

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 6, 2017, 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; Bruce Moia; Rochelle Lawandales; Andy Barber; Jeff Holleran; Mark Wadsworth; and Ron Bartcher

Staff members present were: Erin Sterk, Interim Planning and Zoning Manager; George Ritchie, Planner III; Eden Bentley, Deputy County Attorney, Diana Yuan, Assistant County Attorney; Jennifer Jones, Special Projects Coordinator II; and Hazel Hernandez, Office Assistant 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, December 7, 2017, at 5:00 p.m.

APPROVAL OF OCTOBER 9, 2017, MINUTES

Motion by Robert LaMarr, seconded by Rochelle Lawandales, to approve the minutes of October 9, 2017. The vote passed unanimously.

IV.A. Small Scale Comprehensive Plan Amendment, (**LPA**), Re: Residential 15 to Community Commercial LTM of Florida Holding, LLC (Kim Rezanka). The property is 2.42 acres, located at the north end of Dixie Hwy., approx. 0.22 mile west of U.S. Hwy 1. (17PZ00041) (District 4) (This item was tabled from the 05/08/17 and 07/10/17 P&Z meetings at the request of the applicant)

IV.B. Change of Zoning Classification, Re: GU to BU-2 - LTM of Florida Holding, LLC – (Kim Rezanka). The property is 2.42 acres, located at the north end of Dixie Hwy., approx. 0.22 mile west of U.S. Hwy 1. (17PZ00041) (District 4) (This item was tabled from the 05/08/17 and 07/10/17 P&Z meetings at the request of the applicant)

Erin Sterk, Interim Planning and Zoning Manager, read Items IV.A. and IV.B. into the record, stating the board can discuss both items at the same time, and asked that they make two separate motions on them.

Kim Rezanka, Cantwell & Goldman, P.A., stated the staff reports for the items mention an issue with legal access, and she and her client are trying to resolve that issue with the County. There was an item scheduled for the October 24th County Commission meeting regarding the access issue, and at the last minute the Board asked for title work and a survey, so that is where her client is in the process. She asked that the board table the requests until the January 8, 2018, Planning and Zoning meeting so that the access issue can be resolved.

Henry Minneboo asked if that is enough time to resolve the issue. Ms. Rezanka replied yes, the title work will be done by the middle of November, and the survey will be done in early December. She further stated her client is willing to work with the County. Mr. Minneboo asked if Ms. Rezanka thinks the road issue will be resolved. Ms. Rezanka replied the County has given her client a fence permit, which was an issue because there wasn't an address because there wasn't legal access.

Motion by Andy Barber, seconded by Rochelle Lawandales, to table IV.A. and IV.B. to the January 8, 2018, Planning and Zoning meeting. The motion passed unanimously.

Andy Barber asked Ms. Rezanka if she and her client have tried to work with the Town of Palm Shores, because the Town has some rather negative comments. Ms. Rezanka replied her client has hired a planning consultant who is working with the Town's planning consultant, so efforts are being made. She said they are also trying to resolve some drainage issues with one of the residential neighborhoods in Palm Shores. She

stated she believes there is some animosity between the Town and her client, so a third party is being used to try to resolve some of those issues.

Rochelle Lawandales asked if Ms. Rezanka's client has tried to annex into the Town of Palm Shores. Ms. Rezanka replied the Town objects to the project her client is proposing.

Mayor Carol McCormick, Palm Shores, stated there is no animosity between the Town and the applicant. The only problem is that the Town does not think the project is compatible with the surrounding established subdivisions of Palm Shores Estates and Ashley Oaks; heavy commercial is not conducive to what is already established in the area. She said the access at issue is a 40-ft. right-of-way that is not a road, and the applicant wants two 12,000 sq. ft. storage facilities between two established subdivisions. She noted the residents of those subdivisions are concerned about crime, noise, and property values. She said the Town did not want to annex because the proposed project is not the type of project it thinks is appropriate for that site, and there are a lot of other areas that would be more suitable. She asked the board for a resolution to the right-of-way, because Brevard County Code Enforcement will not act because it has not been decided the right-of-way is in the County.

Mr. Minneboo stated the board will keep everything in mind, and it is going to table it today, but he doubts it will be extended after the January 8, 2018, meeting.

Motion by Rochelle Lawandales, seconded by Bruce Moia, to table IV.B. to the January 8, 2018, Planning and Zoning meeting. The motion passed unanimously.

