

## PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, August 8, 2018, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

**Board members present were:** Randy Rodriguez, Vice Chair; Vaughan Kimberling; Carmella Chinaris; Gary Musselman, Maureen Rupe, and Wendy Porter.

**Staff members present were:** Erin Sterk, Zoning Manager; and Jennifer Jones, Special Projects Coordinator II.

The meeting was called to order at 6:00 p.m.

### OFFICER NOMINATIONS

#### Chairman

Motion by Carmella Chinaris, seconded by Gary Musselman, to nominate Vaughan Kimberling as Chairman. The motion passed unanimously.

#### Vice Chairman

Motion by Maureen Rupe, seconded by Carmella Chinaris, to nominate Randy Rodriguez as Vice Chairman. The motion passed unanimously.

### APPROVAL OF MINUTES FROM JUNE 13, 2017

Motion by Randy Rodriguez, seconded by Carmella Chinaris, to approve the June 13, 2018, minutes. The motion passed unanimously.

#### Discussion

Maureen Rupe stated staff knows her concerns about scrub jays and feral cats, and she has been to the County Commissioners about it. She said what disturbs her the most is that the Port Saint John board doesn't have the environmental assessment, as it is not done until the request goes to the County Commission. She asked how the board can make an informed decision when they don't have all of the environmental assessments.

Erin Sterk stated the Natural Resources Department includes an environmental assessment of the property as an addendum to the staff comments. Ms. Rupe asked if Florida Fish and Wildlife and others assess the properties. Ms. Sterk replied no, they assess that at the development stage. Ms. Rupe stated from what she read, the Natural Resources assessment is not complete. Ms. Sterk stated Natural Resources reviews properties for scrub jays and other natural resources, and includes several generic, high-level, maps and analyses to the general data provided either by Federal or State agencies, or their own resources. Ms. Rupe noted what she read says that Natural Resources will take no responsibility if they are wrong. Ms. Sterk yes, and as a planning guideline, staff has data layers available, which are applied to properties in a preliminary assessment. At site development, the applicant becomes the one responsible for hiring a consultant to assess the conditions actually on the property, not the conditions available in general data. She said if there were conditions on the property that were to render it undevelopable, like scrub jays that could not be moved, no matter what the zoning classification is, that will be un-earthed at site plan. Ms. Rupe noted that by then, the Port Saint John board has already made its decision on the property. Ms. Sterk stated if the property is left undevelopable because of the environmental concerns on the property it doesn't matter what the zoning is because it can't be developed, so that assessment doesn't need to be done until the developer actually wants to touch the property. She said everything done at the zoning level is theoretical; the actual conditions on the property aren't assessed until they are proposing to change them. Ms. Rupe asked how the County verified

there were no scrub jays. Ms. Sterk replied the County didn't verify there were no scrub jays; staff assessed there were scrub jays on the polygon on the property; staff provided documentation that there was evidence in the past that there are scrub jays on Mr. Ferraro's property; and staff actually highlighted that there probably were scrub jays and that it needed to be evaluated. Ms. Rupe asked why Mr. Ferraro said the feral cats ate the scrub jays. Ms. Sterk replied and applicant can make whatever claims that are unproven and unevaluated that they want to make. She said the potential for scrub jays may or may not influence the board's decision to apply a zoning classification; the board has the information available to it that there could be scrub jays on the property; and if the board were to determine that was sufficient to deny a rezoning request, she doesn't know the potential for something to possibly be out there would deter them from approving a zoning classification, but if there are scrub jays it will stop something from coming to fruition, and that's why at this level that information is not needed to change the zoning. Ms. Rupe stated she will go to the County Commission because she wants more details. Ms. Sterk stated criteria could be put in the zoning code that says it should be evaluated sooner. She noted usually developers seek a zoning change and then spend the money on evaluating the property for development, and if it can't be developed to the desired intensity, then it would probably revert to another zoning. She stated there are several folks who feel that way about things like wetlands and all kinds of things staff could evaluate at the theoretical level, but staff chooses to evaluate it at site development.

