

Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Wednesday, January 17, 2018 10:37 AM
To: Newell, Marcia; Alward, Elizabeth M; Powell, Richard; Minnick, Bridget; Furr, Christine; Iliff, Bethany; Woodard, Patrick; Tice, Molly; Valliere, Jennifer; Stern, Danielle; Luebker, Vic; Goudelock, Margaret
Cc: Lewis, Sally A; Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: P&Z and NMI Minutes
Attachments: Planning and Zoning Minutes 2018 01.pdf; North Merritt Island Minutes 2018 01.pdf

Attached are the minutes of the 01/08/18 Planning & Zoning Board meeting and the 01/11/18 North Merritt Island Dependent Special District Meeting.

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 8, 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 Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo; Robert LaMarr; Andy Barber; Jeff Holleran; Mark Wadsworth; Ron Bartcher; Ron McLellan; Scott Langston; Ben Glover; and Robert Solito

Staff members present were: Erin Sterk, Interim Planning and Zoning Manager; George Ritchie, Planner III; Cheryl Campbell, Planner III; Diana Yuan, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 1, 2018, at 5:00 p.m.

APPROVAL OF NOVEMBER 6, 2017, MINUTES

Motion by Robert LaMarr, seconded by Ron McLellan, to approve the minutes of November 6, 2017. The motion passed unanimously.

NOMINATION OF CHAIRMAN

Motion by Ron McLellan, seconded by Robert LaMarr, to nominate Henry Minneboo as P&Z Chairman for 2018. The motion passed unanimously.

NOMINATION OF VICE CHAIRMAN

Motion by Ron McLellan, seconded by Mark Wadsworth, to nominate Robert LaMarr as P&Z Vice Chairman for 2018. The motion passed unanimously.

RE-ORDERING OF AGENDA ITEMS

Motion by Ron McLellan, seconded by Jeff Holleran, to move Items IV.J. & IV.K. to the beginning of the agenda. The motion passed unanimously.

IV.J. 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, 07/10/17 & 11/06/17 P&Z meetings)
LPA Recommendation: Barber/Bartcher – Denied. The vote was unanimous.

IV.K. 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, 07/10/17 & 11/06/17 P&Z meetings)
P&Z Recommendation: Barber/Bartcher – Denied. The vote was unanimous.

Erin Sterk, Interim Planning and Zoning Manager, read Items IV.J. and IV.K. into the record, and stated the board can discuss both items at the same time, but the board should make two separate motions.

Kim Rezanka, Cantwell & Goldman, P.A., representing LTM of Florida Holding, LLC, stated the subject property is in the County, but is on the western edge of the Town of Palm Shores, before the railroad. The property is at the end of Miller Cove Road, which has been in dispute as to who has jurisdiction and ownership, but it's been on every Property Appraiser's Map since a 1923 plat. The property is 2.8952 acres, which is on

