

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 March 7, 2019 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
Rita Pritchett	Commissioner District 1	Present	
Bryan Lober	Vice Chair Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Chair Commissioner District 5	Present	

MOMENT OF SILENCE

Chair Isnardi called for a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Pritchett 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.

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ITEM E.1., RESOLUTION, RE: MARCH FOR MEALS MONTH

Commissioner Lober read aloud, and the Board adopted Resolution No. 19-029, recognizing March for Meals Month and urged every citizen to honor the Meals on Wheels programs, the seniors they serve, and the volunteers that care for them.

Commissioner Lober asked the representatives from Meals on Wheels if they would like to come forward to the Board; he stated they were hiding in plain sight; and apologized for not seeing them.

Chair Isnardi stated she apologized; the Board usually has the representatives come up first, and she did not think anyone was here.

A representative from Meals on Wheels thanked the Board for its support this month, and not just for this month, but for its support for the program means a lot not just to them, but to all of the seniors of Brevard County.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.15., CLARK A. AND PATRICIA A. SIMMS REQUEST A CHANGE OF ZONING CLASSIFICATION FROM RU-1-9 TO RU-2-4 (18PZ00130)

Chair Isnardi called for a public hearing on a request to change the zoning classification from RU-1-9 to RU-2-4; and she stated she would like to move this Item up, because the applicant is requesting it to be tabled; they had a compelling case as to why the Board should hear them first, because they have a family situation to take care of.

The Board continued the request by Clark A. and Patricia A. Simms for a request of a change of Zoning Classification from RU-1-9 to RU-2-4, to the April 4, 2019, meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.1., FREDERICK SCOTT AND ALICE ADA LOUISE DENLINGER (JOE MAYER) REQUEST A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT FROM PI TO RES 1, (18PZ00143)

Chair Isnardi called for a public hearing for Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer) to request a small scale Comprehensive Plan Amendment from PI to RES 1; the property is 1.21 acres in size; and is located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway.

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Erin Sterk, Planning and Zoning Manager, stated Item H.1. and H.2. are companion Items so she will read both into the record so the Board can discuss them together. She added H.1. is a proposal by Frederick Scott and Alice Ada Louise Denlinger, represented by Joe Mayer, requesting a small scale Comprehensive Plan amendment from Planned Industrial (PI) to RES 1 (Residential 1), this is on a property that is 1.21 acres in size, located on the south side of D'Albora Road, just east of North Courtenay Parkway; and the companion rezoning request is to change the Zoning Classification from Planned Industrial Park (PIP) to Rural Residential 1 (RR-1), and that is on the same property location.

Chair Isnardi asked if there were any questions for the applicant regarding this Item; and the Board is waiting to hear from Commissioner Lober, because it is in his District to make sure he is okay with these Items.

Ms. Sterk inquired if Eden Bentley, County Attorney, was okay with the one motion for both Items.

Ms. Bentley responded affirmatively.

There being no further comments or objections, the Board adopted Ordinance No. 19-04, an Ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, Entitled "The 1988 Comprehensive Plan", setting forth the first small scale plan amendment of 2019, 19S.02, to the Future Land Use Map and 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 these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

**ITEM H.2., FREDERICK SCOTT AND ALICE ADA LOUISE DENLINGER (JOE MAYER)
REQUEST A CHANGE OF ZONING CLASSIFICATION FROM PIP TO RR-1, (18PZ000142)**

Chair Isnardi called for a public hearing for Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer) to request a change of Zoning Classification from Planned Industrial Park (PIP) to Rural Residential 1 (RR-1); the property is 1.21 acres in size; and is located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway.

There being no further comments or objections, the Board approved a change of Zoning Classification from PIP to RR-1, on a property that is 1.21 acres in size, and is located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.3., MANDA LAJOIE TAYLOR REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU TO AU, (18PZ00145)

Chair Isnardi called for a public hearing for Manda Lajoie Taylor to request a change of Zoning Classification from General Use (GU) to Agricultural Residential (AU), the property is 2.38 acres, and is located on the east side of Florida Palm Avenue, approximately 0.18 miles north of Areca Palm Street.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Manda Lajoie Taylor requesting a change of Zoning Classification from GU to AU on a property that is 2.38 acres in size, and located on the east side of Florida Palm Avenue, approximately .18 miles north of Areca Palm Street; and it is located in District one.

There being no further comments or objections, the Board approved a change of Zoning Classification from GU to AU on 2.38 acres located on the east side of Florida Palm Avenue, approximately .18 miles north of Areca Palm Street, in District one.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.4., WILLIAM EMMONS AND LAURIE TURNER REQUEST A CHANGE OF ZONING CLASSIFICATION FROM RU-1-7 TO SR (18PZ00147)

Chair Isnardi called for public hearing on a request from William and Laurie Turner to change a Zoning Classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) on 0.81 acres, located on the east side of North Singleton Avenue, approximately 165 feet north of Parker Street.

Erin Sterk, Planning and Zoning Manager, stated this Item is a proposal by William Emmons and Laurie Turner requesting a change in Zoning Classification from RU-1-7 to SR; the property is 0.81 acres in size, located on the east side of North Singleton Avenue, just north of Parker Street; and it is in the Mims area of District one.

There being no further comments or objections, the Board approved a request by William Emmons and Laurie Turner for a change of Zoning Classification from RU-1-7 to SR on 0.81 acres, located on the east side of North Singleton Avenue just north of Parker Street.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.5., JAMES AND JENNIFER MUTTER REQUEST A CHANGE OF ZONING CLASSIFICATION FROM GU AND RU-1-13 TO BU-1-A (18PZ00150)

Chair Isnardi called for public hearing on a request by James and Jennifer Mutter for a change in Zoning Classification from GU (General Use) and RU-1-13 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Commercial), on 1.15 acres located on the north side of West Main Street, approximately 145 feet west of Holder Road.

Erin Sterk, Planning and Zoning Manager, stated this is proposal by James and Jennifer Mutter requesting a change in Zoning classification from GU and RU-1-13 to BU-1-A; the property is just east of SR 46 and I-95 interchange; and it is 1.15 acres in size, just off of Main Street in District one.

There being no further comments or objections, the Board approved the request by James and Jennifer Mutter for a change of Zoning Classification from GU and RU-1-13 to BU-1-A on 1.15 acres, located on the north side of West Main Street, approximately 145 feet west of Holder Road, in Mims.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.6., JOSEPH BRANDON AND NIKKI THOMAS REQUEST A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT FROM RES 1:25 TO RES 1 (18PZ00153)

Chair Isnardi called for public hearing on a request by Joseph Brandon and Nikki Thomas for a Small Scale Comprehensive Plan Amendment from RES 1:25 (Residential 1:2.5) to RES 1 (Residential 1) on 3.15 acres, located on the southeast corner of County Line Road and Dixie Way.

Erin Sterk, Planning and Zoning Manager, stated Item H.6 and H.7 are companion Items so she will read them both into the record; they are proposals by Joseph Brandon and Nikki Thomas requesting a Small Scale Comprehensive Plan Amendment from RES 1 to 2.5 to RES 1 on a portion of their property, 3.15 acres, at the southeast corner of County Line Road and Dixie Way, in the Scottsmoor area of District one. She went to say the companion Zoning application is actually on the full parcel which is 19.75 acres in size at the same location.

Commissioner Pritchett stated she is actually going to request to table these tonight because they are going before Planning and Zoning next week; and she thinks that needs to be vetted through them first, as she is hearing from a lot of residents.

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Stuart Buchanan stated the Small Scale already received a recommendation for approval from the County Planning and Zoning Board; he understands why the Board would like them both to be heard together; and the applicants have also presented, just today, to the Clerk to the Board additional letters of support from the neighboring property owners, which will make them available to the Board.

Chair Isnardi asked if there needs to be clarification if it is just to the next Planning and Zoning meeting.

Ms. Sterk advised the motion should include the applicants are going to the April 4, P&Z as well.

There being no further comments or objections, the Board continued the request by Joseph Brandon and Nikki Thomas for a Small Scale Comprehensive Plan Amendment to the April 4, 2019 Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.7., JOSEPH BRANDON AND NIKKI THOMAS REQUEST A CHANGE OF ZONING CLASSIFICATION FROM AU TO RR-1 (18PZ00154)

Chair Isnardi called for public hearing on a request by Joseph Brandon and Nikki Thomas for a change in Zoning Classification from AU (Agricultural Residential) to RR-1 (Rural Residential) on 19.75 acres, located on the southeast corner of County Line Road and Dixie Way.

There being no further comments, the Board continued the request by Joseph Brandon and Nikki Thomas for a change in Zoning classification from AU to RR-1 to the April 4, 2019, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.8., M&R UNITED, INC. (CARMINE FERRARO) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM BU-1 TO BU-2 (18PZ000156)

Chair Isnardi called for public hearing on a request by M&R United, Inc. for a change of Zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on 13.27 acres, located on the west side of Grissom Parkway, between Cinnamon Fern Boulevard and Ranch Road.

Erin Sterk, Planning and Zoning Manager, stated this Item is a proposal by M&R United, Inc. represented by Carmine Ferraro requesting a change of Zoning Classification from BU-1 to BU-2; this is on a property that is 13.72 acres in size, located on the west side of

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Grissom Parkway; it is in the Port St. John area; and she believes the applicant is requesting to table this to April 4.