IV.C. Change of Zoning Classification, Re: RRMH-1 and GU to AGR – Larry R. Harrell. The property is 5.91 acres, located on the west side of FPL Power Lines, approx. 0.18 mile south of Canaveral Groves Blvd. (17PZ00110) (District1)

Larry Harrell, 899 Canaveral Groves Blvd., Cocoa, stated he would like to rezone his property for a use that would be more compatible with the area, such as trees and horses.

Ron Hoskins, 731 Canaveral Groves Blvd., Cocoa, stated he lives within 500 ft. of Mr. Harrell's property. He said Mr. Harrell's property seems to be landlocked, and he wonders how Mr. Harrell is going to get back to his property, and if he is going to build a street to get to it. He further asked what use Mr. Harrell will have on the property.

Mr. Harrell stated he accesses the property from the power line easement that belongs to Mr. Terry in Sun Lake Estates, who has given him permission to use it for ingress and egress. He said it is not FPL easement, it belongs to Sun Lake Estates and Mr. Terry. Mr. Minneboo stated it is still a power line easement and the power company is allowed to use it.

Mr. Minneboo asked staff if there is a discrepancy when there's an easement going to a parcel like that. George Ritchie stated that is something Mr. Harrell will have to work out later by asking for an Administrative Approval from the County if he accesses by easement, and that will be a future application when he goes to develop a house on the property.

Rochelle Lawandales asked if staff has identified where the easement would go, and if it would come from homes. Mr. Ritchie replied wherever Mr. Harrell gets it from his neighbors. Staff will review the survey, along with Natural Resources, Land Development, and Address Assignment. He noted it will probably be a named easement, so there will be a sign for his driveway.

Motion by Andy Barber, seconded by Bruce Moia, to approve the change of classification. The motion passed unanimously.

IV.D. Change of Zoning Classification, Re: BU-1 to BU-2 – Donald E. and Stacy L. Clark. The property is located at 3810 U.S. Hwy 1, Mims. (17PZ00118) (District 1)

Donald Clark, 3810 U.S. Hwy 1, Mims, stated he would like to rezone from BU-1 to BU-2 in order to make and sell figurines, with outdoor storage. He noted there are several other properties within a few hundred feet that have the same usage.

Ron Bartcher asked if Mr. Clark will be converting the building that burned down. Mr. Clark replied no, there is a smaller garage in the back of the property.

NO PUBLIC COMMENT

Rochelle Lawandales stated the commercial use and commercial zoning is appropriate, but BU-2 is scary because of all the uses permitted in BU-2 may not be appropriate and compatible with the area, and while she doesn't have a particular problem with the use, she would ask them to work with staff on a binding development plan to limit the use to this particular owner's request.

Mr. Clark stated his intent is just to make and sell statues.

Henry Minneboo stated the board is probably going to request that that will be all he's allowed to do on the property. Mr. Clark said that is not a problem.

Motion by Rochelle Lawandales, seconded by Andy Barber, to approve the change of classification with a binding development plan limiting the use to the manufacturing and outdoor storage of concrete yard ornamental figurines and statues. The motion passed unanimously.

IV.E. Change of Zoning Classification, Re: BU-1 to BU-2 – Island Corner Group. The property is 0.95 acres, located at 2625 N. Courtenay Pkwy., Merritt Island. (17PZ00128) (District 2)

Shay Dollar, 2601 Newfound Harbor Drive, Merritt Island, stated she is requesting a change of zoning from BU-1 to BU-2 in order to sell Class A recreational vehicles and pop-up campers. She noted she currently has an auto license and an RV license, but in order to sell at that location she needs a zoning change. She further stated across the street from her property is Island Motor Sales, and next door to that is BU-2 recreational storage, and on the other side of her property is the school bus storage area for the County.

Henry Minneboo mentioned the heavy traffic in that area and the difficulty of driving north during rush hour. Ms. Dollar stated the people who test drive will exit to the right and either go down Courtenay and make a right or left at S.R. 520; if they make a left they will go to Cape Canaveral and come back to the site on S.R. 528, and then exit back onto her property; if they make a right they will go to U.S. 1 and come back to her site via S.R. 528 from the west.

Mr. Minneboo asked if MIRA (Merritt Island Redevelopment Agency) looked at the request. Ms. Dollar said she was told that MIRA would contact her, but the only thing she received were the staff comments from the County.