the survey, so it's a little bit more than what it says in the staff report. She submitted documents to the board [the documents are part of the Official Record for 17PZ00041] and stated the first document is the 9-1-1 map, and the light blue is the Palm Shores jurisdiction and/or ownership, and then what is marked as the yellow '10' over the green treed area is the property in question. She noted the property is at the end of Miller Cove Road, but there's a little jaunt on Old Dixie Hwy, which has been a County road since the 1800's, so it does actually have road frontage on a County road, just not a paved County road. She stated Mr. Mattioli proposes to build 24 mini-warehouses to be used by individual owners, or tenants, to store personal items or equipment to run small businesses, including repairs and powder-coating, along with an 800 square-foot office for LTM of Florida Holdings. She said the second document is a color rendering of what Mr. Mattioli proposes to do, which is two large buildings, 1,000 square-foot mini warehouses, for personal use. She noted Mr. Mattioli also owns the 3-acre property to the north of the subject property, which is vacant residential and not part of the development of the subject property. She advised that Mr. Mattioli has spoken with almost all the neighbors along Miller Cove Road, and she herself also met with those closest to the subject property in the cul de sac; they have a substantial and severe flooding problem in the cul de sac in Palm Shores Estates, which is all private roads. She and Mr. Mattioli have put a proposal forward to the HOA to help with the drainage problem, which is the color rendering by M.E.C. on Page 3. Mr. Mattioli has proposed to put in a large retention pond and pipe the cul de sac to it in order to alleviate the flooding problem. She pointed out there are other commercial uses and zonings in the nearby Town of Palm Shores, such as Adventure Headquarters (Adventure HQ), with a CP zoning, which is the highest zoning in the Town. She said the Mayor of Palm Shores has said a Montessori school is planned for Adventure HQ, but the café serves beer, so she does not think a school can be located there. She stated there is also C2 zoning on property along Miller Cove Road, and to the west of the railroad is industrial County property. The property at 2360 Miller Cove Road is owned by Ed Mason, who has provided information about the residential use on the property for 22 years, but there is a commercial Koi pond on the property, which would be another commercial use in the Town of Palm Shores. While he was under contract in October 2016, Mr. Mattioli met with Mayor McCormack and Planner Washburn to talk about what he wanted to do, and he was told the Town did not like the proposal and did not think it was compatible. She said Mr. Mattioli's proposed use of 1,000 square-foot warehouses is not in the middle of town and it not too intense, and the only subdivision the use is adjacent to is Palm Shores Estates; the property to the north is vacant and over 3 acres of heavily wooded land. There are only two properties in Palm Shores Estates that abut the proposed use, and there will be a solid, 6-foot, masonry wall that will abut them, and some heavy foliage as shown on the rendering. She stated Mayor McCormack has said LTM cleared the right-of-way without a permit, but there are no pending code violations in the Town or the County, mostly because no one wants to claim jurisdiction over Miller Cove Road or Old Dixie Hwy, and LTM can't get a permit for that very reason, but Mr. Mattioli has cleared some bushes so he can travel down the road to his property. She mentioned the access issue and stated they went before the County Commission on December 19th, and the Board directed the County Attorney's Office to file a lawsuit to resolve the ownership and jurisdiction issues regarding Miller Cove Road, and she is working with the County Attorney's Office to obtain quick-claim deeds to Miller Cove Road. Alternatively, the County Attorney's Office has advised LTM could get a statutory wavier of necessity down Miller Cove Road, and over Old Dixie Hwy. It is her opinion that access will not hold up development of the property. She said there are three addresses assigned off of Miller Cove Road, and there are power poles, fiber optics, and drainage boxes in the right-of-way. She pointed out that access is a site development issue to be addressed later. She said LTM has tried to work with the Town for its input; a letter requesting input was sent to the Mayor on October 12, 2017; the plans and renderings have been sent to the Town, but they have not received any comments from the Town. She said she believes the Town does not think the use is compatible. She stated Mr. Mason and Mr. Miller own approximately 3 acres on Miller Cove Road, most of which is used as a commercial venture. At the west end, Mr. Mason owns 2360 Miller Cove Road, which is the Koi pond. The next property to the east is 2340 Miller Cove Road, which is the C2 commercially zoned property used as a commercial nursery, and then Cabana Shores is Mr. Mason's business at the east end of Miller Cove Road, adjacent to U.S. 1. To the south of Cabana Shores is a used car lot, to the west of the car lot is property owned by Mr. Mason and Mr. Miller that's used as rental property, however it has no address assigned to it. She advised that the Town ordinance supplied by Mr. Mason and Mr. Miller is most likely invalid