Carmella Chinaris stated she knows in theory that the assessments for wildlife should happen before there's any disruption or disturbance on the property, and asked if that is always the case in practice. Ms. Sterk replied she doesn't know; the Natural Resources regulations may have some ability to do clearing at certain levels, but she cannot answer that because she doesn't know the Natural Resources criteria at site development.

Brian Block, 8900 111<sup>th</sup> Terrace, Gainesville, Florida, stated he is an attorney with Concept Development Companies, and his background is wildlife ecology and conservation from the University of Florida. He said his company uses the consulting firm of Atlantic Environmental Solutions before they do anything to a property; and if there's any regulated species they make sure they get the permitting. He said he can't speak for any other developers, but if there are gopher tortoises on the property, if there are any ground disturbing activities within 25 feet of a burrow, developers are subject to fines by Florida Fish and Wildlife Commission, and the fines are punitive.

Maureen Rupe stated she will follow-up with the Commissioners and Natural Resources.

#### **PORT ST. JOHN AGENDA**

5. **Christian Missionary Alliance S.E. District** (Matt Cason) requests a Small Scale Comprehensive Plan Amendment (18S.05) to change the Future Land Use designation from RES 4 (Residential 4) to CC (Community Commercial). The property is 1.78 acres, located on the south side of Fay Boulevard, approximately 950 feet east of Grissom Parkway. (4855 Fay Boulevard, Cocoa) (18PZ00073) (District 1)
6. **Christian Missionary Alliance S.E. District** (Matt Cason) requests a change of zoning classification from IN(L) (Institutional Use – Low-Intensity) to BU-1 (General Retail Commercial). The property is 1.78 acres, located on the south side of Fay Boulevard, approximately 950 feet east of Grissom Parkway. (4855 Fay Boulevard, Cocoa) (18PZ00074) (District 1)

Brian Block stated he is in-house counsel for Concept Development Companies, which has the easternmost 1.78 acres of the Christian Missionary Alliance Church property under contract. He noted he submitted to staff a preliminary site plan (the preliminary site plan can be found in zoning file

18PZ00074), and the board has maps that have been distributed. He stated what is being proposed is an approximately 9,100 square-foot commercial retail store that would have access, right-in/right-out only, on Fay Boulevard, and to the south through Balfern Street, directly across from Rena Avenue. He said immediately to the east is a strip center, and to the east of that is a Family Dollar store. He said the zoning for the church property, including the 1.78 acres under contract, is residential, and what is being proposed would work under Community Commercial land use and BU-1-A (Restricted Neighborhood Commercial) zoning, except that the construction of what is proposed is a pre-engineered metal building; it won't have any metal exposed on the façade, but the structure of the building is pre-engineered metal. Under the Comprehensive Plan, metal buildings are not allowed in a BU-1-A zoning, but they are in BU-1 (General Retail Commercial). Staff took a look at the proposal, and he took staff's concerns into consideration, and they are willing to enter into a binding development plan, which the board has received. He stated Concept Development Companies are sensitive to the concern about opening the door to a much more intensive use, particularly under the BU-1 zoning classification, which would allow for a far more intensive use than is being proposed in terms of square footage, traffic counts, and stormwater retention needs. He said they are open to placing whatever restrictions on the property that would reach the comfort level of the board and the County to enable them to do what they want, which would otherwise be allowed under BU-1-A, but for the fact of the construction of the building is metal.

Gary Musselman asked who is the proposed tenant. Mr. Block replied the proposed tenant is Dollar General.

Carmella Chinaris asked Mr. Block if he is saying that the current land use, except for the metal building, would allow for this to go forward. Mr. Block replied no, right now the zoning is Institutional Low-Intensity, and the land use is Residential 4; and what is being proposed is to change the land use to Community Commercial, and the zoning to BU-1.

Carmella Chinaris stated the traffic report says that this is potentially going to go to 234% of maximum trips, and asked how a binding development plan is going to handle that. Mr. Block replied that is based on worst case scenario, for a fast-food restaurant, or a gas station, but that's not the kind of traffic a typical commercial retail store generates. He said the proposed use will generate about 584 trips per day, which is 85% less than what would be permissible under BU-1. He noted there is no way to limit traffic, but the scope of the development can be limited, thereby eliminating the traffic that it generates. He stated they would be open to any additions to the binding development plan that would address traffic.

