provide the research and the data, and all the backup files as to why the Board made its ruling at the time. He stated he thinks the Board as a County can put a strong letter together with the research and findings; and that would be a motion that he would make, if the previous motion dies.

Commissioner Infantini advised affecting Home Rule Charter and Commissioner Anderson, this property is currently within the confines of Brevard County; it is part of unincorporated Brevard County; they are stepping in to Brevard's Home Rule and are circumventing Brevard's rules by all ready changing the zoning when the County disapproved a 30-acre borrow pit; Palm Bay has already approved a borrow pit of 100 acres; she sees inconsistency and if looking at Home Rule Charter is wanted to be talked about, they are trying to circumvent the process by annexing property to allow a use that would otherwise be unpermitted; and that is why it is being annexed. She stated a letter is not necessarily strong enough; according to the JPA, the County has the right to tell Palm Bay that this is a non-compatible use and to be able to stop it for at least two years; going forward it will give the residents some time to seek some other type of legal remedy; but she is not in favor of changing her motion at this time.

Commissioner Anderson stated he will support Commissioner Fisher's motion with providing the backup material of the finding of facts; under the Statutes in planning if the Board objects legally, it has to have a joint-meeting with the Palm Bay City Council; and if the County does not prevail, it is responsible for all legal fees.

Commissioner Smith stated in light of what has been talked about here, he is concerned for the folks that live in Deer Run, and the rights of Palm Bay and Brevard County; he does not know a whole lot about this issue, but he does know about it; he withdrew his second; and he stated he would like the opportunity that the time frame would afford him to look into this a little bit more, and maybe come back and support Commissioner Infantini wholeheartedly.

Commissioner Infantini stated the problem with that is the City's meeting is going to be on the 16th; there is not another Board meeting before Palm Bay has a vote; that is why this is so critical, that these speakers came and did it under Public Comment because they did not have enough time to get all of this wrapped up; and without a seconder, she will have to go forward with just a letter. She went on to say safeguards were put in place and the County is not willing because it is afraid of legal fees; and she will stand behind any decisions she makes and feel that the courts will honor the Board's decision.

Chairman Barfield inquired if the letter will have all of the background information of all of the previous meetings and everything else that comes along.

Commissioner Fisher stated his motion would be to ask the City of Palm Bay to reconsider its planning decision made on this property, asking them to consider withholding any decision made until it has researched the provided information from the County's Finding of Facts and that it is inconsistent for the neighborhood, giving the City all of the notes and documentations available, and asking that they reconsider its decision and to work with the residents of Deer Run who is going to be the neighbors; and to not make a decision at the August 16th zoning meeting.

August 4, 2016

Attorney Knox advised there is very little, in fact there is nothing that the City can do if the City decides to annex a piece of property that abuts the City limits of Palm Bay; the JPA he has not looked over thoroughly, so he does not know if there is a problem with that or not; if the City annexes the property, the Board will have the JPA to fall back on if there is something in the JPA that allows the Board to exercise those kind of position that he is not aware of right now; and he will take a look at that and hopefully by the end of the day, he will have some idea of where the Board stands. He stated he has already instructed his staff to get a copy of the JPA for him to review.

Commissioner Fisher reiterated that he thinks sending the letter now is putting them on notice that the Board has a concern, and giving them all the findings before them going into their 16th meeting, they will know the whole entire history, why the Board had a concern with it, and ask them to think this through just a little bit more.

Attorney Knox advised that certainly can be done; they can certainly chose to follow the letter advise or they can chose to ignore it; he thinks the ultimate issue is whether the JPA has any impact on this decision that they may or may not make on the 16th; and that can be decided at a different meeting by this Board, because the JPA is still going to be there after the annexation, if that takes place on the 16th, so there is another day that the Board can come back to consider this.

Commissioner Fisher stated if Palm Bay hears its Council, they might take a more serious look at it.

Stockton Whitten, County Manager, inquired if the letter will be written for the Chairman to sign and approve without having to coming back to the Board. Commissioner Fisher responded affirmatively.

Chairman Barfield stated the motion is to send a letter with all the background information, delay of the decision on the 16th, and that the Brevard County Board of County Commissioners objects to the mine.

ITEM IV.A.1., (16PZ00032) - HARVEY'S INDIAN RIVER GROVES, INC. - (KEN FULMER/TITAN PROPERTIES) - REQUESTS A SMALL SCALE PLAN AMENDMENT (16S.04) TO CHANGE THE FUTURE LAND USE FROM RESIDENTIAL 2 AND PLNIP TO ALL RESIDENTIAL 2 ON 1.57 ACRES; AND A CHANGE OF CLASSIFICATION FROM SEU AND PIP WITH BDP TO EU-2 WITH AMENDED BDP, ON 40 ACRES, LOCATED ON THE EAST SIDE OF N. COURTENAY PKWY., APPROXIMATELY 0.47 MILE NORTH OF SMITH RD. (TAX PARCEL 265 - 3490 N. COURTENAY PARKWAY; TAX PARCEL 250 - NO ASSIGNED

Cindy Fox, Planning and Zoning Manager, stated this Item is a request for a Small Scale Plan Amendment to change the Future Land Use Designation from Residential 2 and Planned Industrial Park to all Residential 2 on 1.57 acres, this is just for the Small Scale Plan Amendment. She added the other is to change the classification from SEU and PIP with a Binding Development Plan to EU-2, and have an amended binding development plan (BDP). She noted they are bringing forward a new BDP, they want to develop this property with single family residences; at the North Merritt Island meeting, this Item was denied; through the rest of the public hearings, she believes the applicant was able to come up with a different number of units; and she will let them speak for themselves.

Commissioner Fisher stated for the record he has had conversation with Kim Rezanka regarding this Item.

August 4, 2016

Commissioner Smith and Chairman Barfield advised they have as well.

Kim Rezanka, Cantwell and Goldman, P.A., stated she is here representing Titan Properties, which is the developer of the project. She added with her is Ken Fulmer, Titan Properties Representative, Kendall Keith, Oak Hill Planning and AICP Certified Land Planner, and Joe Mayer, Civil Engineer, Bussen Mayer Energy Group. She added as stated by Ms. Fox, they are seeking a Future Land Use Map amendment on 1.57 acres, and that is basically the access road to the 40 acres that is to be developed; they need it changed to Residential 2, so they have proper access; and then to be re-zoned to be consistent with the 40 acres. She went on to say the access road is currently PIP, and according to County Code, there can be no residential use in PIP, so it must be re-zoned; this is common, they have done this with Sunset Groves, also to the parcel to the south of the subject property; and the access road has to be the same Code and Land Use Category as where the houses are to be built. She pointed out they are also seeking to re-zone the 1.57 acres, as well as the 40 acres, which is currently zoned SEU, to entirely EU-2, with a BDP; there is an existing BDP that was done in 2006, at the height of the boom when everyone thought anything could sell; and what was in that BDP just will not sell. She advised one-acre lots for 3,000 square foot homes, if it could have been done, it would have been done in the past 10 years; the proposed BDP that is before the Board is based upon what the LPA Board did on May 23, where they did not think 80 units were compatible, they felt that was too many units, and came up with the idea of 56 units; therefore, Titan and Harvey's Groves got together and agreed to the 56 units, which is quite a substantial decrease from 80 units. She stated the EU-2 is being requested to give some flexibility in design, as drainage is a problem in the area and this will allow them to have lots of different size retention ponds and larger landscaping buffers; the area on the east side of Courtenay Parkway is very little residential, most of the residential is on the west side; however, to the west side there is higher density and almost 4 units to the acre at Sunset Groves; Citrus Isles is also EU-2; and this has been Future Land Use as RES-2 since 1992, before that it was RES-4. She continued that the Future Land Use Plan does anticipate residential, it has been residential for a long time; it is behind some very low intensity commercial warehousing, there is Buffkin Tile, Space Coast Cheer, and the Florida Power and Light (FPL) transmitting stations, so this is typical of what is up and down the area of north Courtenay; there are commercial low industrial uses with neighborhoods behind them; and all the houses in the subdivision will be on public sewer, no septic. She went on that the old BDP was aggressive, unreasonable, and even contained some homeowners association conditions such as no clothes lines; it states one-acre lots and there are four one-acre subdivisions north of the Barge Canal that are not built out and two that are actually defunct; there has been many concerns raised by the residents on the ingress and egress which is somewhat in an awkward space right to the south of Calvary Church; however, that is being worked on with the church for joint access, they are agreeable to it, although there are no definite plans, as it has to be agreed to by Florida Department of Transportation (FDOT) regardless. She stated that FDOT will not have to address it; Joe Mayer is in attendance to answer any questions, but intends to design a safe ingress and egress, neither he nor the developer want any accidents in or out of that subdivision; in fact FDOT will not allow roadway access that will jeopardize the safety of the public or have a negative impact upon the operational characteristics of a highway, which is in the Florida Administrative Code, Chapter 14; this is the fourth meeting and everything has been stated in the minutes; she would like Kendall Keith to speak about the compatibility that has been an issue raised, as he is an AICP certified planner and asked the Board to treat him as an expert; and that Mr. Fulmer or herself can answer any questions.