as Miller Cove Road was never annexed into the Town of Palm Shores, but it requires property owners to keep Miller Cove Road clear and accessible for emergency vehicles. She noted Mr. Mason and Mr. Miller, and their properties, are the subject of numerous code violations from the City of Melbourne Water Department, the D.E.P, and the St. Johns River Water Management District, for running water lines without permits, for construction without permits, and because of the Koi pond. Code violations have also been submitted to the Town, but it's not clear if the Town is pursuing the violations. She stated she has submitted a BDP (Binding Development Plan) to clarify and limit what LTM wants to do, and noted LTM asked for BU-2 zoning, but they're limiting it to certain uses in BU-2 because Mr. Mattioli just wants to do a few things outside of BU-1. She said Paragraph 2 of the BDP limits the buildings to 25,000 square feet of warehouses and 800 square feet of office; Paragraph 3 allows BU-1 zoning uses and limits BU-2 zoning uses; Paragraphs 4 and 7 deal with the access issue, which are site plan issues, but it does put limits on when Mr. Mattioli has to do the access; otherwise, it can revert back, just like the prior zoning in 1963 when there was BU-1 use with a beer permit and it revoked back because it wasn't used; Paragraph 5 talks about the oversized retention pond to assist with the flooding conditions in the cul de sac of Palm Shores Estates; and Paragraph 6 is the 6-foot masonry or solid wall that either equals or exceeds the Land Development Code. Regarding the County staff reports, she does not believe the road frontage is an issue. She said she doesn't necessarily know that this is a transitional use, but she would consider this proposed use and the development of the property enhancing the residential uses, improving the flooding problems of Palm Shores Estates, improving access for emergency vehicles, and improving ingress and egress for those that abut Old Dixie Hwy and Miller Cove Road. Regarding the GU to BU-2, the applicant will be required to establish legal access; the preliminary concurrency analysis did not indicate the proposed development would cause deficiencies of adopted levels of service. She noted staff believes there are a number of items that could possibly be incompatibilities, but she believes the BDP limits those possible incompatibilities. She pointed out that the only objections is from Mr. Mason and Mr. Miller who have three acres of commercial use along Miller Cove Road.

Stuart Buchanan, representing LTM of Florida Holdings, stated he has been employed in urban planning since 1993, originally with the City of Cocoa, as their City Planner, and most recently with Brevard County. He said he believes the proposed application for a small scale land use amendment and rezoning is compatible with the surrounding land uses. The property to the north is vacant and is owned by the applicant; the property to the south is residential; the property to the east is commercial and is developed commercial; to the west is the Florida East Coast Railroad; and on the other side of the railroad is industrial. He stated the scope of the project itself is less than 3 acres, and everything around it, with the exception of the parcel owned by LTM to the north, is developed. He said what is before the board is an in-fill development project, which is supported by the County's Comprehensive Plan. The proposed BDP limits the uses to BU-1 and some select BU-2 uses. The BU-2 use is based upon one tenant who wished to enter into a pre-construction lease for 2,000 square feet for an automobile repair center. The owner has agreed to over-size his retention to help the subdivision residents to the south with their flooding problem. He stated in summary, the existing Future Land Use is Residential 15, although it does have GU, General Use, zoning. He said the other alternative would be for the owner to apply for multi-family; the trip generation of multi-family for Residential 15 would far exceed any commercial use. He noted that he previously submitted some trip generation numbers, but he would like the board to disregard those. Both he and County staff used different editions of the traffic manual and he doesn't want to cause any confusion, so please disregard his submittal and utilize the County staff report.

Mayor Carol McCormack, Palm Shores, stated the Town objects to any comprehensive plan amendment which changes the land use of the subject property to commercial, and any rezoning to BU-2. Such a land use designation and zoning is inconsistent with the surrounding zoned properties in the Town. The BU-2 zoning allows for a more intensive use of land than what is permitted in the Town. She said she has received many phone calls and visits from residents of the Town; one resident told her if she had known this was going to happen she never would have bought her house. (Mayor McCormack read a letter from Mr. Mason into the record. The letter is part of the Official Record for 17PZ00041) She stated the owner of Adventure HQ is present and he would like the opportunity to address the board as to what his business is, and what has been

said or not said about his business. She indicated there are others from the Town and surrounding subdivisions who would like to address the board, and she asked the board members to consider if they would want automotive repairs done next door to them.