Erin Sterk stated the zoning code is structured fairly oddly in that the retail use being sought is available in BU-1-A, but unfortunately, the code was changed in 1995 to not allow for metal buildings in BU-1-A, so if they want to do retail in a metal building, which is the development trend that their company is seeking, then they need BU-1, which is a more intense zoning classification. It's not the use itself, it's actually the structure of the building, and to need a more intense zoning classification to not actually do anything more intense on the property is fairly unusual.

Ms. Chinaris asked what the current land use allows. Ms. Sterk replied the current land use designation is Residential 4, and it's very unusual here. She noted the gas station that's in place today has a Residential 4 designation, and she thinks a lot of the development was in place before the Future Land Use Map existed. She explained the County used to have a residential density map and then it was converted over to this Future Land Use Map and the land use designations were

applied kind of broadly, and they don't exactly line up with every use that's on the property, so until somebody is seeking to redevelop, some things are anomalies. Staff finds that the Institutional Use in a residential land use designation, those things are not consistent, but the church was there before that land use designation was administratively applied. It doesn't make a lot of sense from a planning perspective; in theory, staff could probably go back and administratively process requests all over the county and make things perfect, but there's not all the time in the world to do that, so really, the applicants are correcting those issues. She stated the challenge is that the criteria for Community Commercial is much stricter, and the maximum development that could come out of that, which is what staff is obligated to evaluate in the report, is the highest and best use every single inch of development that could be done. So, that's where those numbers come from, but the tool that they have at their disposal to limit that is the binding development plan, so that's what they're trying to do.

Ms. Chinaris stated her concern is that metal buildings are short-lived, and so are Family Dollar and Dollar General stores. She said the board has to look to what is best for the community in the long-term. She said that is her concern, and she doesn't know how that can be addressed by a binding development plan. Ms. Sterk stated Ms. Chinaris is correct that the binding development plan is only associated with the zoning classification, and the Community Commercial Future Land Use designation would allow for the property to potentially be rezoned to something more intense in the future.

Mr. Musselman asked if a binding development plan can run with the land that restricts the use. Ms. Sterk stated the binding development plan runs with the land, but it is associated with the zoning, and Community Commercial is a greater bundle of rights that several zoning classifications are available under.

Mr. Musselman stated in five years from now, if someone wants to put in a gas station, they could under the zoning, but the binding development plan would stop it, so if something else required a zoning board it would have to go through a public hearing such as this. He said they would be limiting potential future uses of the land without public input.

Ms. Sterk stated the board would be limiting it, and if those limitations were proposed to change, it would come before the board. She noted binding development plans are binding, but they can be amended, and that requires the same public hearing process.

Mr. Block read a section of the binding development plan to the board. "The agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned, and be binding upon any person, firm, or corporation, who may become the successor in interest directly or indirectly to the subject property". He stated if somebody were to come along at the end of a 35-year lease and say they want to make it a gas station, that document, being recorded in the public records would not permit that unless it went back through the regular public hearing process.

Wendy Porter stated the staff comments say, "The area along Fay Boulevard from I-95 west to U.S. 1, is almost all residential", with the exception of the two parcels mentioned. She said the board is not here to rectify the past, they are here to protect what is there now, which they pride themselves on being mainly residential, from things that are happening already, such as Family Dollar. She stated the staff comments go on to say, "There are no parcels within the surrounding area with a Community Commercial Future Land Use designation. The nearest Community Commercial is along

the U.S. 1 corridor, approximately two miles east of the subject property". She asked the applicant why have a Dollar General right alongside Family Dollar, and what is the purpose in doing that. She noted Port Saint John already has similar stores and it's just one more thing that takes away from the residential pride of the area.

Mr. Block stated he echoes Ms. Porter's concern about preserving the community and the standards the residents want. He said the tenant, Dollar General, identified an area where they feel a store would perform. They do an analysis and publish a list twice a year, and preferred developers get that list and then they're charged with the responsibility of pursuing the property to meet the tenant's needs. He noted it's not unlike a CVS and Walgreens caddy corner from one another, or gas stations across the street from one another, and the fact that there's a Family Dollar two parcels over is actually attractive to Dollar General because it's competition.