There being no further comments or objections, the Board continued the request by M&R United, Inc. for a change in Zoning Classification to April 4, 2019.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.9., BARBARA J. AND JOSEPH J. TULSKIE, JR. (RODNEY HONEYCUTT) REQUESTS REMOVAL OF AN EXISTING BDP (18PZ00159)

Chair Isnardi called for a public hearing for Barbara J. and Joseph J. Tulske, Jr. to request removal of an existing Binding Development Plan (BDP) for a property that is 1.55 acres in size, and is located on the southeast corner of Tangerine Avenue and North Tropical Trail.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Barbara and Joseph Tulske, Jr. represented by Rodney Honeycutt, requesting a removal of a an existing Binding Development Plan (BDP); that is actually what the Item came in as and they have changed their request to an amendment to an existing BDP; and the Property is 1.55 acres in size located on the southeast corner of Tangerine Avenue and North Tropical Trail.

Chair Isnardi stated Mr. Honeycutt is here; and she inquired if Commissioner Lober would like to talk before.

Commissioner Lober stated the Board can let him speak, but he will have some comments if the Board allows.

Rodney Honeycutt, applicant's representative, stated this request is to change from BU-2 with a BDP to BU-2 with a BDP; the previous BDP tied it to only one use which was a mini warehouse and lawn service; the request for the change is for an RV sales/display and also a retail office building; at P&Z they were approved; the first time they went before the MIRA Board they were tabled; when they went back February 28 they were unanimously approved; and he is now requesting Board approval.

Chair Isnardi inquired if Commissioner Lober had any questions for the applicant.

Commissioner Lober stated he has a few questions; he does not know if Mr. Honeycutt remembers him from the MIRA meeting, he had some items, and he would like to make sure he is on the same page; and he noted there was a sketch, and he does not know if Mr. Honeycutt has that available this evening.

Mr. Honeycutt responded he did not.

Commissioner Lober stated essentially what was there, if he remembers correctly, was a real small prefab building, maybe a couple hundred square feet or thereabout.

Mr. Honecutt stated he thinks it is 300 square feet.

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Commissioner Lober concurred 300 square feet, then adjacent to that on the west and on the left of the diagram there was a handicapped spot, immediately to the west there were two regular parking spots, and moving from that 300 square foot prefab building, slightly to the east and south, the intention was to put up a larger structure that would not be prefab, it would be constructed on-site.

Mr. Honeycutt responded affirmatively.

Commissioner Lober stated in addition to that, there were grass areas that were for parking for RV's in two separate sections of that property, and inquired if that was correct.

Mr. Honeycutt responded affirmatively.

Commissioner Lober stated on the far east side, is a conceptual idea, but not part of the initial plan; on the southernmost portion of the east side of the property, Mr. Honeycutt talked about putting a 2,500-3,000 square foot office building.

Mr. Honeycutt clarified it is 2,600 square-foot retail/office space, yes.

Commissioner Lober continued to the north of that, so in the most northeastern portion of that property there would be parking for that.

Mr. Honeycutt agreed.

Commissioner Lober stated so those two items, the parking for that respective office building or potential office building as well as the office building were not part of the original plan, if he understands correctly.

Mr. Honeycutt advised that is the future proposal.

Commissioner Lober commented in essence what is there with the sketch that was provided is two parking spots on the north most western portion that are unrestricted, to the east of those immediately there is a handicapped spot, to the east of that immediately there is a 300 square-foot prefab structure that runs more or less like a rectangle farther north, south than east, west, and then to the south of that, perhaps a little to the east there was the service building that is planned to put there.

Mr. Honeycutt explained it would be for detailing.

Commissioner Lober inquired how large is that in square footage.

Mr. Honeycutt replied roughly 1,000 square feet, he cannot remember exactly.

Commissioner Lober commented when he was there, and he does not recall because he knows some folks had an ownership interest, were also there; and one of them was an engineer, or both of them.

Mr. Honeycutt responded affirmatively.

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Commissioner Lober stated he does not recall who answered his question at the MIRA meeting, which was whether or not the three existing parking spaces, the two unrestricted and the one handicap, were sufficient with Code; and the response he recalls was there were only two required and that what is there is actually more than what Code requires.

Mr. Honeycutt agreed. He stated one for 250 and they also added the handicap space.

Commissioner Lober inquired with respect to that, is it accurate to say only two spaces would be required given a 300 square foot prefab building plus a 40 by 20 building that would also be on the same property, would it be sufficient parking.

Ms. Sterk responded she does not think the concept plan correctly indicates what a whole site plan will require; the parking spaces are not conditioned in the BDP that they would be held to, it is just a conceptual vision; but she does believe there is a little bit of a disconnect between what the Site Plan Code would require.

Commissioner Lober stated Ms. Sterk is respective of the numbers of feet and the numbers of buildings; and he inquired assuming it is just a 300 square-foot building, which is not what is intended to be the case, what would the minimum number of parking spaces be for just that one building alone.

Ms. Sterk responded she thinks the three that are depicted is correct, but there were other structures on the concept plan that do not have parking associated with them.

Commissioner Lober inquired if the concept plan, as it was submitted and shown at MIRA and the P&Z prior to them voting on approving this Item, can possibly be built as it was illustrated and still remain in compliance with the Code.

Ms. Sterk stated she does not think so, but it has not been reviewed to that level of detail because it does not have dimensions and all the square foot identified on it, so initially at first glance it does not appear that way to her.

Commissioner Lober inquired what particular items have her concerned with respect to it complying or not complying to Code.

Ms. Sterk commented it is the unpaid parking; it needs to be reviewed in detail; and there needs to be enough parking for the proposed use.

Commissioner Lober stated he just has a few general concerns with respect to this; he thinks it is obviously a great plan overall in the sense that it would improve the area; his concern is prior to MIRA approving this, and in all likelihood because he was not present at P&Z, they saw a concept plan that quite frankly may no be in compliance with the Code; he would be very happy to look at this down the road on April 4, if there could be a concept plan that is actually able to be built in compliance with the Code; and he has concerns with respect to the parking because the three spots they have seem to be the bare minimum for one structure regardless of square footage, and he is talking about the 300 square-foot structure. He added he is sure the parking is adequate for that structure, but the additional structure on there, and the Code does not allow for unpaved parking as parking spots, he just does not want to take an area that already has massive parking problems and exasperate those problems. He noted if the applicant is able to satisfy staff that it complies with Code then he would be thrilled to put this forward, but given that concept plan that was

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in all likelihood part the basis that was approved unanimously by both of the other bodies, it in all likelihood does not comply with respect to the parking requirements; he would ask that this be tabled for one month until the concerns of staff can be addressed; and at that point in time he will be the one to move to approve it.

Mr. Honeycutt noted his request si to move it forward tonight because he cannot get a permit to do anything on the site until the site is approved by Brevard County; the second structure does not have any walls, it is just a cover for the RV detailing; he does not think parking is required for that but if there is paved parking then they have to provide it or they cannot get a permit to do anything; what they submitted was just a conceptual so that MIRA could see what they are doing on site; that does not mean they would only have that many parking spaces; and he does understand they need to provide to Code and they cannot get a permit without it.

Commissioner Lober inquired if the building is not walled off does that necessitate additional parking spots.

Tad Calkins, Planning and Development Director, stated the parking requirement for this would be one space for every 500 square feet of floor area, plus one space for every 2,500 square feet of display area; the Code also a a minimum parking requirement of three spaces, two regular and one handicap; and that is probably the three spaces that Ms, Sterk spoke of earlier. He advised, in this case, anything that is utilized for the sale and the prep or detailing of those vehicles would be one to 500 and anything for display of those vehicles would be one to 2,500; that is how that would calculate the parking; that would be demonstrated by the plan provided in the area they have shown; and what they have given from the concept plan they did not have the areas dimensioned, it was more of a conceptual of what they are intending to do and he does not believe that was intended to satisfy the site plan requirements of the Code.

Commissioner Lober asked if Mr. Calkins sees any difficulty in moving this forward tonight, to ensure there is adequate parking throughout the remainder of the process where it does not involve the Commission.

Mr. Calkins responded that would depend on the development program; it is going to kind of control the amount of parking they will be required to provide by the intensity of the development; if they get into a situation where they do not have enough parking they can reduce the amount of development space to get there; there are also mechanisms in the Code that would allow for reductions or some other considerations if they were to do some enhanced landscaping or save some vegetation on the site; therefore, he is comfortable that the site plan process would account for the parking concern. He added if they ran into an issue where it could not be satisfied, there is a process that would allow for it to come back before the Board, if it could not be satisfied with any other administrative remedies.

Commissioner Lober inquired if Mr. Calkins appears comfortable with it then.

Mr. Calkins responded he believes they will be able to satisfy the concerns through the site plan process.

Commissioner Lober noted he is not as opposed to it as he first was when he came into the meeting.

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Carrie Wilmer stated she has been in the RV business for 25 years; the reason they laid this out was to get the dealer's license; they were only required to have one wheelchair spot and one parking spot based off the floor plan; and she mentioned they will have ample parking when the building is raised, that was just a rough sketch because they literally will not allow them to move forward until the Board allows it.

Commissioner Lober stated he is less concerned now that he has heard from staff that the issues he foresaw down the road will be caught in the process; he is not trying to stifle development by any means; and he just wanted to make sure.

Ms. Wilmer noted it will be beautiful when they are done.

Commissioner Lober stated he thinks it will be gorgeous; and he thinks for that area it is going to be a good project.

There being no other comments or objections, the Board approved the request by Barbara J. and Joseph J. Tulske, Jr. with a Binding Development Plan limiting the uses on the property to recreational vehicle display/sales with detailing and minor repairs; a retail and office building of a maximum of 2,600 square feet; the only access to the site will be from the existing access on North Tropical Trail and the existing access on Tangerine Avenue; an opaque access gate on North Tropical Trail; the property shall be completely buffered by a combination of plantings, fence, and the opaque gate on North Tropical Trail; and no parking of vehicles or equipment from any use on the site will be allowed outside the property.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.10., JOHN L. JACKSON, TRUSTEE (BRUCE MOIA) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT FROM NC TO CC (18PZ00160)

Chair Isnardi called for public hearing on a request by John L. Jackson, Trustee, for a Small Scale Comprehensive Plan amendment from NC (Neighborhood Commercial) to CC (Community Commercial) on 3.28 acres, located on the north side of State Road 46, approximately 0.2 miles west of the I-95 interchange.