Ed Washburn, Planner, Town of Palm Shores, stated he has a Masters Degree in Urban Planning, and he's worked with most of the cities in the County, as well as the County, and he was the County Planning Director from 1969 to 1974. He said he realizes that the board's decision is advisory to the County Commission and he knows the County Commission doesn't always do what the board recommends, but he urges the board to deny the request. The CP zoning that is to the east of the subject property is not the most intense commercial zoning classification in Palm Shores. The most intense classification is C2, and C1 is a little less intensive than that. CP is more like the City of Melbourne's commercial parkway, which fronts on U.S. 1 and some of the major streets in Melbourne, so it doesn't allow the intense uses that C2 or BU-2 would allow. He said there's been a lot of discussion about Miller Cove Road, and he doesn't know whether Mr. Mason owns it, but he does have a warranty deed for at least half of that right-of-way. The right-of-way is substandard and is approximately 40 ft. He noted when he and the Mayor met with the owner in October 2016, they mentioned to him that they didn't know who owned the right-of-way, but they knew that Mr. Mattioli did not own it. [Photos were distributed to the board and are part of the Official Record for 17PZ00041] He stated the first photograph shows a lot of trees in that area, and on the second one, toward the end, the trees have come down and a road base has been put in there; that was all done by the applicant. He noted that the County Commission directed the County Attorney to do a declaratory judgment suit to find out who owns it. He said to drop a community commercial zoning classification into an enclave parcel inside the Town of Palm Shores with BU-2 zoning is something he's not seen the County do in a long time, and the uses they are limiting themselves to are pretty heavy. He stated when they met with the owner they were up front with him and told him he could not do what he wanted to do in the Town if he annexed, but he closed on the property anyway in 2017 with FDOT. He noted the parcels were remnant FDOT parcels, and he is not sure why FDOT decided to sell. He suggested if Mr. Mattioli had hired Ms. Rezanka at the outset, due diligence would have been done and they would have found out the different situations. He said the reason the request was tabled two or three times is because they didn't have the access solved, and they still don't have it solved. He stated that Ms. Rezanka said they would limit the uses, but the uses in the BDP are not simply storage, they are going to be businesses and they're going to do different things such as car repair. He said Administrative Policy 2.8 says, "Community Commercial clusters of up to 10 acres should be located at arterial intersections. Collector arterial intersections are acceptable.", but they don't have that; the closest arterial is U.S. 1 and not on the intersection. It also says, "Intrusion of these land uses into the surrounding residential areas shall be limited."

Henry Minneboo asked if Mr. Washburn looked at the plat and if it was from 1923. Mr. Washburn replied he thinks it was a 1923 plat and there was no dedication on it to the County. The requirement for dedication began in 1928. He said it is not known whether Palm Shores got the plat when it was incorporated in 1958, but the County Attorney will find out, and they will have to survey the area and find out what's in there. He stated it was Stuart Buchanan who turned in the Code Enforcement violations Ms. Rezanka mentioned, and the Town handled the violations it was responsible for.

Mr. Minneboo asked if it would have been a safe assumption that FDOT would have had some kind of requirement to provide access. Mr. Washburn replied he didn't know, but FDOT had access; they had frontage on U.S. 1, so they could get to their property; and they didn't care whether anyone else had access or not. Mr. Minneboo asked when the Town took in Miller Cove Road and how far did it go. Mr. Washburn said the Town never took in Miller Cove Road. He said Palm Shores thought they owned it, which is what Ms. Rezanka pointed out. He stated at some point in time the council vacated Miller Cove Road, the west 331 ft. A surveyor said the west 331 ft. had to be on the other side of the railroad tracks, and that part of that old subdivision got vacated when the industrial park was done, which was prior to the Town vacating that west 331 ft., so it was gone.