Mr. Musselman asked if the outside of the building will be similar to Family Dollar. Mr. Block stated it varies; he has seen split-face block on three sides; he has seen stucco; and he has seen just the metal siding in rural locations. Mr. Musselman stated all buildings are metal at some point, and asked if the studs are metal. Ms. Sterk stated it's the framework itself, and if it has metal studs, it's the interior construction. Mr. Block stated it is governed by the Florida Building Code.

Mr. Musselman stated the concept plan shows egress and ingress onto Balfern Street, and he is more concerned with having egress and ingress in a residential area than he is with putting another commercial building on Fay Boulevard. Mr. Block stated because Fay Boulevard has a divided median right there, that connection onto Fay Boulevard is only a right-in and right-out. Mr. Musselman stated that is how it is for everybody else along there. Ms. Sterk stated that is not true, as a left can be made from almost all of those properties. Mr. Block stated there is a curb cut that is full motion access, right-in and right-out. Ms. Sterk stated it quits right at the next driveway entrance to the east.

Mr. Block stated full-motion is a requirement of Dollar General; there has to be a secondary access. He said they approached the church to see if they will allow through-access to their existing drive aisles, and exit to the west on Stillwater, but they are not interested in doing that. Mr. Musselman stated he doesn't have an issue with commercial development on Fay Boulevard, but dumping cars in a residential area is a concern.

Ms. Sterk stated that's one of the reasons why with a property that's as intense as Community Commercial, some of the Comprehensive Plan policies necessitate that it be at an actual intersection so cars can come out and make full turning movements. She said she can't speak for traffic operations, but there's not a determination that the medians will change to accommodate the new driveway access. They would be coming out and making a U-turn.

Mr. Musselman stated in June, when Mr. Ferraro was in front of the board with his proposal, he challenged him on traffic back-up on Fay Boulevard because the more congested that area gets, the more potential there is for rear-ending accidents. He stated he is not comfortable with it.

Ms. Porter stated the staff comments note that things to consider are the impact on adjacent local roads and the surrounding single-family residential development. She said no matter how much traffic there is, it will be double, or more, what is there now.

Mr. Musselman stated he wasn't on the board when Family Dollar was approved, but they have the egress onto Adams Place, but that's basically just for deliveries, and he doesn't see a lot the other shoppers using it. Ms. Chinaris stated they also talked about a gate, but there's never been a gate there.

Mr. Block stated access to the site is limited. If the church were on the east side of the property and the vacant portion were on the west, it would be an entirely different situation, but the subject property is not across from the undivided median. He said there is an island right across from Fay Boulevard, so there's really no other good way to provide full-motion access other than, theoretically, the church allowing them to go through onto Stillwater, but that's not on the table.

Randy Rodriguez stated he is uncomfortable with the strength of the binding development plan. He noted when the Family Dollar and subsequent change was approved, the board asked for a binding development plan to restrict the uses that are allowed in BU-1-A, and certainly in BU-1, such as no businesses for alcohol, tobacco, or adult entertainment, because it sits on the front door of a school. He noted the subject property is not quite as close to the school, but he would rather not see those uses close to children, so he would ask Mr. Block to add those.

Mr. Block stated whenever they buy a portion of a property they restrict the remaining property and their own property, and it's a lengthy list of what they consider nuisance uses, or direct competitive uses, and adult entertainment is on that list.

Ms. Sterk asked Mr. Block to share the mechanism he used to limit the uses on the property. Mr. Block explained that if they are going to be sharing access they put the restrictions within a reciprocal easement agreement; and if they don't, it's a standalone restrictive covenant that binds both of the properties. He said the only difference between the restrictions on the church's property and the property that they would own would be that they would not be allowed to build a Family Dollar, or one of the direct competitors.

Ms. Sterk stated Paragraph 3 of the proposed binding development plan clarifies that the developer shall limit the density, which she thinks should say the maximum floor area, to 9,300 square feet, single-tenant commercial retail stores. She said she hopes the applicant will clarify the language to limit the use to retail, but cigarettes and alcohol can be sold as retail.

Mr. Rodriguez stated as for the traffic and the outlet on Balfern Street, he has the same concerns, but in looking at the drawings, he doesn't know how the delivery trucks will enter and exit any way but to come in the property through the back.