Kendall Keith stated that he is from Oakhill Planning. He commented that he wants to go on record in regards to the County's consistency of the goals, objectives, and policies of the Comprehensive Plan and the Residential-2 Land Use designation; the request, as modified to 56 units, is consistent with the policies with the Comprehensive Plan; and in addition the requests that are before the Board, meet all five factors that are considered in any re-zoning

August 4, 2016

request. He continued in regards to compatibility that there is evidence that Land Use Compatibility shows the density of the proposed development is actually below most of the others in that area that have been approved and built there; the other part of compatibility is visual, and that is in the eye of the beholder; and in this case the property sets so far off of the existing public right-of-way behind existing development that it is not viewable unless driving into the project; therefore, in terms of consistency and compatibility with the rest of Merritt Island it is found in the land use, which is the only thing to go by, because it will not be seen.

Carolyn Alvord stated that Kim Rezanka had stated in prior meetings that one-acre lots do not sell in North Merritt Island, so she looked it up and found out that just in the past year, 21 homes in the range between \$100,000 up to \$550,000 have sold, and five vacant lots have sold in the \$100,000 range, so they do sell in north Merritt Island; and she would like to keep the area rural and believes that is why people live there.

Priscilla Anderson stated no zoning changes for higher density of subdivisions should be allowed until there is a plan and it is implemented so that the Indian River Lagoon can be healthy again and that this is critical for the area; 222 homes just north of here that have already been passed and not built; therefore, let's see what impact this will have on the flooding, infrastructure, and safety before considering any more changes. She requested that the Board vote against this.

Kim Smith commented that this rezoning request does not comply with Administrative Policy 3C1, is inconsistent with historical land use patterns 3C2, and inconsistent with actual development over the past three years; Administrative Policy 8.1 does not consider the character of the surrounding properties and in Under Factors to Consider #1 this change would be inconsistent with the surrounding loyance character; there are roughly 9,000 acres of non-government, privately owned land on Merritt Island, generally commercial along Courtenay Parkway, much more so the lower third than the rest of Courtenay and then it quickly becomes residential once away from Courtenay; and there is a lot of open space out there too, the open space provides important storm water drainage for the existing residences and businesses. She commented that her experience in recent history is that the County required storm water retention until there is very heavy rain and flooding again, then storm water retention goes out the window; Courtenay Parkway closely mirrors a spine that directs storm water drainage; it flows west to the Indian River on the west side of Courtenay or south towards the Barge Canal on the east side of Courtenay Parkway; this 40-acre parcel in question lies on the southeast quadrant of North Merritt Island and re-zoning it to this density would be inconsistent with the existing properties around it; and in the southwest quadrant of 1,050+ acres there are only three neighborhoods of EU-2 housing. She went on that the closest one is approximately a mile away west on Courtenay at Sea Gate and Nina Court, zoned back in 1994 for 41 homes next to the Barge Canal, and that is where it drains in to; the next closet one is approximately 1.5 miles away, west of Courtenay, the Oaks at Lake Front, zoned back in 1998 for 37 houses, west of Courtenay and just south of Hall Road close to the Indian River where it drains into; and the last one below Hall Road is Wild Flower Street, it is further north up Courtenay, zoned back in 1996 for 51 homes, and that also drains west to the Indian River. She commented that north of there, Sunset Lakes, has been previously referenced, but it was zoned PUD back in 1997 and like the others it is on the left side of Courtenay, drains west through agricultural land to the Indian River; all these subdivisions are west of Courtenay where drainage is not nearly the problem as east of Courtenay where this parcel is located; and the entire south east quadrant of Merritt Island, south of Hall Road and east of Courtenay there is no EU-2 zoning in roughly 3,150 acres. She commented that the elephant on the island is the 111 acres that was re-zoned EU-2, located north of Hall Road on the east side of Courtenay and zoned through this development group in 2014; and stated she will never know how this piece of land lot property has to drain through miles of other property, and drain through the same drainage as this piece of property. She went on that this is the hardest to drain corridor on the island and is a known flood zone;

August 4, 2016

she does not understand how this was approved to be zoned for such dense housing; and now there is another request for more houses inside this important drainage corridor. She asked the Board not to set up north Merritt Island for more dense housing that is going to force the County and taxpayers to pay for exacerbated drainage and flooding problems; and commented that limiting this project to 40 houses would be much more in character with the surrounding communities and much wiser land management.

Steve Smith stated that the request for zoning should be turned down with the amount of houses greatly reduced as it currently conflicts with several Administrative Policies; the first one being 3A which diminishes safety due to traffic ingress and egress; Administrative Policy 4, character of a neighborhood negatively impacted by a traffic increase that would create a dangerous intersection; Policy 5A adoptive level of service compromised; Policy 5.C surrounding road system, not the right size for the deceleration and turn around traffic; Policy 5D public safety hazard by using the road system in this manner; 5E a road design and capacity exceeded at that intersection; 5G traffic safety and welfare compromised in this area of all traffic driving into or through the section of the roadway; policy 8.3 negatively impacted traffic; 8.5 based on public safety is inappropriate; under Factors to Consider #3 inconsiderate to traffic patterns of surrounding properties; and #4 inappropriate considering public safety and welfare. He continued that according to the County's assessment, the proposed density will increase the amount of traffic to this intersection for 56 houses, and almost double the traffic levels; for traffic to head south bound on Courtenay from this property's driveway which is approximately 80 feet south of the nearest cut in Courtenay Parkway, they will have to shoot across two lanes of north bound traffic into the cut to quickly U-turn and head south bound; as they stop to make the U-turn, they will jet out into one lane or the other until they can complete the turn; as they are jetting out they will be blocking the east lane either north bound or south bound; and that is the scene with only one car. He commented that any cars behind them would stop and block the north bound fast lane until the U-turn is made; the speed limit there is 50 MPH; the representative for the applicants stated on May 12, that they are looking into turn lanes to help with this situation, however, it is not in their control, that is FDOT's decision; and according to District 5 FDOT engineers, the 2016 FDOT Design Standards Index 301 requires a minimum of 240 feet for a turn or deceleration lane and this driveway will only have about 35 feet after the last private drive next to it for deceleration, so there will be no right hand turn lane into the property. He stated FDOT also told him that no one can count on them to add more turn lanes, right or left, widen cuts, add extra cuts, or add traffic lights because it slows down the 50 MPH traffic and would create dangerous design; FDOT expects drivers to use existing cuts or to drive further north to make safe U-turns; unfortunately this is not the nature of drivers; and an exit from this driveway to this intersection will cause more unexpected sudden slowdowns and dangerous congestion. He continued that even if FDOT decided to add a left turn lane to this intersection, which would start no less than 160 feet before this driveway, the new residents would still have to make that 80 foot dash over the intersection, and across three lanes to make that U-turn; and the Sheriff's Department cited accident statistics and that most of the deadly accidents in Merritt Island are due to left turns crossing the divided highway. He commented that Calvary Chapel hires deputies on Sundays to block off lanes and direct traffic safely out of their driveway and across Courtenay to head southbound; no one will hire deputies to help all these new homeowners turn south every single day; and they are counting on the wisdom of their County officials to curb this problem, before public safety is jeopardized, at this intersection and before FDOT has to be called upon after the zoning change for an attempt at a fix, which they have said they cannot be counted on. He asked the Board, for all these safety reasons, to restrict the development on this property to a more manageable 40 residences.

Nancy Minerva stated that when there is new development there is also the use of fertilizers and pesticides in caring for the lawns; and that the more density, new housing, and less agricultural sensitivity the more damage to the ecology.

August 4, 2016

Chris Minerva stated that the storm water drainage during high volume storms, causes water to drain into the Indian River and the Banana River which are already rising from the rain and causes the water to be pushed back onto North Merritt Island, therefore, even if the water is pumped off, the more homes on it pushing the water out causes the older, lower homes to flood, so adding more homes creates more flooding.

Ms. Rezanka stated regarding the storm water issues, that it is a site plan issue and the development cannot impact other residences, it must retain all the water that it has retained in the past, as has been seen with the orange groves with which this is; the new stormwater is going to fix some of the problems from the run off in the drainage on the orange groves and if there are any questions pertaining to that, Mr. Mayer knows that issue very well; regarding the inconsistencies Ms. Smith talked about, all the EU-2s, some of which she was unaware of, so there are several EU-2s in the area, including the one approved in 2014 on the east side of Courtenay Parkway, approximately 1/2 a mile up on Hall Road; and that this is a RES-2 land use category. She commented that they are asking for 1.32 units to the acre, when looking at the area, even though Sunset Groves is a PUD and has about 3.96 units to the acre and that is right across the street; and as to the traffic concerns, the staff report indicates the level of service will not change with the potential increase of trips, in fact it states that the preliminary concurrency analysis does not indicate that the proposed amendment will cause a deficiency on the availability of existing transportation facilities, which includes the roadway, intersections, and everything that is transportation facilitated. She continued that they must be able to have access, even if there were only 28 units, there will still be cars coming in and out; they are working with FDOT and Calvary Church to make it as safe as possible, because no one wants to place something that is unsafe; some things you have no control over, however the things that can be controlled, the developer will do that with professionals like Mr. Mayer. She asked the Board to approve the Comprehensive Plan amendment of 1.57 acres to RES-2 and approve the re-zoning for the 41.5 acres to EU-2 with the BDP limiting to 56 units.