Erin Sterk, Planning and Zoning Manager, stated Item H.10 and H.11 are companion Items; the proposal is by John L. Jackson, Trustee, represented by Bruce Moia requesting a Small Scale Comprehensive Plan amendment on a piece of a greater parcel that is 3.28 acres in size, located on the north side of State Road 46, just west of the I-95 interchange; and the rezoning request is on a greater piece of land that is 16.4 acres at the same location.

Chair Isnardi stated she assumes no one has any disclosures, otherwise someone would have spoken up.

Commissioner Lober commented he had a written disclose for the prior Item and he also referenced it during the conversation that he was present when they presented to Merritt Island Redevelopment Agency (MIRA).

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Bruce Moia stated he is excited to bring this project to the Board; it is a 16-acre travel center on State Road 46; he is asking for a rezoning and a Comprehensive Plan amendment; basically this piece of property has three different zonings and two different land uses; the applicant would like to consolidate that into one land use and one zoning; and he noted part of the land has both, some existing zoning and some existing land use that is being requested for the entire parcel to build this travel center. He continued the travel center will consist of a convenience store, food service, a tire care center, truck parking, and a future hotel; it complies with the Mims Small Area Study where they wanted to consolidate commercial activities at this area within the location; this project is approximately \$12 million and should bring in excess of half a million dollars in fuel tax to Brevard County on an annual basis; and it will employ 50 to 60 people. He added they are working with Florida Department of Transportation (FDOT) to address any traffic issues; they have done an intersection and road traffic analysis, they have done a signal warrant analysis, and they feel that they are addressing any infrastructure issues; there is water and sewage to the property that is available; he commented he is really excited about this project and he hopes the County is too; and he will save any time for rebuttal and questions.

Commissioner Pritchett stated this is such a good project and Mims is such a good fit; she thanked Mr. Moia and the applicant for working on this and bringing it to the area; she thinks it will greatly enhance the Mims area.

There being no further comments or objections, the Board adopted Ordinance No. 19-05, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the fourth Small Scale Plan Amendment of 2019, 19s.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 these amendments; providing legal internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.11., JOHN L. JACKSON, TRUSTEE (BRUCE MOIA) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM GU, BU-1, AND BU-2, TO ALL BU-2 (18PZ00161)

Chair Isnardi called for public hearing on a request by John L. Jackson, Trustee, for a change in Zoning Classification from GU (General Use), BU-1 (General Retail Commercial), and BU-2 (Retail, Warehousing, and Wholesale Commercial), to all BU-2 on 16.4 acres, located on the north side of State Road 46, approximately 0.2 miles west of the I-95 interchange.

There being no further comments or objections, the Board approved the request by John L. Jackson, Trustee, for a change in Zoning classification from GU, BU-1, and BU-2 to all BU-2 on 16.4 acres, located on the north side of SR 46, approximately 0.2 miles west of the I-95 interchange.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.12., BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS (TIM LAWRY) REQUEST A CHANGE OF ZONING CLASSIFICATION FROM BU-1 AND IU TO GML(H), AND REMOVAL OF AN EXISTING BDP ON THE IU PORTION ONLY (18PZ000162)

Chair Isnardi called for public hearing on a request by the Brevard County Board of County Commissioners for a change of Zoning Classification from BU-1 (General Retail Commercial) and IU (Light Industrial) to GML(H) (Government Managed Lands, High Density), and removal of an existing Binding Development Plan (BDP) on the IU portion only, on 6 acres, located on the right southwest corner of Pineda Causeway and the Florida East Coast (FEC) Railroad right-of-way.

Erin Sterk, Planning and Zoning Manager, stated this is request by the Board of County Commissioners, represented by Tim Lawry, requesting a change of Zoning Classification from BU- and IU to GML(H) and to remove an existing BDP on the IU portion of the property; the property is 6 acres in size; and it is located at the southwest corner of Pineda Causeway and the FEC Railway.

There being no comments or objections, the Board approved a request by the Brevard County Board of County Commissioners for a change in Zoning Classification from BU-1 and IU to GML(H) and removal of a BDP on the IU portion only, on 6 acres located on the right southwest corner of Pineda Causeway and the FEC Railway.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.13., JAMES M. AND JOANNE M. THOMAS REQUEST A CHANGE OF ZONING FROM RR-1 AND BU-1 TO SR (18PZ00112)

Chair Isnardi called for public hearing on a request by James M. and Joanne M. Thomas for a change of Zoning Classification from RR-1 (Rural Residential) and BU-1 (General Retail Commercial), to SR (Suburban Residential), on 1.25 acres, located on the west side of North Wickham Road, approximately 400 feet north of Pineda Plaza Way.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by James M. and Joanne M. Thomas requesting a change Zoning Classification from RR-1 and BU-1 to SR; the property is 1.25 acres in size. located on the west side of North Wickham Road just north of Pineda Plaza Way; unfortunately this applicant has never appeared at any public hearing thus far and the P&Z recommended denial accordingly. She mentioned she does not expect that he is in attendance this evening.

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There being no comments or objections, the Board denied the request by James M. and Joanne M. Thomas for a change in Zoning Classification from RR-1 and BU-1 to SR on 1.25 acres, located on the west side of North Wickham Road, approximately 400 feet north of Pineda Plaza Way.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.14., ALBERTO AND BIVIANA ROMAN (RALPH KENNEDY) REQUEST AN EXPANSION OF A CUP FOR ALCOHOLIC BEVERAGES (FULL LIQUOR) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT IN A BU-1 ZONING CLASSIFICATION (18PZ00114)

Chair Isnardi called for public hearing on a request by Alberto and Biviana Roman for an expansion of a Conditional Use Permit (CUP) for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a restaurant, in a BU-1 Zoning Classification on .24 acres, located on the southeast corner of North Grove Street and Tangerine Avenue.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Alberto and Biviana Roman, represented by Ralph Kennedy requesting expansion of a CUP for alcoholic beverages for full liquor on premises consumption in conjunction with a restaurant in the BU-1 Zoning Classification; the Board last saw this Item on February 7; and the applicants have provided additional information since then.

Commissioner Lober commented he appreciates the applicant allowing for this to be tabled last time; he saw that they now have some parking agreements from some of the neighbors; and he no longer has the concerns that he had at the last meeting.

There being no comments or objections, the Board approved the request by Alberto and Biviana Roman for expansion of a CUP for alcoholic beverages doe on-premises consumption in conjunction with a restaurant on .24 acres, located on the southeast corner of North Grove Street and Tangerine Avenue.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Bryan Lober, Vice Chair Commissioner District 2
SECONDER:	Rita Pritchett, Commissioner District 1
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.16., DOUGLAS AND CINDY ROBERTSON (BRUCE MOIA) REQUEST TRANSMITTAL OF THE 2019-1.1 LARGE SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL 1:2.5 TO RESIDENTIAL 1 (18PZ00166)

Chair Isnardi called for public hearing on a request by Douglas and Cindy Robertson for Transmittal of the 2019-1.1 Large Scale Comprehensive Plan amendment to change Future Land Use designation from Residential 1:2.5 to Residential 1 on a 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane.

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Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Douglas and Cindy Robertson, represented by Bruce Moia, requesting transmittal of the 2019.1.1 Large Scale Comprehensive Plan amendment to change the Future Land Use designation from Residential 1:2.5 to Residential 1; just to remind the Board this is a Large Scale Comprehensive Plan amendment so it will come before the Board twice; if the Board were to move it forward today, it will come back a second time for adoption; and the property is 20.39 acres in size, located on the southwest corner of Fleming Grant Road and Seabird Lane.

Commissioner Lober advised he met with Mr. Moia on March 3, 2019; his office received an email from Henry Beck who had some concerns about this, March 3, 2019; he received an email from Anne Briggs urging the Board to vote against it; the following day he received an email from Micco Homeowners Association opposing any change to the Future Land Use map; on March 6 he received an email from Don Currier expressing opposition; and on Feb 21, his office received an email from Mitzie and Gene Plunkett seeking to deny. He added he also met with Mr. Moia and he believes there was an email sent subsequent to that meeting with respect to this item.

Commissioner Tobia noted he has included his disclosure with exception of one that was received yesterday, the email from Kim who opposed the Comprehensive Plan amendment.

Chair Isnardi commented she is sure the Board has all received many of the emails, which are technically all public record so she will not go through those her emails; she disclosed she spoke with Mr. Moia on February 28 regarding the project; he offered some information and she asked him questions about the number of units per acre and that sort of thing; she also received correspondence from Alan Metzger who is a property owner in the area; and there was a small conversation that occurred where he was concerned about the initial belief that it was four units per acre.

Bruce Moia stated he is hoping he can save everybody a lot of time here; he and the applicants had a meeting with P&Z and there was a lot of discussion; he reminded the Board all they are asking for today is to allow this to be forwarded to the State to see what they have to say about it; they are not asking for any approvals, concessions, or anything else; and he reiterated he wants this forwarded to the State to see what their comments are as far as the Comprehensive Plan amendment that is being requested. He continued originally when this advertisement went out from County staff it mistakenly said that he was asking for four units to the acre; he advised that is not what they are requesting, it is only asking for Residential 1, which is only one unit per acre and very compatible; he thinks there may be a lot of testimony from some of the residents and whether they apply or not or whether they are true or not he does not know that it even matters because today he is just asking to have this submitted to the State so it can provide the Board with its comments of whether this is compatible or not; and if they are just discussing compatibility he really thinks that is all, on the map out of the 77 lots that are within 1,000 feet of this property, over 50 percent are an acre or less and that is what is being asked for; over 25 percent are half an acre or less; and to ask for one unit per acre he believes is compatible and the topic of discussion. He added he will come back after the State has its input to talk about other things like wetlands, protected species, flood plains, traffic, and all those things, but he reiterated tonight all they want is for this to be transmitted to the State to provide its input. He noted he will save the rest of his time for rebuttal unless the Board has any questions.