Rick Cooney stated he is the Pastor of Christian Missionary Alliance Church, and when Jim Ford, the realtor, came to him to mention Stillwater Avenue access, he might have said no. He said he doesn't recall the conversation, because then Mr. Ford mentioned the adjacent access at Balfern Street, which was amenable to the church because it wouldn't go across the church's property.

Mr. Musselman stated he doesn't think people would be happy with semi's in their front yards. Mr. Rodriguez stated there's an area on the south side of the building that's lined out, and asked if that is required retention, or if it is an area that could be used for retention. Mr. Block stated retention would be required, and that's where they placed it because of the adjacency on the southeast, the

residences there. There would be a visual barrier, a vegetative buffer, and stormwater ponds. Mr. Rodriguez stated he is just thinking about managing large trucks; he doesn't think anybody would mind the number of passenger cars that come in and out of there that do business with the store; he's seen the existing one, and he's seen Fay Plaza enough, and it's not a massive amount of traffic, and it will handle that much better than it does at the beginning and end of the school day, but semi's back there is an issue.

Mr. Cooney read aloud a petition in favor of the requests and distributed it to the board and staff. (The petition is part of the public record and can be found in zoning file 18PZ00074)

Ms. Porter stated the staff comments say that currently, "Fay Boulevard has a level of service of 'B', and a Future Land Use change to Community Commercial would create a level of service of 'F'. This segment of Fay Boulevard has a maximum acceptable level of service of 'E', which is the lowest", and they are saying it could be an 'F'. She noted there is nothing but negative regarding traffic.

Ms. Sterk stated the assessment was completed prior to staff receiving the limitations on the property proposed by the applicant, but staff has not yet run an assessment on what the restrictions that they've conveyed in the binding development plan would generate.

Ms. Chinaris stated the traffic study was done in 2016. Ms. Sterk stated staff uses the most recent available data. Ms. Chinaris stated that is fine, but it is two years old.

Mr. Rodriguez stated the on the first page of the staff comments, in the bottom table, the current volume, which may be old, is 13,592, and the volume with proposed development, 26,705. He noted there's something a little askew in that, and by using that number, it certainly drives to the other points.

Ms. Sterk stated had the binding development plan been submitted with the application, when the report was done, the report would reflect the limitations that they are conditioning themselves with. She said she will have new numbers for the board in a few minutes.

Ms. Rupe stated she would rather have all the information, not after the board has made a decision. Ms. Sterk stated she wished that in the two months since the application was submitted, that staff had the information from the applicant sooner, but it was not received until today. She said she would have evaluated it if she had it.

Ann Bard stated she is really emotional about this because she lives on Fay Boulevard, at the corner of Stillwater Avenue. She said she sees the children coming past her house every day from the school, and they do cross at Stillwater Avenue, because they don't want to go to the light by the gas station, and it scares her that they could get hurt. She's lived there for 15 years and the increase in traffic has been horrible; she can't even back out of her driveway sometimes because it's so bad in the mornings. She stated she knows the church wants to sell that land, and she appreciates that they have that right, and she knows it was residential and now they want commercial, but she doesn't want a Dollar General. She said the neighbors fought Family Dollar and now they're going to get a Dollar General. She said there are already a lot of dollar stores in the area. She said she used to travel to work in Orlando and the Family Dollars along Route 50 were good, but she would not go to a Dollar General, because they were dirty inside, there were people hanging around, there was garbage

around, and they weren't maintained. She said she can't believe that this board, or anyone, would agree to put another dollar store in the community, and she'd fight that to the very end.

Mr. Cooney asked the hours of operation for a Dollar General. Ms. Porter replied the hours are usually 10:00 a.m. to 10:00 p.m. Mr. Cooney stated the morning school traffic wouldn't be affected.