Commissioner Fisher asked if something is not worked out with Calvary Church, had the traffic pattern been addressed, and whether the median cut would be widened.

Joe Mayer stated that FDOT and Brevard County Traffic Engineering would be looking very closely at the center section, because it is not located in a place where any of them would like it to be, however, it is the only access to the property; they may look at altering that median to make it safer so that cars cannot do what was mentioned earlier, they may extend left turn lanes, they may waive some of their normal criteria and require the developers to put a turn lane in even though there is a driveway to the south; they have reached out to FDOT as early as June after the last meeting, and tried to start slowly working with them, and coordinating with Calvary Chapel for a shared entrance; however, that cannot be forced upon them; so between the three entities something will be done to make that intersection safe. He continued that as mentioned earlier, FDOT has a lot of regulations and indexes, but one of them states they will not allow construction of an unsafe entrance, it is in their statutes, therefore, he believes they will be working diligently with each other to make that happen.

Commissioner Fisher stated that he assumes by law that access cannot be denied being a newly developed property.

Mr. Mayer stated that is correct, no matter whether there are 28, 31, or 56 units being proposed, some of the things being discussed are issues, but it is the only access they have and must be allowed access.

Chairman Barfield asked Mr. Mayer to address the drainage.

August 4, 2016

Mr. Mayer stated this site is considerably south of the Hall Road area which is one of the most difficult areas in North Merritt Island from a drainage and flooding perspective; the water from this site currently discharges through ditches to the east and then along what he calls Snake Creek, which is along the west side of the estuary southward to the Barge Canal, not northward to Hall Road, for some of the reasons that were mentioned; and when it rains hard, the water is higher there, so it pushes to the south. He commented that orange groves discharge way more water, especially in major storms, than subdivisions, because orange groves are historically pumped during those times, and subdivisions, especially this one with 56 lots; he will be able to add oversized lakes to hold back water and be well under the pre-development conditions and post condition will be discharging less than that property discharges now; and that for Savannah Ridge, the Egrets Landing Project, the developer went the extra mile to create 18 acres of comp storage lakes knowing that there was a problem there, and worked with County staff to do something very unique and unprecedented in North Merritt Island. He continued there is no other subdivision that has it, the area has its own stormwater lakes that take care of treatment, per code, and then about 18 to 20 acres of extra lake to allow water to flow in from the wetlands during major storms; it is a comp storage lake, an area for storage that did not have to be done; and he is confident that this developer will go the extra mile on this subdivision as well.

Commissioner Fisher asked if the developers had to carry so many inches of water,

Mr. Mayer replied that it is much more than that these days; the St. Johns River Management District and Brevard County require a treatment level requirement from one to two and a half inches, but the storm water ponds have to attenuate, hold back the discharge from a 24-hour storm and be less than the post development condition, in a pre-development condition as far as discharge from that storm event; that storm event is on the 10 or 11 inches in a 24-hour period, so it would be a major storm that we are talking about.

Commissioner Fisher asked if they had to hold 10 to 11 inches on the site before it can be discharged somewhere else.

Mr. Mayer replied that they need to hold the water back so that less discharge is in the post development condition than was discharged in the pre-development condition.

There being no further comments or objections, the Board adopted Ordinance No. 2016-12 for amending Article III, Chapter 62, of the Code of Ordinance of Brevard County, entitled "The 1988 Comprehensive Plan ", setting forth the Fourth Small Scale Plan Amendment of 2016, 16S.04, 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; and provisions which require amendment to maintain internal consistency with amendments; providing legal status; providing a severability clause; and providing an effective date; and approved the classification change from SEU and PIP with a BDP to EU-2 with an amended BDP.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

August 4, 2016

ITEM IV.B.1., (16PZ00046) - EDWARD A. (III) & JENNIFER J. OSTOPOVICH - REQUESTS A CHANGE OF CLASSIFICATION FROM GU TO AU ON 2.89 ACRES, LOCATED ON THE EAST SIDE OF INTERNATIONAL AVE., APPROX. 700 FT. NORTH OF GOLDEN SHORES BLVD. (5175 INTERNATIONAL AVE., MIMS)

Cindy Fox, Planning and Zoning Manager, asked for this Item to be tabled until the September 1, 2016, Board meeting.

There being no further comments or objections, the Board tabled this Item to the September 1, 2016, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.2., (16PZ00058) - RJM MERCO, LLC - (KENDALL MOORE, ESQ.) REQUESTS A CHANGE OF CLASSIFICATION FROM RU-1-9 TO BU-1-A, ON 0.37 ACRE, LOCATED ON THE NORTHEAST CORNER OF ELKCAM BLVD. AND MANTH AVE., APPROX. 470 FT. WEST OF U.S. HWY. 1. (LOT 1 = NO ASSIGNED ADDRESS. IN THE COCOA AREA. LOT 2 = 1070 ELKCAM BLVD., COCOA)

Cindy Fox, Planning and Zoning Manager, asked for this Item to be tabled until the September 1, 2016, Board meeting.

There being no further comments or objections, the Board tabled this Item to the September 1, 2016, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Vice Chairman/Commissioner District 4
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.3., (16PZ00025) - CARMINE FERRARO, TRUSTEE - REQUESTS A SMALL SCALE PLAN AMENDMENT (16S.02) TO CHANGE THE FUTURE LAND USE FROM NC TO CC, AND A CHANGE OF CLASSIFICATION FROM BU-1-A TO BU-1, ON 1.59 ACRES +/-, LOCATED ON THE SOUTH SIDE OF FAY BLVD., APPROX. 200 FT. EAST OF ADAMS PLACE. (4735 FAY BLVD., COCOA)

Cindy Fox, Planning and Zoning Manager, stated this item has been withdrawn.

ITEM IV.B.4., (16PZ00030) - GLENN C. BUTTS AND MARTHA BELINSKI - REQUESTS A CHANGE OF CLASSIFICATION FROM RR-1 TO AU ON 9.46 ACRES, LOCATED ON THE SOUTH SIDE OF DALBORA RD., APPROX. 0.38 MILE EAST OF N. COURTENAY PKWY. (NO ASSIGNED ADDRESS. IN THE MERRITT ISLAND AREA.)

Cindy Fox, Planning and Zoning Manager, stated this is for a request of a change in classification from RR-1 to AU on almost 10 acres located on Dalbora Road. on North Merritt Island to do agricultural pursuits for cattle and sheep.

There being no further comments or objections, the Board approved a change of classification from RR-1 to AU on 9.46 acres, located on the South side of Dalbora Rd., approximately 0.38 mile East of North Courtenay Parkway.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.5., (16PZ00056) - APOLLO & FELICE CORAPI - (FRANK PLATA) - REQUESTS A CHANGE OF CLASSIFICATION FROM BU-2 TO AU ON 3.68,ACRES, LOCATED ON THE EAST SIDE OF N. COURTENAY PKWY.,APPROX. 0.6 MILE NORTH OF SMITH RD. (NO ASSIGNED ADDRESS. IN THE MERRITT ISLAND AREA.)

Cindy Fox, Planning and Zoning Manager, stated this is a request to change classification from BU-2 to AU on 3.68 acres, located on the east side of North Courtenay Parkway, approximately 0.6 mile north of Smith Road, which has historically been a difficult property to develop commercially because of environmental features. She continued that the applicant is here and would like to create a plant and tree nursery on the property.

Frank Plata stated he purchased the property about 15 years prior; that he had developed G and L Storage across the street, but still has this parcel of property and did not know what to do with it; and that there are 735 feet of wetlands, therefore, he decided to plant trees and raise bees.

There being no further comments or objections, the Board approved a change of classification from BU-2 to AU on 3.68 acres, located on the east side of North Courtenay Parkway, approximately 0.6 miles north of Smith Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Robin Fisher, Commissioner District 1
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.6., (16PZ00045) - MICHAEL J. & ELIZABETH H. WITKOWSKI - REQUESTS THE REMOVAL OF STIPULATION FOR CHILD CARE USE ONLY IN A BU-1-A ZONING CLASSIFICATION, ON 0.41 ACRES, LOCATED ON THE WEST SIDE OF S. COURTENAY PKWY, DUE WEST OF AZTEC AVE. (905 S. COURTENAY PKWY., MERRITT ISLAND)

Cindy Fox, Planning and Zoning Manager, stated this property has a special stipulation for a child care center use only and BU-1 zoning classification, has a long history of serving as an annex or ancillary to the elementary school property there, and has a child daycare for many years; they have since stopped using that as a childcare use; and the new owner of the property would like to use it as a professional office.