Andy Barber stated MIRA would definitely like to take a look at the request before it comes to the P&Z board. Ms. Dollar stated when she submitted the application she was told MIRA would contact her personally to go over everything, but the only thing she received was information about MIRA and no visible outdoor storage.

Mr. Barber said MIRA meets on November 16th and he would like to table the request for the Planning and Zoning board.

Ms. Dollar stated with regard to the location itself, if she were to go right now and file for an auto dealer license there she can do so with BU-1, and with BU-1, she can sell cement trucks, box trucks, semi-trucks, and other trucks with lifts. She said she doesn't want to sell manufactured homes, she only wants to sell Class A RV's.

Mr. Minneboo stated normally, the MIRA board reviews these specific changes before they come to the Planning and Zoning Board.

Robert LaMarr asked if the item could be tabled to the November Local Planning Agency meeting. Mr. Minneboo mentioned the difficulty in having a quorum if there is only one item on the agenda. Mr. Barber stated he has talked to the Executive Director of MIRA and that board definitely wants to look at the request. Mr. LaMarr stated if the Planning and Zoning board meets as the LPA, the applicant will not lose any time.

Ms. Dollar stated she did what she was supposed to do, but no one contacted her.

Ms. Lawandales stated the P&Z board can hear it and act on it today, then it can go to MIRA before it goes to the County Commission, and then the Commission will have the benefit of both boards' recommendations and ideas. Mr. Barber said P&Z can vote on it, but he has comments on the merits of the request, and MIRA is very concerned about the ingress and egress.

Ms. Dollar stated the ingress and egress will be similar to the buses that take off every day and go down Courtenay. She said it would not make sense for her tell someone who's going to buy an \$80,000 RV to make a left onto Courtenay. Most of the time, people want to test drive in a stop-and-go city situation as well as the highway, so she wouldn't expect for potential buyers to immediately go to the highway. Mr. Minneboo stated that intersection is dangerous and cumbersome. Ms. Dollar stated the County has minimized the amount of drivers who are crossing over, and now medians are on most of Courtenay Parkway, and if there is ever a median at her location people would have no option but to turn left.

Ms. Lawandales stated the drawing on Ms. Dollar's survey shows six RV's, and asked if that is all she anticipates to be able to have on the site. Ms. Dollar replied she can probably only afford five RV's at a time; they are \$20,000 to \$30,000 for her to purchase them, and then she has to sell them, so six or less would be on the site. Ms. Lawandales asked if she is going to keep the building. Ms. Dollar replied yes, and in regards to the alcohol license that is already in place on the property, she would like to keep it on file in case she needs to sell the property in the future.

Ms. Lawandales asked if there would be some value in having a stipulation that there only be right turns out of the property during certain times of the day. Ms. Dollar stated that would be only for test driving, and she doesn't mind having test driving during certain hours. Ms. Lawandales asked what kind of site improvements Ms. Dollar is intending on making, and what kind of improvements for stormwater and landscaping. Ms. Dollar replied she has done landscaping since she has owned the property, but most of the site is asphalt.

Ms. Lawandales asked staff what the applicant will be required to do on the site in order to bring it up to Code when there is a change of use. Ms. Sterk replied it depends on what the owner does when she develops, and if she were coming in with a site plan proposing changes to the building there would be more requirements tripped. She stated it is a gray area in that if the owner is not amending the building or the site, staff would have to look at the intensity, and those requirements would be hard to catch-up with later without an actual permit coming in for the building. Ms. Lawandales asked if the board could ask for a binding development plan that would stipulate to certain site improvements to make the site look better. Ms. Sterk replied yes, and

further stated if the property was going from undeveloped to developed there are some requirements in the Comprehensive Plan for this type of use, for the non-retail commercial where a buffer would be required.

Ms. Dollar stated as of right now, if she applies tomorrow for a license as an independent auto dealership she can get the license. She intends on having the same thing Island Motors has across the street, except she will have less amount of people because of the higher priced items.

Ms. Sterk stated when the owner applies for a Business Tax Receipt, even if not doing a site plan, there would be parking requirements that they would have to prove they are meeting, and they may be required to reduce their display area of RV's in order to meet those parking requirements, but staff didn't have anything that allowed them to look into that because there has not been a site plan on that site, and staff doesn't know how many spaces are out there because there's no striping, so an evaluation cannot be done at this point.

Ms. Lawandales asked staff if Ms. Dollar were to sell trucks would she have to submit a site plan to show where they would be parked, as well as employee parking. Ms. Sterk replied no, it would be at the Business Tax Receipt phase, and that is only if the zoning were approved.