Carmine Ferraro, 4745 Fay Boulevard, stated he is one of the owners of the church property next to Family Dollar, and they are in support of this request. He advised the board that they withdrew the recent application that was presented before the board two months ago, and the reason is because after the vote and the discussion, it was decided that because it took such a long process to title the property commercially, that the partnership group decided to maintain the commercial zoning. He said they felt if they rezoned to a lesser zoning, it would be difficult to get the property to rezoned back to commercial. He noted the group is actively looking to sell the remainder of the property, and it's intended to be developed within the constraints of the binding development plan for a commercial use that will be consistent with Family Dollar. He stated he is there to support, and although he has nothing to do with Family Dollar, or Dollar General, they are competitors that tend to locate near each other.

Rod Schoon, 1764 Stewart Avenue, Melbourne, asked why can't there be a stop light there if they went ahead and put a store there. He said it also seems like more stop signs would protect that road. He further stated the more traffic control there is, the safer the kids will be, and he thinks a stop light would be important and is something that is needed.

Mr. Rodriguez stated there is a restriction on spacing between median cuts that will prevent that.

Ms. Sterk stated she thinks Mr. Schoon is talking about at the corner where the intersection already exists. She's not sure of the distance spacing between signalized intersections, but she thinks what Mr. Rodriguez is saying is correct that the median won't be opened to allow for another full access.

Mr. Rodriguez asked if there could be a signal at Stillwater Avenue, since there is already one at Adams Place. Ms. Sterk replied the signals could be timed accordingly. Mr. Musselman asked if that is a Florida Department of Transportation decision. Ms. Sterk replied it is a County Traffic decision. Ms. Rupe asked how far apart signals need to be placed. Ms. Sterk replied she will ask Traffic Operations what the spacing requirements are for signals, but it is not several miles. She said it is not a County Commission decision, it is the Traffic Operations division of the Public Works Department.

Ms. Sterk advised she ran the numbers on the trip generation, and what could be proposed under the existing zoning that they have today is 1,106 trips, and that is what could come out of the most intense thing that could ever be done there. She noted that most properties are not developed to their full maximum potential, so staff has an algorithm to use that says for the land uses allowed under the existing zoning it could generate this much development on the site, and that's how staff gets that number. The proposal the applicant has for the 9,300 square feet of what she used is a specialty free-standing discount super store, ITE code 813, is what this would qualify as, would generate 532 trips, and it would cut in half the trip generation from the site.

Ms. Chinaris stated she is adamantly opposed to changing the zoning to Community Commercial. She does not believe it's appropriate for the area with the school behind it and all the residential

around it. She said there is already traffic problems and she doesn't like the idea of semi-trailers coming out on Balfern Street, which is residential across from the school, and she believes that this would not serve the community well, thinking long-term, with a metal building that is short-lived, and the reputation of Dollar General, which is not stellar as far as maintaining property long-term. She stated she sympathizes with the church's need to solve their cash flow problems, but she hopes that it can do so with something that does not change the zoning from low-intensity institutional.

Vaughan Kimberling called for a vote on the request for a Small Scale Plan Amendment from Residential 4 to Community Commercial.

The board voted unanimously. Mr. Kimberling noted the motion was denied.

Ms. Sterk advised the board cannot hear the second item unless it approved the first item.

Jennifer Jones asked for clarification on which board members made the motion and the second.

Motion by Carmella Chinaris, seconded by Carmella Chinaris, to deny the Small Scale Plan Amendment from Residential 4 to Community Commercial.

Ms. Sterk clarified that the second item cannot be heard by the board since the first item was not approved. Ms. Chinaris asked if the item will be heard by the County. Ms. Sterk replied the County Commission will hear both items. Ms. Chinaris stated she would like to state on the record that the board is unequivocally opposed to both items.

Ms. Sterk further clarified that the Future Land Use designation has to be changed by ordinance, so that item will go before the Local Planning Agency; the Future Land Use and rezoning will both be heard by the County Commission.

Mr. Ferraro asked the date of the Local Planning Agency meeting. Ms. Sterk replied it is August 20, 2018, at 3:00 p.m.

Upon motion and second, the meeting was adjourned at 7:05 p.m.

## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 6, 2018, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair, Robert LaMarr, Vice Chair; Ron Bartcher; Andy Barber; Brian Hodgers; Ben Glover; Robert Solito; Mark Wadsworth; Bruce Moia; Scott Langston; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Christine Valliere, Assistant County Attorney; Rebecca Ragain, Planning and Development Assistant Director; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, August 2, 2018, at 5:00 p.m.