JoAnn Principi stated that someone in the County office had told her that this is a zone change not a variance and asked the Board how that affects other properties because she

August 4, 2016

has future plan for her own property. She stated that she understood BU-1A zoning classification; asked if all of the properties East and West of Courtenay were the same zoning classification; and if all of them have to abide by that stipulation for child care use only because that was the original business classification. She continued to ask what else could be done with properties along the road.

Ms. Fox stated that properties are considered for re-zoning only if the owners bring them in to re-zoning properties; this property particularly was given a special approval and it turned into a stipulation that was tied to the zoning; and now the gentleman is retaining the BU-1-A zoning classification just removing the stipulation that was agreed upon with the previous owner, that would only use the site as a childcare center. She continued that the stipulation was part of the approval of the zoning that is why he is coming back to ask for a request to remove that stipulation.

Ms. Principi asked if that was spot zoning BU-1-A just for that particular parcel in that area .

Ms. Fox replied that it was an adoption of a zoning classification that met the usage of the property at the time,

Ms. Principi asked for clarity if it was for use of the property.

Ms. Fox replied that it was exclusive to that particular property.

Ms. Principi asked what type of parking restrictions would there be on that type of enterprise.

Ms. Fox stated that would be a site plan question and could be discussed over the phone at a different time, but Mr. Witkowski would have to park per the square footage and do a site plan amendment or some sort of minor site plan for the property to accommodate the parking or whatever else he may need.

There being no further comments or objections, the Board granted the removal of the Stipulation for Child Care Use Only in a BU-1-A zoning classification, on 0.41 acres, located on the west side of south Courtenay Parkway, due west of Aztec Ave. (905 S. Courtenay Pkwy., Meriitt Island)

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Curt Smith, Vice Chairman/Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.7., (16PZ00051) - RUSSELL N. BROWN AND NANCY W. BROWN - REQUESTS A CHANGE OF CLASSIFICATION FROM RU-1-9 TO RU-2-10 ON 0.26 ACRE, LOCATED ON THE NORTH SIDE OF ROOSEVELT AVE., APPROX. 150 FT. EAST OF N. ATLANTIC AVE. (104 ROOSEVELT AVE., COCOA BEACH)

Cindy Fox, Planning and Zoning Manager, stated this is a request for a change of classification from RU-1-9 to RU-2-10 on 0.26 acre located on the north side of Roosevelt Avenue, the area nestled between Cape Canaveral and Cocoa Beach an incorporated area of the County; the majority of the property in the area is zoned multi-family; and the site itself was currently zoned

August 4, 2016

single-family. She continued that the applicant wants it to be zoned multi-family for the purposes of having a resort dwelling on the property.

There being no further comments or objections, the Board approved a change of classification from RU-1-9 to RU-2-10 on 0.26 acre, located on the north side of Roosevelt Avenue, approximately 150 feet east of North Atlantic Avenue (104 Roosevelt Avenue, Cocoa Beach).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.8., (16PZ00053) - RALPH S. (SR.) & CYNTHIA L. PERRONE, CO-TRUSTEES - (JIM KISER) - REQUEST A CUP FOR ALCOHOLIC BEVERAGES (BEER AND WINE ONLY) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT, IN A BU-1 ZONING CLASSIFICATION, ON .033 ACRE, LOCATED ON THE SOUTHWEST CORNER OF N.COURTENAY PKWY., AND BUTLER AVE. (2137 N. COURTENAY PKWY., MERRITT ISLAND)

Cindy Fox, Planning and Zoning Manager, stated this is a Conditional Use Permit (CUP) for the on-premise consumption of alcohol, beer and wine, for an existing restaurant and the consumption would be in conjunction with the restaurant;

There being no further comments or objections, the Board approved the request for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a restaurant, in a BU-1 zoning classification,, on 0.33 acres, located on the southwest corner of North Courtenay Parkway, and Butler Avenue (2137 North Courtenay Parkway, Merritt Island).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.9., (16PZ00055) - BANANA RIVERFRONT, LLC - (KIM REZANKA) - REQUESTS A SMALL SCALE PLAN AMENDMENT (16S.05) TO CHANGE THE FUTURE LAND USE FROM RESIDENTIAL 15 AND CC TO ALL CC; AND A CHANGE OF CLASSIFICATION FROM RU-2-15 TO BU-1 ON 2.44 ACRES, LOCATED ON THE WEST SIDE OF ORLANDO AVE., APPROX. 415 FT. NORTH OF CRESCENT BEACH DR. (2200 S. ORLANDO AVE., COCOA BEACH)

Cindy Fox, Planning and Zoning Manager, stated this Item will have to be tabled until the September 1, 2016, Board meeting.

There being no further comments or objections, the Board tabled this Item to the September 1, 2016, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.10., (16PZ00061) - COCOA EXPO SPORTS CENTER, LLC - (STEPHEN BURCH) - REQUESTS AN AMENDMENT TO AN EXISTING BDP IN A BU-1 ZONING CLASSIFICATION, ON 47.88 ACRES, LOCATED ON THE EAST SIDE OF FRIDAY RD., APPROX. 490 FT. NORTH OF S.R. 520. (500 FRIDAY RD., COCOA)

Cindy Fox, Planning and Zoning Manager, stated the owner is looking to amend the existing Binding Development Plan (BDP) for the east side of Friday Road; the west side, he is requesting to bring in a small parcel, only 0.34 acre into his total holdings; and to add all the rest of the approvals that the property had that is adjacent to this. She continued that Item 11 is an actual re-zoning of property and Item 10 is just a discussion about amending the BDP.

Chairman Barfield commented that this has been in front of the Board several times and asked Ms. Fox to provide a summary background on all of it.

Robin DiFabio, Planning and Development Director, stated that this project has a unique and complex development history, and it is important to understand the history as it relates to the current application; she went on that in 2012 Cocoa Expo applied for re-zoning and Conditional Use Permits for an outdoor entertainment and amusement enterprise for their properties on the east and west side of Friday Road; at the onset of the process, the development proposal did not meet the Zoning Code requirements for a 75 foot perimeter setback for structures and uses that are intended to be used for the entertainment and amusement enterprise; and that the Board amended the code to enact a wavier provision that allowed for the zoning request to move forward. She continued that additionally the applicant expressed an inability to comply with the Landscape Code requirements because there were no waiver provisions in that Code; another Code change was enacted by the Board that provided an avenue for implementing alternative landscape requirements if a property was undergoing redevelopment and could not comply with landscape buffer requirements; and the Alternative Landscape Enhancement Plan (ALEP) must demonstrate sufficient visual and physical screening and buffering to mitigate for the lack of, or reduction of buffers; therefore, in addition to facing the two Code-related issues associated with the project, the applicant and his design team were aware of the historic traffic management and parking challenges associated with the site, due to large crowds that attend events on the property. She stated that since the Board must evaluate zoning applications for such factors as compatibility with adjacent properties and adverse impacts on adjacent and nearby properties, the applicant's design team submitted evidence for the Board's consideration, including a parking evaluation and a traffic management study, both prepared by a professional engineer licensed in the State of Florida; the analysis examined parking and traffic impacts associated with the variety of activities that could be held on the property ranging from the normal training and event operations to minor day events which would be held one-third of the days throughout the calendar year and involve 50 teams and 500 spectators at a given time; there was also average day events which would be held 50-100 days per year involving up to 200 teams and approximately 1,200 spectators at a given time; the next intensive level of use was the design day event where spectator levels could reach around 2,000 or higher; and then the concert day events, which according to their analysis, would be infrequent concert type events that would draw a large regional crowd and accommodate up to 5,400 spectators. She stated the analysis relied upon a minimum of 250 paved parking spaces onsite and the potential to achieve 1,985 parking spaces on the east side property by using all