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Ken Chapin stated he has been a developer and homeowner in Micco for 40 years; he has been fortunate enough over the last 40 years to develop some properties in Micco; he developed Oaktrail in 1986 and the zoning at the time was half-acre zoning, so he made half-acre lots down Oaktrail and a two acre property where he presently lives on the river; and in 1990 he was fortunate enough to develop a property right next to the 20 acres in question and at the time the Comprehensive Plan changed to two and a half acres, so he developed the 11 and a half acres to the two and a half acre as staff directed him to do; and about 10 years later he bought another 26-acre parcel in the neighbor and staff directed him to develop it to two and a half acres, and that is what he did. He advised he is coming before the Board today to express his opposition to the result of the LPA meeting with respect to the possible elimination of the requirement to adhere to Brevard County Comprehensive Land Use Plan that has been in existence since 1988 for this 20-acre property that borders the Sebastian River; the Land Use change is being pursued through Brevard County that would change the current planned use Comprehensive Plan from the property along Fleming Grant Road which borders the Sebastian River, to retain the zoning of RU-1-13 as claimed by the owners at the LPA meeting; and he as quite surprised, or astounded, that the LPA staff recommended a revision to the Comprehensive Plan to allow one unit for 2.5 acres. He added he believes it goes without saying that varying the Land Use significant increase in density along the river area, given the existing environmental conditions along the riverways could very well cause adverse effects. He went on to say the owner of this property which was purchased just a few months ago, must have done his due diligence at the time and known that the Comprehensive Plan called for one unit per two and a half acres; the basic issue for the folks at the LPA was the owner/developer was unwilling to commit to something more conducive to the neighborhood, rather than comply to the Land Use Plan; he believes smaller homes on less property is detrimental to the environment; and that situation is something he believes the County is trying to improve with the current Land Use changes from decades ago, that were made along the Sebastian River, to make it two and half acres to protect the river. He stated he does not have anything against development as he develops himself; he thinks development is good for the County and the environment when the long term plans are adhered to; the Brevard County Commission, last week, approved a sales tax to increase a half percent to funnel monies to remove muck from the Indian River Lagoon (IRL) and things to help the IRL in general; increased density certainly does not help the cause; and in the grand scheme of things there are few non-conforming lots, homes built in the 50' and 60s that make the new request consistent with the entire area and the owner is going to try to convince the Board because these lots that were developed in the 50s and 60s are compatible, but things have changed since back then. He mentioned a lot has been learned about the environment since back then; the neighborhood believes the County put the 1988 Comprehensive Plan in place to minimize the impacts on the waterways; and he believes that plan should simply be enforced.

Anne Briggs stated she would like to register her opposition to the petition to amend the Comprehensive Plan and change the Future Land Use for this property; people move to this area because it is beautiful, it is quiet, it is full of wildlife, and it is right on the Sebastian River; she does not live on the river but she uses it for kayaking and enjoyment; she was really dismayed to see this designation to go to one house per one acre, and the damage it could do to the Sebastian River and to the Lagoon just by having septic tanks; and no matter how modern the septic tanks are, it is going to overflow at some point, there is going to be some horrible accident, and it is going to cause a lot of damage. She added she thinks that is really the priority. She continued on tat density is also an issue; she knows this will

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be discussed again; and she asked the Board to consider the issues that are important to the residents.

Ted Beck stated the Micco Homeowners Association is opposed to the changes for Land Use Designation; there is direct access to the Sebastian River, which flows into the IRL; the taxpayers are spending millions of dollars every year on the undue damage that development has done to the ecosystems; the density increase will increase the stormwater runoff, septic leakage, pesticides, and fertilizer directly into the Sebastian River, and damage the ecological balance further injuring the IRL as a result; and he mentioned this property is on Fleming Grant Road in an AE Floodzone with high probability of frequent flood waters carrying the run-off materials into the Sebastian River. He stated the Robertson's property requested increase in density, is not compatible with the current designation for this area developed in 1955; Mockingbird Lane should not be used as the standard to that density today; the density increases will set a precedent for every other developer on Fleming Grant Road; Fleming Grant residents must travel through two other neighborhoods to reach U.S. 1; the area of Micco does not have the infrastructure to support that much density and traffic increase; and he asked the Board to please vote no.

Mary Sphar stated she will provide a perspective of someone who does not live down there; she looked at the projects that the County is funding with the Save Our Indian River Lagoon Project Plan (SOIRLPP) and she sees down in that area is the Micco sewer extension project which is one of the first ones considered, very favorably, and it cost \$1,977,345 according to the latest Project Plan update that the Board recently approved; there is the Fleming Grant biosuction activation material stormwater project which according to the Project Plan documentation costs \$17,346; and last year the Citizens Oversight Committee (COC) had discussion whether Land Use changes and rezonings were counter to any efforts they could make, so the residents see that the County is pouring almost \$2 million right now into that area; and it just seems like a bad idea or counterproductive. She inquired if the County really cares about the Lagoon and fixing it or if the Board is going to give the applicant added density capability. She continued the applicant already has the ability to build eight units on this property; with all the constraints and environmental aspects to this problem, there being no water or sewer there, it just seems like the County should stick to what the applicant has right now; he has no legal right to what he has right now; she reviewed this on Google Earth and she was taken aback; and she asked the Board to please do the right thing and do not transmit this Comprehensive Plan Amendment.

Commissioner Lober stated obviously the Board has to consider the adjoining property and how compatible what being suggested is; and he inquired to what degree is it permissible and appropriate for the Board to consider the impact that the changes would have on the IRL.

Eden Bentley, County Attorney, advised it is a Comprehensive Plan Amendment so it is legislative in nature, therefore, the Board can consider all of those things.

Robin Carroll stated she is opposed to Brevard County amending the Comprehensive Plan for the 20-acre parcel of land; the property is located directly on the Sebastian River which flows into the Lagoon; right now the health of the Lagoon is critical and thousands of dollars are being spent to help correct the problem; Florida Senator Debbie Mayfield just filed Senate Bill 1758 to curtail the number of septic tank systems on the waterways; and the City of Sebastian just received a grant to assist homeowners on their side of the Sebastian River to switch from septic to wastewater. She noted her main points are twofold; this

increase in density will negatively impact the stormwater runoff; this area already has some unresolved issues that may be exacerbated with this proposed development; this property is high and it currently drains onto Mockingbird Lane; and in picture 13 it shows the difference in the height of backyards on the east side of Mockingbird while pictures one and two show the uneven flow of stormwater down Fleming Grant Road. She added this uneven stormwater was never really a problem until she built her home in 2002. She continued the County directed the size and elevation of the culvert in her drive; her culvert is currently too small to handle the amount of stormwater flow that comes from the north; and pictures three, four, and eight show her driveway and how it acts as a dam. She explained on the evening of November 21, Brevard County Deputy Sheriff, Ron Carver, knocked on her door to advise she had a problem; he said her culvert must be blocked and all of her neighbors up the road were complaining; she took him down in the pouring rain and showed him the low side of her driveway to show that it is not blocked; pictures two and seven were taken the next morning, one on the high side and it shows where the water has pooled and one on the low side where it shows water flying through the culvert; and picture five is the east side, just north of the 42-inch culvert that goes under Fleming Grant Road to the stormwater basin. She went on to say pictures six and nine show no maintenance to the ditches going directly into the basin; the basin is known to overflow; pictures 17,18, and 19 show the aftermath of the basin overflow into a neighbor's yard; and picture 14 is just one of the many gopher turtles that reside on this 20-acre parcel. She stated her second point is if the Board allows this change in the Comprehensive Plan, how many more homes can be jammed into half acre lots on the undeveloped part of Fleming Grant Road; with Palm Bay encroaching on Micco Road with Emerald City, traffic is bound to increase on Fleming Grant; she knows the County cannot stop development but with a proposed increase in density now, there will be that much more runoff; and she asked how much stormwater the area can handle because it can barely handle what it has now. She asked the Board to please not allow this change to the Comprehensive Plan.

Commissioner Lober inquired if staff knows if that road is anywhere near capacity.

Ms. Sterk advised she knows the answer is no, but it will take her a minute to provide the numbers. She advised the roadway today is at 12 percent capacity and with the change it would go to 13 percent.

Mr. Moia stated he is going to refer back to his opening statement; he did not see anyone here that is an expert on drainage, Land Use, traffic, or septic tanks; he does not know the Board can consider the testimony although emotional; there was a lot of problems down there and it seems like they are just existing problems; the one lady commented she caused the drainage problem; and everybody on the river that has a septic tank is part of the problem. He went on to say they are proposing to meet all the standards to provide for stormwater treatment, to provide for upgraded septic standards, and not continue to pollute the river as is happening now; the one guy was correct when he stated a lot has changed since the 50s and 60s and a lot has changed since the Comprehensive Plan was put into place in 1988; the County's Land Development Codes are severely strict when it comes to developing in flood plains; this development is not entirely in flood plains; and there is limitations in development in flood plains, wet lands, where to place a septic tank on the river, how much stormwater can be discharged into the river, how much of it has to be treated, where it goes, the fact that it has to be contained, how much goes onto the neighbors, and all the standards have to be met for the County and the St. Johns River water Management District and do a real development. He went on to explain they could do what everybody else did, and just clear cut the property and put septic tanks on it and build eight lots; he

does not think that is what the Board wants, and he does not think that is the point; the point tonight is what the State has to say about this; and the Board does not have all of the evidence yet. He added the Board does not know what the State is going to say; without giving them any entitlement or any approvals, all they are asking for is for the Board to get the whole story, and part of that story is what the State has to say; and he asked the Board to please allow this to go to the State to get its feedback so the Board can have a clear picture on what is going to happen at the next step. He explained this is just the next step of a very long process; he asked the Board to please move it forward to the State, hear what the State has to say, see what its concern is, and then they can deal with all of that when it is appropriate, which is when they go for the BDP and talk about development standards; and he noted if the Board had any other questions, he is happy to entertain those.