Mr. Minneboo asked if Palm Shores has any land west of the railroad tracks. Mr. Washburn replied no, it is unincorporated County. He said he believes the area should be low-density residential. The lots to the south in Palm Shores Estates are against the railroad tracks. Some other subdivisions have put in retention ponds between the railroad tracks and the single-family residences. When you total up Mr. Mattioli's acreage it's 5 or 6 acres, and if there was access he could put some single-family houses in there. He noted when there is a Future Land Use designation of 15 units per acre, it is up to 15, it doesn't mean 15 is guaranteed. He said when the Comprehensive Plan was adopted in 1988, three-quarters of the County went to Residential 15.

Ron McLellan asked if he understood correctly that there's some people who own part of Miller Cove Road. Mr. Washburn replied Mr. Miller and Mr. Mason have a warranty deed for up to ½ of the west 331 ft. of it. The County Attorney is going to find out whether they really own it, or whether the County owns it, or whether the Town of Palm Shores owns it. If it's in the Town of Palm Shores or in the County, it still needs a 50-ft. right-of-way.

Frank Pawley, owner of Adventure HQ, stated Adventure HQ is a family entertainment center, and he's not keen on a commercial use right behind his business that will be doing manufacturing and painting cars, because there are a lot of children coming to his site. He noted the planned Montessori school is Phase II of Adventure HQ, and they will begin the school in a few years' time. When the school begins, the café will stop serving alcohol. He stated he lives abroad and comes back from time to time, and when he came back this time he found trees and rubbish on his land from where the property behind him is being partially cleared and the fallen trees are abutted against his fence.

Charles Chambliss stated he is a resident of Palm Shores Estates and has been a resident of the County for about 20 years, and Palm Shores for about 14 years. His concern with heavy industrial on the subject property is environmental safety in the area. He is also concerned that Mr. Mattioli has not been before the Town's Planning and Zoning committee. The residents of Palm Shores would like to know how the community is going to be developed. He commended Mayor McCormack for spending 20 – 25 years cleaning up the Town of a lot of questionable businesses. He said he is also concerned about the noise that could come as a result of a road being established. He asked the board to keep the subject property residential.

Mr. Minneboo asked staff if there is a declaratory judgment. Diana Yuan, Assistant County Attorney, stated her office was directed by the Board to file that action, but it hasn't been filed yet.

Mr. Minneboo asked if the board should be hearing the request if there is going to be a determination by the courts. Ms. Yuan replied the board can consider the request, and overall accessibility is one of the criteria the board can consider. She said there are accessibility questions right now as to who owns Miller Cove Road, and it is the County's position that it doesn't own it; staff has been directed by the County Commission to file a declaratory action to have a judge determine, and the result of that action could be that the County owns that road, that Palm Shores owns that road, or that it's a private road. She further stated it's the discretion of the board to weigh all of the factors together and make a recommendation.

Frank Falcone, 106 Palm Circle, stated he has been on the Town of Palm Shores Council since 1998, and he is now the Vice Mayor. He said he is strongly opposed to putting changing the subject property to commercial alongside Palm Shores Estates subdivision.

Karl Owens, 149 Palm Tree Court, stated in April 2011 there was a brush fire on the subject property. Fire trucks had a hard time getting back there because there was no road; they had to drive through his yard and tear down his fence to fight the fire; and a photographer for Florida Today was on Mr. Miller's property and fell into a 3-ft. hole full of urine and feces because Mr. Miller had squatters living back there, and that's where they were going to the bathroom. He said Mr. Miller also tapped off all of his electricity, cable, and phone, from his house to his next door neighbor's house. He stated he doesn't have a problem at all with what Mr. Mattioli is

doing. He mentioned the flooding in the cul de sac when it rains more than half an inch, and stated he thinks Mr. Mattioli's project will solve the drainage problem.