August 4, 2016

of the baseball fields for overflow parking; by their own analysis, only normal training operations, minor day events, and average day events should be held until additional parking on the west side of Friday Road was constructed to augment the available parking by another 500-600 paved parking spaces; and that is why there are two applications, one for west side parking and east side where activities will be taking place. She commented that the traffic plan prepared by the applicant's design team evaluated existing roadway conditions and intersections that would be affected by events at Cocoa Expo; their underlying assumption was that teams playing at the property would arrive by busses, and only spectators and employees of Cocoa Expo would be arriving by automobiles; their traffic management study findings and recommendations included the need for off duty law enforcement to control traffic at State Road 520 and State Road 528 and intersections, and Friday Road project entrances as part of the management plan for design day and concert day events, they would actually need people to control the traffic and help it to flow smoothly; and it identified the need for roadway improvements at State Road 520 and Friday road, State Road 524 and Friday Road, and along Friday Road to accommodate storage lanes and turning lanes to reduce the cueing of vehicles in the area and create a safer traffic and pedestrian environment. She continued that at the 2012 zoning hearing the Board took under consideration the impacts associated with the project, including those reduced perimeter setbacks and heard testimony from neighbors and their concerns associated with drainage and historic traffic and safety issues and the Board accepted the evidence presented by the applicant's design team with regard to mitigation measures in the form of an ALEP, parking, and roadway improvement commitments. She went on that as a result the Board approved the rezoning request and accepted a Binding Development Plan (BDP) that demonstrated the owner's willingness to address on-site and off-site impacts anticipated throughout the life of the project, including things such as perimeter buffering, traffic management protocol, and parking needs; the BDP provisions address the owner's willingness to perform right-of-way road work and sidewalk improvements, establish minimum parking requirements for specified uses, and acknowledgment that the Board would grant phase scenarios for implementing mitigation measures, which is traditionally unheard of, prior to this project; and that the owner committed that additional parking and driveway improvements on the west side of Friday Road would be completed no later than 18 months after issuance of the first Certificate of Occupancy (CO) for any building on the site, moreover in order to hold a concert day event, the off-site roadway improvements must be started within 18 months of the issuance of the CO and completed within two years of said CO issuance. She stated that concerned neighbors and the Board felt that these commitments by Cocoa Expo would address their concerns of compatibility and adverse impact; it is these provisions that are subject of the current zoning requests; in March 2013, the County approved the site plan that reflected the improvements required by the zoning action and the land development regulations; in 2014 the owner sought County approval to incorporate additional properties into their holdings via the zoning hearing process; the 2012 BDP was amended to include those additional properties on the east and west sides of Friday Road; a fourplex softball field, concession stand and restrooms were added to the BDP for the west side of Friday Road which was previously limited to be exclusively used for parking; and the additional land being assembled into the site necessitated a change to the 2013 site-plan. She continued that the applicant was encouraged to re-phase his project in the site-plan so that he would be eligible for a Certificate of Completion for a portion of the project and be able to open for business; a new site plan including a re-phasing plan was submitted by the owner following the zoning hearings; however, the applicant made no attempts to correct the site plan deficiencies for another 19 months, August 2015, and ultimately the plan was finalized by the applicant for the County's approval in November 2015, nearly a year and a half after the 2014 zoning hearing, and only doing so because requirements of a subsequent Memorandum of Understanding (MOU) that the Board had with the applicant. She went on that today the first phase of the site plan, referred to as Phase One A remains incomplete and ineligible for Certificate of Completion; the owner has appeared before the Board on multiple occasions to request permission to conduct business on the property although the site plan for Phase One A is not complete; 17 months ago, March 2015, the owners asked the Board to approve a special

August 4, 2016

event permit for this property and the Board approved use of four ball fields in the Northeast portion of the property and the field at the stadium for daytime use subject to 14 conditions, prior to receiving a Certificate of Completion for his site work; a month later, April 2015, the Board was approached by the applicant seeking a temporary CO for the stadium, the applicant was not eligible for a permanent CO because he had not completed the Phase One site improvements, so that request was tabled to the Board's May 12, meeting; on May 12, 2015, the Board set forth conditions agreed upon by the applicant that would enable staff to issue TCO's for this stadium and any building in Phase One A of the site plan; and that the approval set forth requirements for the owner to complete within 45 days, such as satisfying all building and fire codes for the stadium, passing building and fire inspections, and completing landscape buffers required in Phases One A and One C to allow the use of additional ball fields that were adjacent to residential areas. She went on that the Board allowed for a ninety day window by September 9, 2015, to complete the 2014 site plan revisions, complete all the Phase One A improvements, obtain a Certificate of Completion for Phase One A and post required performance bond for BDP related work that would be necessary prior to CO issuance and to submit a revised ALEP; the Board also allowed for the use of the outside stadium seating area and field prior to CO of the stadium building with a cap of 300 people provided certain fire precautions were taken and that there were fire watchmen on duty; any TCO's according to the MOU, were set to expire on September 9, 2015; it was also stipulated that until the final Certificate of Completion is issued, no more than 1,500 people could be present on the property at any time; it also required that the County staff be permitted to enter the property at any time during games, events, construction activity, or when the property is open to the public; and in essence, the owner represented to the Board in April 2015, and reaffirmed in May 2015, that completion of all required Phase One A work was weeks away. She continued that in September 2015, the owner requested and the Board granted an extension until October 2015; the terms of the MOU, which provided for the suspension of enforcement of the BDP, CUP, Zoning Resolution, and Code requirements was extended through December 2015, with the understanding that the owner would come back and seek change to the terms of the BDPs; in March 2016, still not having completed Phase One A improvements, and a new MOU was agreed upon by the Board and the owner that allowed Cocoa Expo to seek amendments to the BDP prior to September 9, 2016, and either complete Phase One work or post bonds for any deficiencies and remaining work for Phase One A including landscaping and buffering, guaranteeing that such work would be completed within an 18-month period. She went on that specific punch work was identified for completion prior to April 2016, some of which has remained incomplete or unverified to date, because County staff had been denied access to the property; use of the stadium per the MOU requires advance coordination with the Brevard County Fire Marshall and advanced payment of Fire Inspectors for their presence at any event that is to be held and a limit of 1,500 people on the property is still in effect until such time that their Certificate of Completion for Phase One A is issued; and those were the terms of the latest MOU that the Board has had with the applicant. She stated that the owner is present seeking an amendment to the 2012 BDP and wishes to amend in paragraph seven of the BDP that had required completing the west side improvements within 18 months of the first CO, instead they propose that the time limit for construction be eliminated and only that it be constructed before some concert day event would occur unless the Board approves a traffic management plan for concert day events which there is no mandate for completing the West side parking; paragraph 11 in the BDP as proposed continues to agree to completion of roadway improvements within two years of the first CO or prior to holding a concert day event, but only if they do not already have an approved traffic management plan by the Board of County Commissioners; the 18 month timetable to begin work and the posting of the performance bond assuring the work is deleted in this proposal; section three of the BDP compels the County to issue CO's without the need for bonding any outstanding deficiencies remaining in Phase One A; Section 4 of the BDP allows the owner to have concert day events by obtaining Board approval of a traffic management plan for a concert without the need to complete Phase One A improvements or post bonds for the additional work; Section 5 of the new BDP allows Cocoa Expo to hold any other events other than a concert day event without

August 4, 2016

prior County approval once the CO requested in Section 3 is issued; and Section 6 amends the legal description to include any additional holdings and bind them to the new BDP for Cocoa Expo and modify the landscape plan that was set forth in the most recent ALEP.

Geoff Smith, Attorney for Cocoa Expo, stated that Cocoa Expo is a facility to be proud of and points to an exciting and promising future; the Tourist Development Council (TDC) stated that Cocoa Expo is primarily focused on baseball, but has set a high standard for fields and amenities, the addition of a sufficient number of tournament level fields for soccer, lacrosse, field hockey, football and other sports could be great success for space coast tourism; that it is a state of the art sports complex that offers a variety of sports camps and it all takes place in a compound resort type atmosphere, with an all-inclusive facility for players and coaches while the families are required to stay at specific hotels that are partnered with the facility; households that travel with teams like this may stay for a week or a weekend, or make it into a family vacation; and that is the vision, the promising future that he wants to discuss. He continued that this has been a long process; he would like to know exactly what items have not been completed, because to his knowledge the things that needed to be completed have been completed; he sat down with Stockton Whitten, County Manager, Robin DiFabio, Planning and Development Director, and John Denninghoff, Public Works Director, to come up with a punch list and how to get sufficient cash flow and revenue going to complete the off-site improvements; and that Cocoa Expo ran into a problem trying to get a bond, so they were looking for a way to amend the BDP, allow Phase One A to be what has been completed on site so Cocoa Expo can be operated as a normal business, and Mr. Unnerstall can continue to promote projects without a cloud over his head. He stated he would like to see Mr. Unnerstall run his business and be able to generate some cash flow; the real big cash flow item would be the concert day events and asked if there is some way to collaboratively come up with an idea for possible off-site parking, the park and ride concept; that he understood that the special event permit process could be used for a concert day event; and that a traffic management plan has been designed and provided to the Board. He continued that he would like for the Board to allow for events that will be good for the County, draw a lot of people, put people in hotels, and provide that weekend vacation for family; there are promoters who want to do substantial concerts and there are highly notarized music bands that want to come to Brevard County; and that there is an understanding for the need of traffic management and traffic safety, so he requested a sit down with the County to come up with a plan to make this work. He asked that the Board approve the BDP amendment, Phase One A be considered completed for minor and medium day events, and the larger events to occur under special permitting to allow some time for real money to be generated to go forward with the off-site improvements and the west side parking.