Chair Isnardi inquired if Commissioner Tobia had any comments or concerns being this was in his District.

Commissioner Tobia stated he cannot support this request because it is not consistent with the Future Land Use Map; there is no compelling reason to essentially carve out an exception exemption for this developer; however, and that is a big however, he thinks each Commissioner should vote their conscience on this; and if the Board disagrees with him and votes to approve this, and in his career as a policy maker, he tried never to do this, when he goes down on a vote, he tries not to ever make stipulations on those that go up, but he would ask the Board makes sure that this development would have advanced septic systems as a precursor as they move forward. He added Mr. Moia was correct, should this make it through, the homeowners would certainly have the opportunity to come back and talk about this in the future.

Chair Isnardi stated she looked at this area, not recently, but she has been out that way, and she inquired if it was in Brevard County Code for homes being built to have advanced septic systems anyhow.

Ms. Sterk stated the nitrogen reduction overlay would touch a portion of this property; at the Planning and Zoning Board, and she thinks Mr. Moia reiterated that tonight, and this would be a commitment associated with the rezoning request. She added he committed to building the advanced septic systems for all of the parcels if this were to move forward.

Chair Isnardi stated she, personally, she lives on an acre, so she knows how big of a parcel that is; and she does not have a problem sending it to the State to get its feedback, because ultimately it will come back to the Board to approve any type of plan; and if ever she was to support this as the Board moves further down the line, it would have to be at least at an acre. She noted initially people got riled up because the emails she was getting were one unit per every 7,500 square feet, it was four units per acre, four units, and that is what they were hearing over and over again, so she thinks people got impassioned about some really tight, high density development; and she does not believe that an acre per unit is unreasonable. She went on to say especially being that it is not all river front property, and the Board would make sure it was responsible with the advanced septic systems, and the Board can make that part of the plan, so it is hard to talk about conditions now; and she does not have a problem sending it to the State for its feedback. She added the State may come back and say this is a really rotten idea, this is not conducive, but she thinks the Board can go from there, because at least at that point, the Board has all of the information to make a better, more educated decision, rather than just telling the applicant no.

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Commissioner Lober inquired if the Board sends this to the State, is the Board losing any right, in terms of being able to turn this down at a future point in time, if the comments come back and they are unfavorable.

Eden Bentley, County Attorney, stated if they are unfavorable, the Board would have an uphill battle.

Commissioner Lober inquired if that would be in terms of being unfavorable for development.

Attorney Bentley replied the Board would still have the ability to deny if it chose to do so; the Board's standard of review would not change, it would be the fairly debatable standard; and the difference between a Comprehensive Plan Amendment and the rezoning, the rezoning the Board has to have substantial competent evidence, and that is a higher standard than the Board does for a Comprehensive Plan. She went on to say with a Comprehensive Plan, one can have a fact on one side, and a fact on the other, and it could be fairly debatable and be upheld; so the Board is kind of in a lighter level of review, but the short answer to Commissioner Lober's question is no, the Board would not really be impaired by going to the State.

Commissioner Lober thanked Attorney Bentley and added he has another question for Mr. Moia. He stated he is just going from memory here, from the sketches he has previously seen, about, and he is guestimating here, maybe one fifth of the property is on a flood plain; and he asked if that was correct, more or less.

Mr. Moia stated more or less, yes.

Commissioner Lober stated he knows it is kind of a wavy line on the southernmost portion; he inquired if down the road Mr. Moia thinks it is something his client would be amenable to consider as far as that portion that is on the flood plain that they may not be able to develop anyway, and just flooding that with St. Augustine grass and contributing more to the Lagoon problem, would they consider something along the lines of a living shoreline or some sort of native species so that there is not more of a problem that need be.

Mr. Moia stated more than likely, they have not done the analysis yet, but they believe the wetland line is probably going to follow that flood plain line; and the County has very strict wetland regulations which they will talk about later, they would be prohibited to even going there and clearing anything to it, so they would definitely adhere to the Board's very strict guidelines on flood plain management and wetland mitigation and vegetation. He added they would not be going in there, obviously, and clear cutting especially with those dwellings.

Commissioner Lober stated he would just put it out there as well, just so everyone is on the same page, he will say, if Mr. Moia comes back with lots that are less than one acre, he would probably not be in favor down-the-road.

Mr. Moia stated he understood.

Commissioner Lober stated he is putting everyone on the same page, and he does not want anyone to have an impression that with this being green-lit potentially, that that means come back and give the Board quarter-acre, half-acre, three-quarter acre lots.

Mr. Moia explained so the Board knows, because there is no water and no sewer in the area, the State would mandate a minimum of point five acres, and the could not get less than one-half of an acre, it would be against the standards; because the zoning is incompatible with the land use, they are trying to make the land use more compatible, they would have a minimum of half of an acre, maximum would be as big as they want; and obviously they would be discussing what that minimum would be, because they have to make sure they have enough lots to make it developable. He went on to say they will probably not have half-acre lots, but will they have all one-acre lots, he does not know, and there is room for discussion to make it, obviously they would like to make it a good development, but they also want to make it a viable development, because of the lot count and the wetlands and the flood plain prohibits them from getting a lot count, then the project is not viable; and they would be definitely amenable to discussions about lot size.

Commissioner Lober stated he appreciated that.

Mr. Moia stated one-half acre is an absolute minimum.

Commissioner Lober stated he probably picked up on, normally he is one to go along with the Commissioner in whose District the project falls, he thinks he has in every other instance up to this point, but this is a little bit different in his mind that the Board is actually asking for more information; he will tell him, when the Board receives that additional information, if he is equivocal, he will go the way Commissioner Tobia goes on this.

Mr. Moia stated he understands.

Commissioner Lober noted to out it out there, he will support sending it, but that does not mean that he is thrilled with it, or he is a solid yes down-the-road.

Mr. Moia stated they will be negotiating a BDP and will have all of that stuff established, so the Board is happy, and everyone is happy.

Chair Isnardi stated she would like the public to know that she got a public comment card, public comment has already been closed, this is the applicant rebutting the public comments, and re-iterated the Board has already been through public comments and that portion is closed.

Commissioner Pritchett stated the only hesitation sending it is that Commissioner Tobia is hesitant, but since this is going to come back, just so Mr. Moia knows when he comes back and is ready to make a move later, he will need to get with the Commissioner in that District and she has learned in her District, one really has to work through all of these things diligently, so that is going to carry a heavy weight when the Board comes back, what that Commissioner's opinion is; and there are pros and cons to this; and one of the pros is that there is no stormwater on the whole area right now. She went on to say when the applicant brings this in, they will actually develop some stormwater storage situations, which will be a benefit; so she is interested in what the applicant brings back later; she thinks it is probably fair sending this to the State at this point; and doing that portion.

There being no comments or objections, the Board approved transmittal of the 2019.1 Large Scale Comprehensive Plan Amendment for Douglas and Cindy Robertson, to change the Future Land Use Designation from Residential 1:2.5 to Residential 1.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Rita Pritchett, Bryan Lober, Kristine Isnardi
NAYS:	John Tobia, Curt Smith

ITEM H.17., APPEAL OF ORDINANCE INTERPRETATION - SECTION 62-2694(c)(1)

Chair Isnardi called for a public hearing on an appeal of Ordinance Interpretation - Section 62-2694(c)(1).

Commissioner Lober stated he has a disclosure regarding this Item; it looks like on February 19, was the date he met with Mr. Moia to discuss this particular Item, and he believes there was a follow-up email on this as well from Mr. Moia.

Chair Isnardi stated she thinks she spoke with Mr. Moia on this a while ago for about three minutes, so she has disclosed that as well, and she thinks that was actually at the same time on the 28th or so; and Commissioner Pritchett, as well.

Darcie McGee, Natural Resources Management Department, stated this is an appeal of staff's interpretation of the Wetlands Protection Ordinance and Policies; the appeals of staff's interpretation of wetland impact and the applicant states that a known net loss scenario may be achieved by re-locating existing wetlands on site; and staff's stance at this time addresses wetland area only, not the mitigation of wetland function. She went on to say the wetland protection Ordinance prohibits development in functional wetlands except where specifically allowed in Code; the residential subdivisions are permitted to have 1.8 percent of their project area in wetland impacts; both the Comprehensive Plan and the Code require no net loss mitigation is determined by the States Uniform Mitigation Assessment Methodology, also known as UMAM; this is a multi-faceted wetlands function assessment and is quantified through vegetation, soils, hydrology, and the surrounding landscape; the wetlands serve critical functions in the community like flood storage, ground-water recharge, sediment, nutrient and pollution filtration, including denitrification, wildlife habitat, and erosion control; and mitigation must offset the losses of the wetland function, not merely the area of the wetland. She pointed out in order for the relocation to be true mitigation, one must create a new wetland that provides the same functions as the wetland that is impacted; the wetlands at this site are primarily fresh water marshes, that indicates they are holding stormwater and not ground water, they contain a wide variety of mature oaks, pines, and hollies; and it would probably take decades to establish this kind of an ecosystem and would require continued monitoring and maintenance to ensure its success. She went on to say staff does have another unknown at the site, which is the stormwater, as she said it is freshwater marsh, so it is probably holding stormwater, it is definitely receiving water from the surrounding area; they do not know if there is a legal positive outfall, so there is a concern with stormwater as well; and she asked the Board for its direction on this.