### APPROVAL OF JULY 9, 2018, MINUTES

Motion by Robert LaMarr, seconded by Scott Langston, to approve the minutes of July 9, 2018. The motion passed unanimously.

### INTRODUCTION OF SCHOOL BOARD MEMBER DANE THEODORE

Dave Lindeman, Manager of Facilities Planning and Intergovernmental Coordination with Brevard Public Schools, introduced the board to its newest member, Dane Theodore. He stated Mr. Theodore is currently the Assistant Superintendent of Facilities Services at Brevard Public Schools, and they are thrilled to have his experience on the board. He said the Interlocal Agreement for Public Schools Facilities Planning and Intergovernmental Coordination allows the School Board to appoint one member to the County Planning board, and this relationship and coordination has been helpful, and the School Board looks forward to continuing coordination with Brevard County.

Henry Minneboo stated the board looks forward to having Mr. Theodore on the board.

### CHAIR DISCUSSION

Henry Minneboo asked the board to consider changing start time of the Planning and Zoning meetings to better ensure quorums, noting that most of the members have jobs that may sometimes prevent them from attending meetings. He asked the board to let him know their thoughts at the end of the meeting.

### PLANNING AND ZONING BOARD AGENDA

1. **Anthony Lopes and Eugene R. Lomando** (Scott Knox) request a Small Scale Comprehensive Plan Amendment (18S.06) to change the Future Land Use designation from Community Commercial (CC), Neighborhood Commercial (NC), and Residential 2 (RES 2), to all CC. The property is 1.96 acres, located on the west side of U.S. Highway 1, approximately 655 feet south of Garretts Road. (8480 & 8490 U.S. Highway 1, Micco) (18PZ00076) (District 3)
2. **Anthony Lopes and Eugene R. Lomando** (Scott Knox) request a change of zoning classification from General Retail Commercial (BU-1) and Mobile Home Park (TR-3), to all BU-1. The property is 1.96 acres, located on the west side of U.S. Highway 1, approximately 655 feet south of Garretts Road. (8480 & 8490 U.S. Highway 1, Micco) (18PZ00077) (District 3)

Scott Knox, representing the applicants, stated the subject property is located in Micco, about a half-mile south of Micco Road, and it's comprised of two different parcels, which are being combined. (Mr. Knox referred to a PowerPoint Presentation. The PowerPoint presentation is part of zoning files 18PZ00076 and 18PZ00077.)

He explained the property is on U.S. 1, with frontage on U.S. 1. On the south side of the property is a heavy buffer all the way to the rear of the property; and there's also a buffer on the north side of the property. There is vacant property to the south and north; across U.S. 1 is the Sebastian River Marina. He stated the dilemma is that the property has three different land uses and zonings, and his clients are trying to combine them into one. The east side of the property is zoned BU-1 (General Retail Commercial) and has a Community Commercial Future Land Use designation; in the middle is Neighborhood Commercial; and on the western boundary is Residential 2. He said what is being asked today is an extension of the Community Commercial from the eastern part of the property to the very back of the property, which is possible under Policy 2.9 of the Future Land Use plan. Likewise, they're looking for BU-1 zoning on the entire piece, since it is currently split into three different zoning classifications. In total, they're looking for BU-1 and Community Commercial on the entire piece. He stated the existing use is a duplex that has been used in the past as an office on the northern piece; and on the southern portion is the Marina Café Bar and Grill, which has been in use for a while and has a Conditional Use Permit for alcoholic beverage sales onsite. Looking to the west from the boundary of the property abutting U.S. 1, on the south side, is the entrance to Summit Cove and the thick buffer to the back. To the north is property that's vacant, but it's also zoned commercial. Across the street is the marina, and further to the south is another marina. He noted there is water onsite that has been provided through a State-approved system that serves the restaurant, and in two years there is the possibility of a sewer connection.

Henry Minneboo asked if there will be access to the private road to the south. Mr. Knox replied not yet, but the subject property has two entrance points on U.S. 1. Mr. Minneboo asked if they are going to try to get access to the southern driveway. Mr. Knox replied the owners are looking to eventually put a hotel on the property, and if they do, they would probably like to get access to the southern road. Mr. Minneboo asked if that is why they are rezoning for a potential hotel. Mr. Knox replied a potential hotel or restaurant. He said certain things have to happen for a hotel on the property, and the County Commission will be considering an ordinance that will make that possible.