Susan Young stated she still has a couple issues regarding her property on Friday Road and would like them addressed before the CO's are given to Cocoa Expo; at the southern ball field on the east side of Friday Road, the lights have been tested and two of the lights shine directly on her property without shields; her driveway was replaced with a temporary ground concrete which is eroding; and she was previously told that the driveways would be replaced when the turning lane was put into place and that grading would be put into place to divert the water that flows through her driveway. She continued that the Zoning Board did not want this to come before them due to the past history and that the responsibility should be left to the Board; that it is being proposed to let Cocoa Expo have concert day events for the next nine months, every other week, which must come before the Board every other week with a traffic study and particulars; that Cocoa Expo wants the Board to release the COs; and that Cocoa Expo does not have the money to post the bonds for the landscaping and roadway additions. She went on to ask the Board that before releasing any COs that they make sure the work has been completed, because once the COs have been released she is afraid that the rest of the work will not be completed; and she wants to make sure she receives her permanent driveways. She stated that Friday Road would be a party street every other Friday night; the traffic jams and alcohol mixed with it would not be good; the proposal for off-site parking cost money too; and

August 4, 2016

that a circus was held in July at the property, the traffic was backed up on Friday Road both ways and down S.R. 520, and Florida Highway Patrol (FHP) was called out to help, so that is proof that there are traffic problems with just a small event. She continued that drivers can only turn right at the corner of Friday road and S.R. 520, or head west due to Florida Department of Transportation (FDOT) stops in the roadway, until a traffic signal is in place, which will only make traffic worse on concert day events; and to go back east one must travel down S.R. 520 and make a U-Turn, which would congest S.R. 520 even more. She went on that the County has always wanted to accommodate Cocoa Expo and commented that the County should go into a partnership with Cocoa Expo; the County has the resources, the man power, and the equipment to do it properly; the Sheriff's Department could be there to direct the traffic and protect the community.

John Maggio stated that Cocoa Expo graciously afforded him the opportunity to place a number of his healthy vending machines on the premises; that the success or failure of his business depends on the success of Cocoa Expo and its ability to conduct business; and that he is dissatisfied with the Board's action for unfairly hindering his success by not facilitating private business and investment within the County, instead using its position to enforce unwarranted red tape regulation for whatever reasons. He continued that it is not surprising that government has very little concept of efficiency, but he is surprised that the Board seems blind to the needs of a struggling community in Cocoa; tens of millions of private hard earned money has been pumped into this facility, not tax collected dollars that would be much better spent on the access and road issues that have been outlined; previously the facility was nothing more than a perfect example of decay due to the inefficiencies of the government that occupied the Chairs of the Board; and he requested that the Board do everything in its power to fast track this project, cut the red tape, and support the Complex so it can conduct real world business with real hard earned dollars.

Mike McCarty stated he is there to support Cocoa Expo; that he is a concert promoter and is looking at Cocoa Expo to have big name people in concert which will create substantial pack revenues and jobs; and that it is a fabulous facility. He went on that he would like to add Cocoa Expo to the Loop, which consists of concerts coming to Florida and traveling to Tampa, Orlando, Miami, hit Cocoa Expo, and then move on up the East side of the coast; Florida is a great place for Winter concerts; and he asked the Board if they could all work with Cocoa Expo to get the work completed. He stated that he was recently at Cocoa Expo, that the fields are in pristine condition, and there is plenty of space for food. He went on that it is a shame to see it just sitting there; he does not foresee a long line of volunteers stepping in to complete it; and he feels this is the time to get Cocoa Expo up and running. He stated that people coming in from out of town will stay at the hotels, eat at the restaurants, and all around just brings more people into the County. He urged the developer and the Board to work together on this.

Robert L. Wright stated that he lives by two mobile homes, one is zoned commercial, and has a huge oak tree that has grown over the top of it, and is an eye sore; when the developers of Cocoa Expo started bulldozing around his property, his father got involved and the work was shut down on the west side; his concern is what is going on with the two trailers beside his property; and he asked if resident 435 is being put into commercial property, because it appears to him that is what is being asked of the Board today.

Cindy Fox replied yes.

Mr. Wright commented that is his next door neighbor and it has been abandoned by Cocoa Expo because of the problems on the west side; they were taking trailers out of the area and were told to stop; he was left with the bad end of the deal, because he has two left beside him; and 345 was purchased by Mr. Unnerstall and has a history of septic tank problems. He went on that the people who lived there could not afford to fix the drain fill and his neighbor removed the

August 4, 2016

pipe from the washing machine because the sewage was running off the tank down by his back steps and into his yard; Mr. Unnerstall bought the property in that condition and four days prior to this meeting put one of his workers and a family in that trailer; and he asked if the Board zones that property commercial how long does he will have to look at those trailers and are those trailers in that nine months that he has to finish. He continued that he was under the impression that a family cannot live in a commercially-zoned property; he is highly opposed to that being done today; and if it is, he ensured the Board that it will built around his property correctly.

Commissioner Infantini question if Mr. Wright is opposed to neighbors.

Mr. Wright replied that he asked the family next door what Mr. Unnerstall plans to do with the property; and that he would rather have someone there than have the property abandoned, but if it is zoned commercial, that would be a whole different deal.

Commissioner Infantini stated she is confused why Mr. Wright is upset and asked him if it is because the property is going to be zoned commercial or if it is because there are people living there.

Mr. Wright commented that if it is going to be zoned commercial, there is already a family living there and questioned if it was going to take nine months to have something done with those trailers; that he does not have a problem with the property being zoned commercial today; and he just wants the correct steps taken to get that family out of there, because when that septic tank rolls into his yard, he will be calling Human Resources.

Commissioner Infantini asked if Mr. Wright's concern was that the septic tank may overflow, not whether it is zoned commercial, or that there is a family living there.

Mr. Wright replied that he does not want it zoned commercial unless the trailer is removed from the property in a reasonable amount of time; he asked if the property is zoned commercial then should it be developed sometime, or is there a time frame that someone can live on a property that is zoned commercial. He commented that he asked Planning and Zoning if a property is taken from a residential address and zoned commercial can someone live on that property and his father was previously told no.

Ms. Fox stated that in this situation Zoning is taking a single-family home and zoning it commercial property so it can be added to the holdings like the rest of Mr. Unnerstall's property; and if the trailer is not removed, it becomes a nonconforming structure so people can live there, but it cannot be expanded or improved beyond maintenance.

Mr. Wright confirmed that the family can live on commercial property, not develop it, and still claim residency at that property address.

Ms. Fox replied yes and that the plan was for the west side to be developed after the east side was completed.

Mr. Wright stated that the property behind him must have a barrier with a 75-foot perimeter and asked if the property is left commercial what would happen to the netting, the brim, and all the trees, and if it would go straight across the other two lots, one zoned for commercial and the other residential; he had Natural Resources and St. Johns River Water Management District (SJRWMD) come to the property where it had flooded after development of Cocoa Expo had started; and he is concerned about the barriers that would go up around his property.

Commissioner Smith asked if there is a sewage problem now, with the family living next door.

August 4, 2016

Mr. Wright commented that the family is not staying the night in the house yet, so there is no flushing or running the washing machine, however he is certain there will be a problem; both tanks are full and there will be overflow; and that Mr. Unnerstall needs to address it because it is the responsibility of the owner.

Jason Steele stated he is an Attorney for Cocoa Expo along with Mr. Smith; Cocoa Expo has been there since 1964, was a wonderful facility, and the heart of Brevard County for many, many years; and in 2000 it became an eye sore for the County and ended up in receivership in late 2009/2010. He continued that Mr. Unnerstall decided to take on the project, and began to meet with staff; he tried to accomplish things that he maybe should not have tried to accomplish in the beginning; he made conditions that he thought would be easy to complete, had no idea that circumstances would change, that there would be additional regulations required, and it became very expensive. He went on that if the BDP is not addressed today, that it will probably be the end of Cocoa Expo and could probably ruin Mr. Unnerstall; and that it has been a black eye and possibly the worst thing that could happen to Brevard County. He stated that he is very grateful for the County Manager, Ms. DiFabio, Mr. Denninghoff, and the Board for offering solutions, prayers, and thoughts on how to resolve this; without this development, \$25 million of private money invested by a professional businessman is going to go down the tubes; and the solution being offered today was from a meeting with some County employees on January 21, 2016, at Cocoa Expo. He continued that the recommendation was to go before the Planning and Zoning Commission, to ask for an amendment to the BDP so that a CO can be received on the existing facilities, money can be made to finish the improvements, and bless the County with tourism money, tax money, and infrastructure; the biggest money maker to allow for improvements is concerts and after two or three big events, the road improvements would be done right away; and to accept this amendment to the BDP would be in the best interest for this County. He thanked the Board and County staff for being so patient with this project.

Commissioner Smith stated that he has seen a lot of what has transpired and having been a businessman he can empathize with the situation; Mr. Unnerstall has invested \$25 million of his own money, and has a phenomenal facility; and he asked if there is a possibility to bring in a partner or sell the property to get out from under it.

Jeff Unnerstall stated that to bring in partner at the point where this project is at would be difficult; they are struggling financially; there are events happening at the facility, however the money was invested to have large events, 46 teams can be housed in one building and there are aspirations, after buying another building, to have room for additional teams; and when teams come, it brings families to the area. He continued that on paper the projections look great, but time has passed and it has not happened because they cannot do the big events. He went on that he does not have the money for the bond because instead of a percentage, the bond company wants the full amount for all materials, labor, equipment, and performance.