Commissioner Lober stated he would ask if Mr. Moia has a chance during the time he is commenting, if he sees fit, one of the concerns he had following their conversation about this Item in conjunction with speaking to staff, pertains to the difference in simply looking at

and evaluating the area or volume of a particular wetland and duplicating that area and/or volume elsewhere, and then also looking at function. He added his concern is one of whether or not the applicant is planning on doing would really duplicate the function; in discussing it with staff, it was brought up, among other things, that they have decades of oak, pine, and all sorts of varieties of trees and plant-life that might be difficult to duplicate either in the same volume or the same area; and if the applicant could address that to some degree, he would appreciate it. He pointed out the other concern that he has, and he thinks everyone has probably picked up on, is the fact that he does not respond well to people threatening lawsuits against the County, and typically, that is the best way to ensure that he does not support that particular point-of-view, so if someone would like to try some reverse psychology on that basis it might be successful, he does not know; he has not been threatened with any lawsuits on this, but he does have some concerns that there may be some substantial cost of defense if the County were to get sued on this; and that is not the be all end all for him, but it is a concern he does have, at least to a degree, it is something he cannot get out of his mind, just due to how novel this is. He explained he gives the applicant incredible credit for coming up with something as unique as this, and he really does mean that in a positive way as possible, but his real concern is, again, is if the applicant could address and touch on function rather than just on volume and area, he would really appreciate it during the 15 minutes he has.

Commissioner Pritchett stated she understands Mr. Moia is going to present in a minute, but she has tried to figure out a way to make this work in her head; she spent a lot of time with staff, and received Mr. Moia's input; and at the end if it, they are high quality wetlands, she does not think he will be able to actually, in the best-case scenario, mitigate all that; and when he is done speaking, the Board will hear what he has to say in this, but she did come up with an option for him that she thinks will work; and that area there is great growth coming, a population it seems to where all the Cape workers are trying to settle in, and all of the multi-family, in the apartments in the area, even the new ones that have been built, are full. She explained if he would consider doing a denser project on one part of this and go ahead and do the residential, she thinks he could make a lot of money, and she thinks it would be really good for the area; she wanted to throw that out to him, because she thinks he would still get the same yield of the 417 he is trying to get; but she thinks that may be his best option, because she really tried hard to find a way to make this work; and she really is pro-growth, especially up in District 1, because it is so needy for these things. She added she tried hard to wrap her head around it and figure out a way to do this, and she does not think she will be able to support this tonight, but she wants to hear what he has to say in case he came up with something worthy, but she just wants to let him know that she tried really hard to make this work, and she just does not think the numbers are adding up as far as trying to protect this property and cause no harm.

Bruce Moia stated he is fighting kind of an uphill battle here; he is not a developer, he works for a lot of developers, the only thing he can say about multi-family in this area is what he has typically seen is they tend to go in locations where there is something to support them, some activity, and there is no activity in Sharpes, there is no shopping, there is no restaurants, there is no bars, no night life, not really a whole lot going on in Sharpes except for Department of Transportation (DOT) and the prison. He added he does not think that is the selling point, he does not know if that is even an option; he does know the developer that owns the property and that is not what he does, he does single-family homes; that is what he has done for years, they are a family business and that is what they do; and the wetland quality is a new twist, he is also not an environmental consultant, even though he owns an environmental consulting company, but he has an expert that works for it that he

wished was present. He added this may or may not be correct, but he is sure Ms. McGee will correct him, but he does not think the Comprehensive Plan or the Code talks about quality, they just talk about function; it could be UMAM, it could be the top, it could be 10, it could be a one, it is irrelevant; the impact rule is still 1.8; and it could be the worst, most infested wetland possible, and still be called a wetland, and not be able to be impacted, relocated, or recreated in an improved condition. He noted maybe some of these are in really good condition, they have scattered wetlands, some of them are isolated, some of them are less than one-quarter of an acre, and he cannot imagine that one-quarter acre wetland has any quality to it, especially when surrounded by homes; he would think that the function would get lost, he would think the function of that quarter or multiple quarter acre lots would best be served as being adjacent and part of a larger system rather than having all these scattered half acre and quarter acre wetlands, they would have a nice full acre wetland system that would actually do something. He went on to say it would actually create a habitat and have some real function, as opposed to being surrounded by homes and basically getting run-off from the yards; he does not know the quality of the wetlands, and the Code is not specific on that, which he thinks is a shame, because one could actually create an improved wetland; but the Code would not let one do that. He explained that is at least that is the way it is being interpreted; he thinks his argument on the appeal was that it does not define what an impact is, it does not define it; so, it does not say one cannot relocate a wetland, it does not say if one has three acres of wetlands and one moves it, and one still has three acres of wetlands that that is not a no-net loss, to him it sounds like a no-net loss and meets the Code, but it does not say one cannot do that; and it does not say one can, but it also does not say one cannot. He advised it depends on how the Code is read, is it permissive or is it restrictive; he inquired which way the Board looks at Code; he noted he understands staff pretty much has to look at it more restrictive, and that gives them the ability to come before the Board to appeal that decision; and it has happened more than once. He went on to say in this case, because this project is teetering on the edge of existence, they came up with this idea, how about they just re-located the wetlands; at least it makes sense, he does not believe the Code says one cannot do it; and that is why they are appealing this because they are losing the viability of the project. He added he thinks Sharpes needs that shot in the arm; it needs something out there, he knows the people across the street, they are dying to see this project come through, because they want neighbors, they want people to come, because when people and houses come, restaurants come, night life comes, commercial activity comes, all those things start to come that are not there now; and they have looked at this thing several ways, they have re-designed this, looked at it every which way they can to make it viable. He stated they have made smaller lots, but there is no smaller product available right now, so he does not know if that is all that important; he thinks the important part is is he does not think the Code is specific to say one cannot relocate wetlands; it does not talk about whether they are pristine; they can go through there with staff and say to leave this one, but this one is not that good, they can move that; and they can try to preserve the better ones, he thinks that makes sense, because those are the ones that will cost them more to move and re-create. He noted they can work around those; as long as they can work around enough to make it happen, he does not think anyone gets injured here; and he does not see why the Code would be restrictive, the Board is the only ones doing this, and no one does this. He went on to say no one else in the County has a Code that restricts the amount of wetlands one can impact; then Commissioner Lober talked about lawsuits, because when the Board tried to change the Code when he was on the wetland task force, they tried to make changes and the Sierra Club stepped in and sued the County and now there is this. He added whether they would sue because of this one little project, he does not know, he doubts it, he cannot imagine they would.

Chair Isnardi inquired if Mr. Moia knew of another municipality that does this.

Mr. Moia responded no, not one.

Chair Isnardi inquired if he knew of another municipality in the State that does this.

Mr. Moia replied he does not know about the entire State, but not one in Brevard County.

Chair Isnardi stated they had this discussion some years ago; this has been an ongoing discussion with other people that have tried to do things because there can be a wetland that has no habitat at all, but is considered a wetland.

Mr. Moia stated it could be a landfill with a wetland and one would have to so this.

Commissioner Pritchett stated part of the problem with this property that the developer is wanting to build on is really wet; it is very close to the river; a lot of that runoff grabs the water and treats it before it ends up getting into the Lagoon, and it is really not far away from it. She added there are a lot of complications going in with this; when she ran the numbers or mitigation, he is still coming up a little short, even in the best case scenario; and she really tried on this, she just could not get it to work to be where she thought was going to work and not cause harm to the wetlands and the surrounding properties. She noted that area is blowing up, there is a school close by, all the Cape workers are starting to move in that area, there is a lot of development going on, and she really believes that if he puts in an apartment complex, it will fill up, or a multi-family. She advised it is what is coming in, it is because the younger people are moving in, and they do not necessarily want big homes or yards and are looking for those types of places to move into. She explained there are a lot of those developments starting to go in to the north end, and she thinks he has got a great piece of property here; she thinks he will really develop something nice, she thinks they will make some money, too; and she hopes they get rich on what they develop, but she is just not going to be able to approve this tonight.

Commissioner Lober inquired if anyone had seen those cartoons or movies where they have a devil on one shoulder and an angel on the other, as that is how he feels at this moment; he is kind of conflicted as to how this goes; and he is not sure which side represents the devil and which side represents the angel either, but as a general premise, his thought, not just with the zoning, but with it all in general is, do whatever the heck one wants provided it is not prohibited by some law, rule, or regulation. He added if there is some ambiguity as well, his thought with that as a general rule is whoever drafted it is really responsible for making sure it is directed as clear as it ought to be, and it should not be construed against the party that did not draft it, so those are two general rules representing either the angel or devil, depending on how one wants to look at it. He noted he does not know whether he thinks this is ambiguous or not, he thinks it is one of those things that could be argued either way; on the other side, either with the halo or the pitchfork, is his general premise that if it is a property-related issue, he is going to defer, with the exception of this one item where Commissioner Tobia had stated very bluntly to vote ones conscience, and had he not stated that, he does not know he would have voted the way he voted; and his general rule is to support whatever the Commissioner whose District the project appears, in whatever decision they have, even if he might not vote that way in his District, this is something where it were not in his District, he would be more inclined to

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support it. He stated he does not know that he would, he might, but given that she is against it, he is equivocal, he just does not know that he can at this time; and he apologized.

Chair Isnardi inquired if the Board had any more questions for Mr. Moia, and after the next speaker, he can come up and rebut, because the Board did more talking than he did.