Mr. Minneboo stated the site has always been a restaurant. Ms. Sterk stated BU-2 opens the door to more heavily intense uses than something that is similar to what BU-2 allows, and RV's are similar to BU-1, but still more intense in theory. She said the intent of the Code is to keep the BU-1 uses off of the main corridors, but in the case of RV's, owners want to be on the corridor, so it is a strange juxtaposition of needs. She further stated along the Courtenay corridor there is not a lot of precedence for BU-2 zoning.

Mr. Barber asked if Ms. Dollar would be selling and storing other vehicles on the site. Ms. Dollar replied yes, possibly, but no more than six RV's.

Mr. Barber stated his, and MIRA's, biggest concern is that he doesn't want to create another Island Motors, and that is the biggest problem with that intersection. Ms. Dollar stated as far as the parking situation, she is open to anything as long as there is adequate parking. She mentioned other businesses that she owns and that she keeps them clean because she wants people to know what is for sale. Mr. Barber asked if there would be maintenance work done at the site. Ms. Dollar replied, no, it would be done offsite.

Mr. LaMarr stated he thinks MIRA needs to look at the request. Ms. Lawandales stated they will, but the P&Z board can act on it first, then MIRA, and then it will go to the County Commission.

PUBLIC COMMENT

Kim Rezanka stated her husband owns the only other BU-2 property in the area and it was one of the earlier outdoor storages behind Island Motors. Her concern is about rezoning the property to BU-2 without severe limitations, such as her husband was limited to for outdoor storage and anything else in BU-1. She suggested only one access onto Heidi Lane. She further commented that she doesn't want to stop anyone from doing business, but she wants to make sure the site doesn't become something else in the future.

Tyson Passamore stated he is a business associate of Ms. Dollar's, and commented on the medians along Courtenay Parkway prohibiting people from crossing the road. He said he cannot imagine that someone is going to take a \$300,000 RV and think they can turn left into all that traffic when they've been instructed to turn right. He noted Ms. Dollar can already sell cement trucks, semi-trucks, box trucks, cars, or anything that she wants, but she's asking to sell RV's that can be worth up to \$1 million or \$2 million. He stated BU-2 dictates that a recreational vehicle is a mobile home, and that is why the zoning has to be changed. He further mentioned other businesses who were interested in the site, such as Wawa and Dunkin Donuts, as well as multiple large corporations.

Ms. Lawandales stated if there is a problem the business owner is going to suffer for it. The business owner is going to do what she can to make sure her investments are safe and the people who want to buy them are safe. She said she thinks there should be only right turns out onto Courtenay, as well as landscaping on the site. She further stated she doesn't have a problem with RVs being sold there, but that should be the only BU-2 use allowed, and the uses in BU-1 can remain on the property. She suggested the board approve the request with a binding development plan that would require landscaping, right turns only, limited to this particular use, and anything else the board thinks is appropriate.

Mr. Barber stated Merritt Island is trying to look better and be a better place to live, and to have a car lot with RV's and cars there is not a winning situation for Merritt Island.

Ms. Dollar stated she understands the concern, but in this particular area, there is a gas station across the street, a car lot across the street, and buses behind her property with a large gas tank. She said she has done what she can to clean up the site, and has invested a lot of time and money on the inside as well as the outside.

Ms. Lawandales said Ms. Dollar can already sell cars on the property as it is currently zoned BU-1, but by approving the BU-2 with a BDP the board can restrict it.

Mr. Barber asked staff if Ms. Dollar can sell cement trucks and box trucks on the site as it is currently zoned BU-1. Mr. Ritchie said Ms. Dollar can get a business license to sell autos if that's something the State allows her to do under her automobile license. He noted he has not yet verified that.

Bruce Moia stated there could be something worse on the site, such as a restaurant with a lot more traffic. He said he would like Ms. Dollar to remove the driveway from Courtenay completely and have a landscape buffer. Ms. Dollar stated she would have to spend more money than she has spent already, and said she is trying to put something nice on the property, but she can't do it if it is zoned BU-1.

Motion by Andy Barber, seconded by Robert LaMarr, to table the request until the November 20, 2017, Local Planning Agency meeting, in order to give MIRA time to hear the request. The motion passed 6:2, with Moia and Holleran voting nay.

Upon consensus, the meeting adjourned at 4:06 p.m.