Commissioner Smith asked how much money is the the bond.

Mr. Unnerstall stated \$1.5 million or more, and if he had that kind of money, he could do the improvements.

Commissioner Smith questioned if he had an infusion of \$2 million could he finish the project.

Mr. Unnerstall replied that may possible, however, the proposal on the table is well thought out and feels it is a great plan; it parks everybody off-site at six or seven different locations and busses them in; there is no problem with traffic; and they have about 20 percent parking on-site in the grassy fields and existing paid parking.

August 4, 2016

Commissioner Smith questioned if he had vetted this plan with the site locations and has financial agreements in place.

Mr. Unnerstall replied that he has binding agreements with five or six locations except Home Depot, who has made a verbal agreement, but there is no signed agreement.

Commissioner Smith stated that Ms. Young suggested that the County partner with Mr. Unnerstall and he feels that is what the Board is being asked to do today, for the County to give him a pass to put on concerts and bring money in the door, so that the improvements can be made; and the benefit is the County and Mr. Unnerstall get a first class facility that brings in money for both.

Mr. Unnerstall stated that he is requesting the Board to allow for off-site parking, assistance in generating income, and allow for improvements at a later date when he has the cash flow to do them. He went on that the project has the capability of good cash flow, which it had done many years ago, and if he had not shut it down years ago, it would still be making money.

Commissioner Smith stated that the facts consist of Cocoa Expo needing to make some money to finish improvements and the Board having put them out on a limb numerous times for this project.

Mr. Unnerstall commented that he is asking for something that will not cause a problem and will bring large amounts of income to the County and create a lot of jobs; his flow charts show 400 full-time and part-time employees, whereas right now there are only 15; and if he could only start generating some money he could do all the things that he had plan to do. He went on that he is not looking for anything that causes problems with the County; he only wants a manageable plan where the spectators can come and go without any problems, and to complete all the improvements.

Commissioner Smith commented that he has had numerous developers speak to him in the past 18 months about why they do not get the kind of breaks that have been given to Cocoa Expo, so he does feel the Board has been put in a position of being the bad guys; and that it is a tough predicament that both the County and Mr. Unnerstall are in at this point.

Mr. Unnerstall thanked the Board for what they have done so far and asked that they help him once again.

Commissioner Fisher asked County staff what deficiencies, other than Friday Road and the bond, need to be addressed for the CO to be released.

John Denninghoff, Public Works Director, stated that there is a group of items that were improperly constructed or not constructed which had been placed on two separate lists, one in which the County would consider a bond for so they could be reconstructed or completed at a later date, and one which the County considered had to be completed in order for the CO; some of those have been completed and some the County has not been able to verify because they were barred from the site in contrast to what the MOU called for, which was as recent as the day before yesterday, in which they were told they had to have an appointment and no appointments were available; and as a result, they could only look at what was off-site and viewable from the roadside. He continued that the sidewalks have some cracks which were caused by the property owners that need to be repaired; there was a pipe repair that the County was told was completed but they have been unable to inspect it; the looking rings for the inlet grates have not been installed; appropriate finder washers have not been verified for the parking signs installed throughout the site; one incorrect inlet grate has not been replaced; crosswalk striping has been worn and should be more viewable; the driveway culvert on S.R. 520 has

August 4, 2016

collapsed and is an important feature to the site-plan; perimeter berm around the site needs corrected, it was built along S.R. 520 outside of the property, in the public right-of-way so a bond would be accepted for that, however, the bond has not been provided; and unfortunately the berm, when built in the correct location, is where landscaping is supposed to be, which is a buffer requirement associated with the site-plan, and that berm would then be constructed right where the landscaping is, therefore, the landscaping would have to be relocated or demolished and replaced. He stated that Cocoa Expo completed most of the issues that need to be resolved as far as items to be completed or bonded in order to receive the CO; the permanent driveways brought up by Ms. Young have not been constructed and the County was going to allow that to be in bond for the roadway improvements, however a great deal of time has gone by and that is a concern; and the last item is that a number of improvements have been constructed on Friday Road but have not been completed which includes some curb, road based material, and some asphalt north of a driveway which surrounded an existing fire hydrant that was left in place and now the City of Cocoa is asking that it be promptly relocated due to hazard, and originally was included in that 18 to 24-month bond period. He continued that the fire hydrant needs to be relocated; otherwise the City will close the valve, remove the hydrant, and leave the neighborhood with less fire protection.

Commissioner Fisher stated that coming to the meeting he had decided that he was against making exceptions or rules because the County has gone above and beyond to accommodate Cocoa Expo and Mr. Unnerstall; but he believes that this property has huge potential and could be a benefit to Brevard County; and he does not like the position that the Board has been put in. He asked the Board if he could meet with Mr. Unnerstall and County staff to come up with something that would make sense and bring it back before the Board on August 23, 2016.

Chairman Barfield stated that if he had to decide today then he would turn down the BDP and stay with the September 9, 2016, deadline; however, if Commissioner Fisher can work something out before, then he would be fine with that.

Commissioner Anderson stated he is fine with that; the dilemma is if the Board, by every right, votes not to accept amending the BDP and the facility shuts down, it will become another blighted area and that would be detrimental to the community; and if Commissioner Fisher could work something out, that would be great. He continued that the Board has given a lot of incentives to companies to help neighborhoods and communities and need to do it with this one as well.

Commissioner Fisher stated he has a couple ideas.

Commissioner Smith stated he had a couple ideas and was going to suggest something along the same lines, so he is fine with Commissioner Fisher taking this on. He asked that Commissioner Fisher find out how much has already been spent on this facility and an estimate of how much would be needed to complete it; and what liability would the Board have if they come up with a plan to allow Mr. Unnerstall to be where he needs to be. He continued that the Board has not given him COs so the sidewalks have not been repaired, and if someone gets hurt would the Board be named on an insurance policy of Cocoa Expo that would protect them.

Commissioner Fisher replied that it is private property and that it is a difficult scenario when you grant permission for something that knowingly does not meet Code, so we open the possibility of liability and his plan is to come back on August 23, 2016.

Chairman Barfield stated his concern is that this has been going on since 2012; he keeps hearing, "If I can do this, or if I can do that", and he would like to see a firm business plan that shows how Mr. Unnerstall is going to get there; and he suggested that be provided, otherwise he wants to stick to the September 9, 2016, deadline.

August 4, 2016

Commissioner Infantini stated to go five months instead of nine months; Commissioner Fisher was correct when stating that the Board has given a lot of EDC and TDC incentives to other companies to get them to come to Brevard, stay in Brevard, or keep them from relocating; all that Mr. Unnerstall is asking, is for the Board to allow him some time to get things completed; and all of the things he has asked the Board to do, has not jeopardized the public's safety. She continued that Mr. Unnerstall admitted he took on an overly zealous task to bring in great development to the County; she would be concerned if the Board does not extend this for him; and for the first time, someone is not coming to the Board looking for money, he is just asking them to waive some of their own rules, so that he will have the latitude necessary to generate some revenue. She continued that she feels that concerts would be a great venue for that area; that Brevard County sadly lost *Runway Country* which was a huge venue; and that maybe Mr. Unnerstall's facility will get something like that back to Brevard County. She then suggested that the Board give him five months, that she appreciates Commissioner Fisher stepping up to work with him; and there will be a whole new set of fresh faces on the Board.

Commissioner Smith stated that maybe Commissioner Fisher could approach the EDC and figure out some way of giving Mr. Unnerstall an opportunity to get him where he needs to go; and what he really needs is cash infusion.

Commissioner Fisher stated that he has some ideas, and wants to think through it; Friday Road is a challenge; some of the other items can be worked out; however, Mr. Unnerstall is going to have to come to the table with something. He asked again for the Board to give him a couple of days.

Chairman Barfield asked what the public safety issues are that need to be addressed.

Doug Carter, Assistant Fire Marshall, stated the stadium itself is fine for baseball and softball; concerts bring in large crowds of people and the facility is currently not set up for the fire alarm, to do what they need to do because it is not used just for panic; typically they work with people who host these types of events to plan ahead, when given proper notice; the current MOU agrees that they receive payment 21 days in advance; and that they would need cooperation from Mr. Unnerstall to address the concert type things.

Commissioner Anderson stated there were some spirited discussions about this project with the previous Commission and a lot of items outside of normal staff items that were placed upon Mr. Unnerstall that were unnecessary and that some of the stipulations outside of health and safety, were maybe created to ensure that Mr. Unnerstall would have less than favorable chances of succeeding.

Commissioner Fisher made a Motion to allow for him to work with Mr. Unnerstall and his team and come back before the Board on August 23, 2016, with a time certain.

Commissioner Smith seconded the motion.

Cindy Fox questioned if that would be for items IV.B.10. and IV.B.11.

Commissioner Fisher replied yes.

There being no further comments or objections, the Board approved a motion to bring this Item back to the August 23, 2016, Board Meeting.