Mary Sphar, representative of Sierra Club's Turtle Coast Group, stated Watermark Investors is asking for a rather unorthodox definition of wetland impact; so, the wetland impacts would mean wetland filling minus wetland creation onsite; this stark, simplistic, mathematical line of thinking does not acknowledge the complexities of Brevard County's attempt to achieve no net loss of wetland function; furthermore, Watermark suggested interpretation of wetland impact is not the intent of the words wetland impact. She advised in Policy 5.2.E.1a of the Comprehensive Plan, since at least 1995, the basic no net loss wording and the limitation on residential land uses and wetlands have been a part of the language; and the language was expanded slightly, but not weakened as a result of the stipulated settlement agreement in 1999 between the County, Sierra Club, Audubon, and Florida Native Plant Society. She noted later the words "wetland impact" were added to this residential policy; as a result of the west Viera Comprehensive Plan Amendments negotiation, which was requested by Commissioner Mary Bolin-Lewis; and involved the Viera Company, Sierra Club, Audubon, Partnership for Sustainable Future, and Florida Native Plant Society. She added with the County joining after preliminary discussions; the result was an amicable win-win for all, and during this negotiation, Viera attorney, Jay Decator asked if the policy could specify the exact percentage of allowable wetland impacts, 1.8 percent, to make the language more clear. She went on to say this suggestion was favorably received by County Attorney Scott Knox, and Christine Valliere, and Viera Attorney, Duke Woodson, as well as others in attendance, since everyone wanted the language to be clear. She noted the staff report with the Agenda package explains the industry standard for wetland impacts as quote, 'any dredging or filling of wetlands', she must say that since 1995 when she started looking at the wetlands policies, she has never been aware of anyone who did not clearly understand what wetland impacts meant until Watermark. She went on to say for years Commissioners directed County staff to coordinate with St. Johns River Water Management District (SJRWMD) on mitigation oversight to avoid duplication of effort, to address that concern, in 2003 or 2004, Comprehensive Plan Policy 5.3 was modified to clearly indicate when the State approves the mitigation, the County justifies land use and density requirements of Policy 5.2; Watermark's unorthodox interpretation of wetland impact would result in duplication of mitigation adequacy evaluation, something very strongly opposed by many Commissioners in the past; and she requested the Board deny this appeal. She noted the Board can suggest and it has been suggested Watermark consider adjusting the design of the project.

Chair Isnardi inquired if Mr. Moia had any rebuttal.

Mr. Moia stated he is not sure where she got her definition from a wetland impact, but it is not in the Code, and it is not in the Comprehensive Plan; it is just not there; there is wetland function, there is a definition for isolated wetlands, there is a definition for wetland function, no definition for wetland impact, it is not there; and he does not know where she got it, or if it matters where she got it, because if it is not in County Code, it is not there, and it seems to him it is subject to interpretation. He added personally, he does not know where the quality of the wetland came from, because looking at the pictures, the discussion from the environmental staff, there was no discussion on the quality of the wetlands; maybe Ms. McGee went to the site and looked at it herself; and if the Board has been out to the site, it

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is a dump, there is debris all over the place, it has been a dump site for years, and he believes and suspect that most of the wetlands were created because there used to be a digging operation on the site, and they probably took dirt out of there. He advised these are not by any means pristine wetlands; if this passed, he would show the Board pictures, but they are all on his computer, and he does not want that taken for public record; but there is definitely clear evidence of debris, and that is just one picture of many; and if this got approved, they would work with staff to identify every wetland, the quality of it, the function of it, and then see if they can replace the function of it; and it used to be done all the time. He noted historically, wetland re-creation onsite used to be used by developers, and when mitigation banks came around, and became available, and became affordable, that option went away because it burdened the developer for a period of time and it cost to maintain that wetland, so it was stopped being used. He went on to say it is not new technology, it is old technology coming back; it has been very effective, it is just cheaper and easier to buy wetland credits in a mitigation bank, it is just easier, so he still emphatically states it is not defined in Brevard County Code, it does not define it in the Comprehensive Plan; and if it does not define it, and it does not prohibit it, how can the Board not allow it.

Commissioner Pritchett stated she thinks the good quality wetlands is what the Board gets from staff; she knows the area, and it is really wet and does a really good job of filtering a lot of that water; and that is just one Commissioner's opinion on that, it was not anything from staff or anything like that, but it is just her opinion of the property. She added it is a really nice piece of property; it is close to the Lagoon; when she got the numbers back from Mr. Moia, the amount that was being relocating and mitigated was just some numbers off, she was trying to get wrapped around it, but, best case scenario, and she is not going to vote this through, but if it gets through, there would be another issue of trying to figure out what to do with all the stormwater at this point, too, because she is not sure how they would work the capacity. She advised it would have a lot of hurdles, but tonight, as far as changing the Code to do this, she is not going to vote in favor of this tonight.

Mr. Moia explained he understands he may not change the Board's opinion, but currently, that site is as it saw, a dump; basically whatever rainfall is on that site is going through that debris and going straight into that wetland; what they would do, is create stormwater ponds and route all the water to the stormwater pond that would get treated before it got discharged to the wetland; and then the wetland would be accepting treated water instead of water that is going there now, which is going through all this debris, garbage, rusty tanks, and all that is there. He went on to say it is getting worse water now than it would get in the post development condition where they would pre-treat the water, then they would hydrate the wetlands and they would still not discharge any more water off the site than is going on now, except what they would do is route that water to the big wetland where it can get even more treatment before it would finally outfall at the same rate or less than is occurring now. He noted they would have large lakes with houses, roads, drainage systems, going to the retention ponds then the water management district would make them re-hydrate the wetlands with the treated water so clean water would go into those wetlands to actually enhance the function of those wetlands instead of polluted water going into those wetlands, and then it would discharge ultimately where it goes now, to US1, or the railroad tracks, or wherever it goes on Camp Road. He reiterated it would be an improvement over what is happening now.

Commissioner Pritchett stated she thinks he would have to do that anyway as it is developed; she inquired if the owner is allowing people to dump on his property.

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Mr. Moia replied no, that has been there for years, way before he bought it.

Commissioner Pritchett asked if the Board needs to do something to clear some things off of it that should not be there; she knows he showed the Board some things, and people do that on empty property; but that might be something that should be addressed later; and she did the math, she did not come up with the full impact because there are 14.4 acres, there was another number up, and in all fairness, when the applicant put this in, they were still going to go do due diligence and they came back, and it just did not fit. She stated she gets it, they tried everything to get this done, but she just does not think that they will be able to pull that off on this property.

Commissioner Tobia stated he is going to support Commissioner Pritchett on this one, however he does understand the predicament that Mr. Moia's client is placed within; it sounds as though he or his client would be more than willing to deal with the mitigation banking that most municipalities offer; he has partaken in it when he purchased a piece of land; and it sounds like the Board is going to go with Option 1, but he would like to add, he would like to modify the Comprehensive Plan, and Ordinance to make them consistent with the minimum standards set forth by the State and the St. Johns River Water Management District. He added if the Board did that in the future, he believed this would probably provide a great deal of benefit; it would not do it immediately, and this is a time consuming process, but at least it would stop the Board from being in this position next year, or five years from now, or 10 years from now; and asked that at least staff work on that and bring it back to the Board as an option to forego this in the future.

Chair Isnardi inquired if he is requesting that the Board modify not to require the 1.8 percent impact; she is just trying to understand and would like it for her own benefit.

Commissioner Tobia stated the 1.8 percent is something made up by the Board and it has caused a great deal of concern to developers as well as all sorts of individuals, so the State as well as the SJRWMD has set up standards, and he thinks those are fine standards if he was going to impact wetlands, and the State has set forth places where that mitigation can take place and monitor, to make sure those are well maintained; and is 1.8 percent a joke, absolutely. He added any standards the Board sets above State and SJRWMD are fair.

Chair Isnardi stated for the record, when she asked County staff about this before, and it was not Mr. Abbate, but when she requested and asked why the Board did that, it was because the County staff said they defer to the Board to make its own rules is what she was told; she does not agree with that and does not believe that that be the case, because back when the Board had its builders roundtable, that was always a concern, because 1.8 percent of any property could stifle an entire development because someone has a puddle in their yard that somebody considers to be a wetland; and she agrees with Commissioner Tobia, she looks forward to that coming back to the Board and she supports him on that measure.

Commissioner Tobia inquired if the Board could wave a magic wand, if there was a green light doctrine, would this solve his problem, if he was able to buy credits at a mitigation bank, would that alleviate the concerns that he is currently having.

Mr. Moia responded affirmatively.

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Commissioner Tobia stated he understands it is not immediate, but unfortunately, with Mr. Moia sitting on that board, it would have been a lot more helpful; it sounds like he has a lot of friendly faces and he wished he would have brought this to the Board's attention earlier, because it was the first time he had heard about it, but the Board can correct that problem now as it goes forward. He stated he would put this out there to make a motion for discussion to deny the appeal, and ask staff to bring back a modification to the Comprehensive Plan and Ordinance to make them consistent with minimum standards set forth by the State and SJRWMD.

Commissioner Lober added for the Board's review.

Commissioner Tobia responded affirmatively.

Commissioner Pritchett stated she loves that, one of the questions she had asked staff was if this went through, they said it would have conflicted with SJRWMD, so she thinks this is a little aggressive of what was being tried; she showed her appreciation to the applicant for trying; and she added she tried to make it work, too. She added there might be another plea with something that is not so drastic, she does not know if Mr. Moia is hearing her on that, but that is something the Board needs to look at and change as far as how much is mitigated, but from what she heard for when he was on that board, they are the ones that decided those numbers.

Mr. Moia replied no, he was on the board, but those numbers did not come from that board, that was part of a settlement agreement.