#### Public Comment

Lisa Ubitz, Summit Cove Vice President, stated Summit Cove has been talking with the neighbor and today is the first time she is hearing they want access on Summit Cove's road, but that will never happen. She said Summit Cove doesn't have a problem with the property being developed, but they cannot go onto Summit Cove's property to do it.

Bruce Moia stated it is time something happens in that area, and he is aware of the sewer project. He noted the County Commission annexed the marina to the south of the marina across the street, so they are running a force main from the Sebastian River Marina up to Winn-Dixie. He said there's an opportunity for all these properties that are on septic to be able to connect to sewer, and it's being funded by the Indian River Lagoon clean-up efforts.

Motion by Bruce Moia, seconded by Mark Wadsworth, to approve the Small Scale Comprehensive Plan Amendment from Community Commercial, Neighborhood Commercial, and Residential 2, to all Community Commercial. The vote was unanimous.

Motion by Bruce Moia, seconded by Mark Wadsworth, to approve the change of zoning classification from BU-1 (General Retail Commercial) and TR-3 (Mobile Home Park), to all BU-1. The vote was unanimous.

3. **Eva McMillan, Trustee** (Clayton Bennett) requests a Small Scale Comprehensive Plan Amendment (18S.07) to change the Future Land Use designation from Private Conservation (PRIV CON) to Residential 1 (RES 1). The property is 0.30 acres, located on the west side of Highway A1A, approximately 0.83 mile south of Budris Road. (8344 Highway A1A, Melbourne Beach) (18PZ00063) (District 3)
4. **Eva McMillan, Trustee** (Clayton Bennett) requests a change of zoning classification from Environmental Areas (EA) and Suburban Residential (SR), to all SR . The property is 0.77 acres, located on the west side of Highway A1A, approximately 0.83 mile south of Budris Road. (8344 Highway A1A, Melbourne Beach) (18PZ00087) (District 3)

Clayton Bennett, representing the applicant, stated the subject parcel is located in the 8300 block of A1A, almost to the Sebastian Inlet. He stated the lines of the Future Land Use seemed to be placed arbitrarily on the map. He had an environmental consultant find the wetlands on the property, and what his client would like to do is shift the Private Conservation Future Land Use line to the west to be consistent with the actual conditions, and then move the Suburban Residential zoning towards the west to align with the actual conditions. He noted this has been done on other parcels in the past, but it was done at the staff level. Staff has made the determination that it is to come before the board for approval. He said the density is not being increased; the property is approved for one single-family residence and that's what it will be.

Bruce Moia asked if the residence is this going to be within the distance of the Lagoon that will require the upgraded septic. Mr. Bennett replied he believes the moratorium covers all of beachside.

Scott Langston asked how far the line will be shifted westerly. Mr. Bennett replied currently, the line is approximately 100 feet from the A1A right-of-way line, and it would be shifted to the west about twice that line. He said it's an irregular shaped line that follows the wetlands line. Mr. Langston asked who delineated that line for them. Mr. Bennett replied Atlantic Environmental Services delineated the line, and the Florida Department of Environmental Protection came out and accepted the line.

Mr. Moia stated he sees this happen a lot where conservation is placed on a property based on whatever they used at the time, and then when they go to develop the property specialists come in and determine where the line should really be. He said over 50% of the property is still going to be in conservation, but now there's enough uplands to build a home.

Motion by Bruce Moia, seconded by Mark Wadsworth to approve the Small Scale Comprehensive Plan Amendment from Private Conservation to Residential 1. The vote was unanimous.

Motion by Bruce Moia, seconded by Mark Wadsworth to approve the change of zoning classification from Environmental Areas to Suburban Residential. The vote was unanimous.

#### **CHAIR DISCUSSION CONTINUED**

Upon consensus of the board, the start time of the Planning and Zoning Board meetings will remain 3:00 p.m.

Upon consensus of the board, the meeting adjourned at 3:27 p.m.