August 4, 2016

RESULT: ADOPTED [UNANIMOUS]
MOVER: Robin Fisher, Commissioner District 1
SECONDER: Curt Smith, Vice Chairman/Commissioner District 4
AYES: Fisher, Barfield, Infantini, Smith, Anderson

The Board recessed at 7:37 p.m. and reconvened at 7:45 p.m.

ITEM IV.B.11., (16PZ00062) - COCOA EXPO SPORTS CENTER, LLC, AND UPLAND INVESTMENTS, LLC - (STEPHEN BURCH) - REQUESTS THE FOLLOWING: TAX PARCELS 758, 760, 762, 817 (15.41 ACRES), AN AMENDMENT TO AN EXISTING BDP (BINDING DEVELOPMENT PLAN); TAX PARCEL 780 (0.34 ACRE), A SMALL SCALE PLAN AMENDMENT (16S.07) TO CHANGE THE FUTURE LAND USE DESIGNATION FROM NC TO CC, AND A CHANGE OF CLASSIFICATION FROM TR-1 TO BU-1, AND THE FOLLOWING CUP'S: 1.) CUP FOR ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION;

There being no further comments or objections, the Board approved a motion to bring this Item back to the August 23, 2016, Board Meeting.

This item was tabled to the August 23, 2014 Regular meeting.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Robin Fisher, Commissioner District 1
SECONDER: Curt Smith, Vice Chairman/Commissioner District 4
AYES: Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.B.12., (16PZ00057) - RIVERSIDE COMMONS, LLC - REQUESTS A SMALL SCALE PLAN AMENDMENT (16S.06) TO CHANGE THE FUTURE LAND USE FROM NC TO CC; AND A CHANGE OF CLASSIFICATION FROM RP TO BU-1, ON 2.52 ACRES +/-, LOCATED ON THE EAST SIDE OF HWY. 1, APPROX. 780 FT. NORTH OF ROCKLEDGE DR. (NO ASSIGNED ADDRESS. IN THE ROCKLEDGE AREA.)

Cindy Fox, Planning and Zoning Manager, stated this item needs to be tabled to the September 1, 2016.

There being no further comments or objections, the Board tabled this item to the September 1, 2016 meeting.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Trudie Infantini, Commissioner District 3
AYES: Jim Barfield, Trudie Infantini, Curt Smith, Andy Anderson
ABSENT: Robin Fisher

August 4, 2016

ITEM IV.B.13., (16PZ00050) - PALM CASUAL FURNITURE PRODUCTS OF COCOA, INC. - - (VAHEED TEIMOURI, P.E.) - REQUESTS REMOVAL OF AN EXISTING BDP IN A BU-1 ZONING CLASSIFICATION, ON 1.10 ACRES +/-, LOCATED ON THE SOUTH SIDE OF W. NEW HAVEN AVE., APPROX. 1 MILE EAST OF THE I-95 INTERCHANGE. (NO ASSIGNED ADDRESS. IN THE MELBOURNE AREA)

Cindy Fox, Planning and Zoning Manager, stated this Item is the request for the removal of an existing Binding Development Plan (BDP) that was approved over 20 years ago in a BU-1 Zoning Classification, the area on the south side of West New Haven Avenue is becoming more commercialized; the BDP sought to enhance the landscaping and to eliminate a second driveway; and the applicant is here representing Palm Casualty because they need that second driveway for safety.

There being no further comments or objections, the Board approved the request for removal of an existing BDP in a BU-1 zoning classification, on 1.10 acres +/-, located on the south side of W. New Haven Ave., approximately one mile east of the I-95 Interchange.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.C., ORDINANCE, RE: ADDING ALLOWANCE FOR TEMPORARY PARCEL/PACKAGE STORAGE UNITS IN THE GML ZONING CLASSIFICATION

Chairman Barfield called for a Public hearing to consider adopting an Ordinance for adding allowance for the temporary parcel/package storage units in the GML Zoning Classification.

Robin DiFabio, Planning and Development Director, stated this is a public hearing for adoption of the change in the requirements for temporary parcel and package storage units to allow them in the GML classification; and that this has gone through the public hearings at the request of UPS.

There being no further comments or objections, the Board adopted Ordinance No. 2016-13 amending Chapter 62, "Land Development Regulations", Code of Ordinances of Brevard County, Florida; amending Article VI, Section 62-2117.5(2)a, to provide for temporary storage units and parcel/package delivery service temporary storage units in all GML Zoning Classifications; providing for severability; providing for area encompassed; providing an effective date; and providing for inclusion in the Brevard County Code of Ordinances.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Vice Chairman/Commissioner District 4
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV.D., PUBLIC HEARING RE: TRANSMITTAL OF COMPREHENSIVE PLAN PACKAGE 2016-2.1 PLAN AMENDMENTS (DISTRICTS 1-5)

Chairman Barfield called for a Public Hearing to consider the transmittal of Comprehensive Plan Package 2016-2.1 Plan amendments.

August 4, 2016

Robin Difabio, Planning and Development Director, stated this is the transmittal of the Comprehensive Plan Package, second cycle of the year, the County did not have a first cycle of the year; it includes three amendments, one is a private land use amendment from Sharpes Executive Golf Course seeking to go from Recreational to Residential 4 on approximately 56 acres of land; there are two amendments that are being brought forward by Natural Resources, one relates to amendments to the conservation element objectives regarding surface water and the second one was initiated to update the glossary to reflect the new language in the proposed amendment; and Natural Resources is in attendance to address those items if the Board has any questions.

Rodney Honeycutt stated that he is asking for the Amendment of the Sharpes Executive Golf Course to be changed to a Residential 4 Classification as it was years ago; the report mentions that Brevard County sewage is not available, however, the City of Cocoa sewer is available at that site and serves the adjacent County facility there and that there is a plan that shows that; and he asked the Board if he could add it to the report so that it is clear when it goes to the state, that sewer is available at the site.

Commissioner Fisher asked if there were any concerns with staff on surface water bills.

There being no further comments or objections, the Board approved transmittal of Comprehensive Plan Package 2016-2.1 Plan amendments.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Robin Fisher, Commissioner District 1
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

Commissioner Infantini stated that the amendment is to change the buffer zone required by certain property adjacent to bodies of water, to 50 feet, instead of 25 feet where construction is being done; and asked if a someone was unable to build due to new restrictions, if there was a waiver

Stockton Whitten, County Manager, stated that was done with the water a few years back.

Virginia Barker, Natural Resources Management Director, stated that the purpose of this is to provide a waiver provision, the County was not proposing to change reclassification of the water system, the State of Florida reclassified the waters of the Indian River Lagoon from Class 3 to Class 2 back in February; what that did when the State took that action was, it meant that the County has lots of parcels of record that previously only had to have 25-foot buffer and now they would have to have a 50-foot buffer, therefore, staff prepared an amendment that would allow waiver provisions of up to 30 percent impervious within that new buffer area that the State reclassified.

Commissioner Infantini thanked Ms. Barker for the clarification.

There being no further comments or objections, the Board approved transmittal of Comprehensive Plan Package 2016-2.2 Plan amendments.

August 4, 2016

RESULT: ADOPTED [UNANIMOUS]
MOVER: Trudie Infantini, Commissioner District 3
SECONDER: Curt Smith, Vice Chairman/Commissioner District 4
AYES: Fisher, Barfield, Infantini, Smith, Anderson

There being no further comments or objections, the Board approved transmittal of Comprehensive Plan Package 2016-2.3 Plan amendments.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Robin Fisher, Commissioner District 1
AYES: Fisher, Barfield, Infantini, Smith, Anderson

ITEM V.A., RETAINMENT OF LEGAL SERVICES, RE: RICHARD PIERCE, AN INDIVIDUAL, AND THE BREVARD COUNTY PROFESSIONAL FIREFIGHTERS, LOCAL 5969, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, INC., A FLORIDA NON-PROFIT CORPORATION V. BOARD OF COUNTY COMMISSIONERS, OF BREVARD COUNTY, A HOME RULE CHARTER COMPANY OF THE STATE OF FLORIDA, 05-2016-CA-032836

Eden Bentley, Deputy County Attorney, stated this is a request to have the Board approve retaining legal services of Marc Watts of Cobb Cole to represent the County in the firefighters case v. Brevard County.

The Board approved retainment of legal services of Marc Watts to represent the County in Richard Pierce, and individual, and the Brevard County Professional Firefighters, Local 5969, International Association of Firefighters, Inc., a Florida Non-Profit Corporation v. Board of County Commissioners, of Brevard County, a Home Rule Charter Company of the State of Florida, Case No. 05-2016-CA-032836-XXXX-XX.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Andy Anderson, Commissioner District 5
SECONDER: Curt Smith, Vice Chairman/Commissioner District 4
AYES: Fisher, Barfield, Infantini, Smith, Anderson

Upon consensus of the Board, the meeting was adjourned at 7:53 P.M.

ATTEST:

JIM BARFIELD, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

SCOTT ELLIS, CLERK