Chair Isnardi stated since she fundamentally, absolutely, and completely disagrees with the 1.8 percent, like she said, she has known about this problem at the County; the Board, unlike any other municipality, in the surrounding area, have this crazy restriction; she can see, and she knows the intent is pure, one wants to make sure they are not impacting wetlands, but she does agree with the premise that it is not clear in County Code; and with that, it is not against the Commissioner, but with the fact that she absolutely and fundamentally disagree, she would give anyone her approval on an appeal on anything that the Board has that has to do with the 1.8 percent, because she thinks it is absolutely abusive, restrictive, and unreasonable. She went on to say one could have a small little parcel that they want to build something on, and one is bound by that; she does not agree with it; she will support the appeal, but the motion is on the floor is to deny; and she will not be supporting the denial.

Commissioner Tobia stated if she is going to support one, he does not want to put her on the record against the second one, so he is going to pull back his and the Board can separate the motions; and he thinks it would probably be better for staff.

Commissioner Lober stated he would let his second stand as to the second portion of what he was proposing as far as sending it to staff to come back with a recommendation.

Commissioner Tobia stated he will not make the motion to deny, though he will vote for it, but he would like to make a motion to modify the Comprehensive Plan and Ordinance to make sure they are consistent with minimum standards set forth by the SJRWMD.

Chair Isnardi inquired if that was the first motion.

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Commissioner Tobia responded affirmatively.

There being no further comments or objections, the Board directed staff to bring back to the Board modification to the Comprehensive Plan and Ordinance to make sure it is consistent with minimum standards set forth by the State and St. Johns River Water Management District for its review.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Bryan Lober, Vice Chair Commissioner District 2
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

ITEM H.17., APPEAL OF ORDINANCE INTERPRETATION - SECTION 62-2694(c)(1)

There being no further comments or objections, the Board denied request of Watermark Investors, LLC for appeal of Ordinance Interpretation of Section 62-3694(c)(1), as it applies to 129.68 acres of residential property located on Camp Road and west of U.S. Highway 1.

RESULT:	DENIED [4 TO 1]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	John Tobia, Commissioner District 3
AYES:	Rita Pritchett, Bryan Lober, John Tobia, Curt Smith
NAYS:	Kristine Isnardi

ITEM L.1., BOARD REPORT, RE: FRANK ABBATE, COUNTY MANAGER

Frank Abbate, County Manager, requested the Board cancel the Budget Workshop scheduled for March 21, 2019; he believes the Board has covered everything it needed to cover in the last Budget Workshop, unless the Board decides to have it.

Chair Isnardi inquired if he needed a motion.

Mr. Abbate responded affirmatively.

The Board cancelled the Workshop scheduled for March 21, 2019.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Rita Pritchett, Commissioner District 1
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Lober, Tobia, Smith, Isnardi

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ITEM L.4., BOARD REPORT, RE: BRYAN LOBER, COMMISSIONER DISTRICT 2, VICE CHAIR

Commissioner Lober stated he would like to apologize for this coming Tuesday, he knows it is going to run real late on account of a couple Items he has on the Agenda.

Chair Isnardi stated the Board is going to keep him leashed up a little bit.

Commissioner Lober stated that is fair enough.

ITEM L.5., BOARD REPORT, RE: JOHN TOBIA, COMMISSIONER DISTRICT 3

Commissioner Tobia stated on November 1, 2018, the Board was presented with the North Merritt Island Small Area Study, the result of years of work by a group of dedicated volunteers in Merritt Island; the most critical recommendations made as part of this study were to amend Future Land Use Maps for those residents agricultural properties, more than two and one-half acres to Res.1 to 2.5, at the time, the Commissioner of District 2 opposed this recommendation, and it failed to get support from the Board; and the Board has now heard the evidence that shows water in that area flows more like a river than an estuary, which probably supports the change. He went on to say most significantly the citizens of District 2 have elected a new Commissioner, so he is asking this because of Sunshine and if this came up, he would not be allowed to speak with Commissioner Lober, so he knows he posted this on his State site; and he is just interested to hear Commissioner Lober's view on this, and express his willingness to bring it back to the Board for reconsideration if he has an opposing view from the previous Commissioner.

Commissioner Lober stated he guesses he is on the spot.

Chair Isnardi stated he did not know this was coming.

Commissioner Lober stated no, he did not know this was coming.

Chair Isnardi stated he is not responsible for answering if he would like to look into it.

Commissioner Lober stated he will answer it to the degree he is able to, and he does not know if this is going to be the most direct answer in the world because he was not prepared to be asked the question, but he will say this is something he is still trying to get a full grasp of. He added he had a pretty good idea in terms of the situation up there, but as recently as this week, Mr. Denninghoff and several other staff members and himself went on a field trip about three and one-half to four hours through Merritt Island to look at the drainage situation; he understands Commissioner Tobia may have taken a trip in the past, although he has no idea what he did or did not say during that trip, he just understands he may have taken that trip. He noted he had been going to just about every North Merritt Island HOA meeting, he has heard from the people up there, he was at the North Merritt Island HOA meeting this Monday, or this past Monday where they had both County employees addressing dredging and also some people from Florida Inland Navigation District addressing the dredge site in North Merritt Island. He advised he does have concerns over the requirement with respect to compensatory storage, he thinks that fortunately or otherwise the way that things have worked up there, and when he says up there, he means north of the Barge Canal, in particular, he would say north of Hall Road is probably where the flooding really becomes an issue for the most part with some exceptions. He added there is a situation that has developed whereby land is there that is accepting water from

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adjacent property owners from the fundamental sense of fairness, he does not know it is the most fair thing to say to people that are looking to develop and make beneficial, productive use of their land that not only do they expect one to take care of all of the water that falls on one's property, but they also would like one to take care of the water that has historically run onto one's property, however he thinks the circumstances in Merritt Island particularly north of Hall Road are different enough that that general rule may need to be set to the side, so that the Board address compensatory storage, as far as the acreage up there, he does not know that he is as concerned with that as he is with the requirements of storing water that both has landed on a particular piece of property, as well as that which has historically run onto that piece of property. He went on to say he definitely does not want to see home sites smaller than one-acre, but whether he wants to bump that to 2.5, is going to depend largely on what happens with respect to that compensatory storage and he has been working with Mr. Denninghoff; by saying he has been working with him, he has basically been giving him a little bit of homework that he has been gracious enough to accept to look into whether the Board's classification whether it is riverine or estuarine. He added that is to see which of those two fit, because from the best he can tell, the system that has been in place has been one that was put in place for reasons other than science and he would like to have whatever the Board does be supported by the facts by the staff that the Board currently has, and if it is staff's opinion that the classification is not appropriate, and may or may not ever be appropriate, he would give great weight and deference to whatever staff's opinion is with respect to that; and he would ask that if he has any plans with respect to that to hold them for a little while. He added by a little while, perhaps three months, maybe, something in that ballpark, because he is actively working with Mr. Denninghoff on this issue and it is not something he intends to let go, but he does not want to do anything impulsive, it is a big concern, it is a huge area of concern for him, a huge area of concern for some of his most vocal constituents; even if they are not the most numerous constituents, but he can assure him they were having discussions as recently as this week as to whether or not an additional 24 or 30 inch pump would make a difference, because they have two 24 inch pumps and a 12, he believed.

John Denninghoff, Assistant County Manager, stated there are two 24's, a 30, and an 18 that are all permanently installed; there are additional portable pumps, two 24's and two 12 inch.

Commissioner Lober stated he apologized, two 24, and two 12's for portable; his understanding as well is ballpark a 24 inch pump costs about a quarter of \$1 million.

Mr. Denninghoff replied that is correct, it is probably higher than that now.

Commissioner Lober stated they are certainly working on it, he cannot give a very firm answer that is directly responsive to what Commissioner Tobia had asked; but he does promise that those questions and more are going back and forth actively between Mr. Denninghoff and himself; and part of it has been waiting to get more, with respect to progress on that study in North Merritt Island, and he thinks they are receiving more, obviously, with respect to that, but he asks if anyone has any plans or ideas with respect to that to give him a few months to try to get better situated with Mr. Denninghoff on that.

Commissioner Tobia stated his thanks; he added it sounds like something will be coming out of his office; he did not want to certainly preempt that, he just wanted to lend his support, as it comes from his District, he is sure Commissioner Lober is on top of it; and he is letting him know it is something that they dealt with quite a bit. He added he is a little bit

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incensed by the word impulsive, only because of the hard work that the North Merritt Island group has put into it; it has been years and years and for their hard work the Board was very kind and provided them with coins; and he would certainly like to get some help for their issues as it moves forward; and he is glad Commissioner Lober is on top of it with Mr. Denninghoff, so he appreciates that.

Commissioner Lober stated if he said impulsive, he is referring to not doing something himself as impulsively; the rest of the Board has been here longer than he has been there without exception; the rest of the Board may have had ample time to wrap its head around the issue, and to fully ventilate its opinion and confer with staff, but he is still at the process of doing that; and if there was any misunderstanding with respect to what he meant by impulsive, he is referring to himself, not anyone else on the Board or anyone else that has been involved in the process, so he apologizes if there was any ambiguity in that.

Upon consensus of the Board, the meeting adjourned at 6:51 p.m.

ATTEST:

A handwritten signature in cursive script, reading "Scott Ellis".

SCOTT ELLIS, CLERK

A handwritten signature in cursive script, reading "Kristine Isnardi".

KRISTINE ISNARDI, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the Board May 7, 2019

Christine Mulligan-Willey

From: Christine Mulligan-Willey
Sent: Tuesday, April 30, 2019 10:32 AM
To: Lewis, Sally A
Subject: March 7, 2019 Zoning
Attachments: 03-07-2019 Zoning.doc

Hi Sally!

Here are the Minutes from March 7. If I'm not too late, could they be placed on Tuesday's (May 7th) Agenda?

Thanks!

Christy Mulligan-Willey
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Titusville, FL 32780
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321-637-2001 (Clerk to Board)
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