Irene Stevens, 148 Palm Tree Court, stated her home is next to where the warehouses would be built, and she doesn't have a problem with them. She said Mr. Mattioli visited her and told her what he was planning to do, and she thinks it is good because money would be coming into the county for taxes. She mentioned the drainage problem and said Mr. Mattioli will fix it.

Lindsay Robinson, 2412 Okalani St., stated she hasn't heard anyone mention her subdivision of Ashley Oaks, which is a new subdivision of about 27 houses to the north of the subject property. She said a lot of her neighbors back up to the subject property and they are not in favor of the rezoning request. She said when they bought their houses they were told the subject property would be a preserve and never be built on.

Mr. Minneboo asked if a realtor told Ms. Robinson that. Ms. Robinson stated it wasn't a realtor, it was the person selling the homes in the subdivision.

Ken Burbank, 157 Palm Circle, said his house backs up to Dixie Hwy and he's lived there for 13 years, and he knew from the time he bought the property in 2005 that the back 15 ft. wasn't his and that it was part of the road, but the developer put the back fence in to get a little more land. He said he has no objections at all to the request, and more small businesses in the county mean more taxes, and any noise that might be generated is only going to be during business hours.

Kathy Treemeter stated her mother owned the property at 153 Palm Circle for over 20 years, and she is set to inherit the property. She said any time it rains there are issues, and she worries about diseases. Things have never been taken care of and nobody seems to care. She said if she had her choice as to what is about to happen or what could possibly happen on that property, versus Adventure HQ that serves alcohol, she's going to go with what's coming.

Tim Woolwine, 2411 Okalani St., stated there are 7 houses to the north of the subject property and he lives in one of them. He said his street is newer, so they don't have flooding issues, or some of the issues that the neighborhood to the south has. He said he doesn't know that a fix for them is to let commercial zoning come between two neighborhoods. He said he is against commercial zoning on the subject property and he hopes the board will consider Ashley Oaks.

Aaron Pitts said he is a resident of Palm Shores Estates, and he and his daughter play outside all the time, and he doesn't want LTM's business coming in and ruining that environment. Many people use this community to run and walk, and it's small, nice, and quiet. He noted some people say the trains are a hindrance, but if people move there and complain about the trains, they knew they were there. He said he has been to Adventure HQ and it's a family establishment and environment. He stated everything in the community is about family and that's what he would like to keep.

Joanne Maxim, Palm Shores Estates HOA President, stated one thing that has not been mentioned is that the adjacent property owner has approached the board of directors and has requested to tap into the water mains, which are on a private road, in concession to fix the drainage problem. She said Miller Cove Road has recently been added to with asphalt, so the road has been much higher than the regular surface, as well as other property owners who have built-in swales on private property. She said the HOA has taken a neutral position and is not getting involved. She stated as a resident of Palm Shores Estates she has some concerns. One concern is that on the previous deed for Parcels 5 & 6, it says it's a water retention area. In February 2017 it was a quit claim deed for only Parcel 6; however, the water retention area has been omitted, and she's curious as to how that happened. She asked if that property be worth more money if it was not a retention area, and how it is buildable, and if the County has done a traffic survey on U.S.1. She said she can attest that

sometimes it takes five minutes or more to enter and/or exit the subdivision. She asked the board to do its due diligence.

Scott Langston asked who paid for the paving of Miller Cove Road and the maintenance. Ms. Maxim replied it is her understanding that the applicant made the improvements to the road, as well as removed fencing along the north side of Palm Shores Estates and replaced it. She said that within the HOA, if anyone needs a fence replaced they have to come to the HOA for approval, but no one has come to them.

Mr. Minneboo asked if there have been any meetings with the applicant and the HOA. Ms. Maxim replied no, the HOA just received a letter from the owner's attorney, and the board did not received notification as to the proposed construction.

Andy Barber asked if Miller Cove Road is part of Palm Shores Estates. Ms. Maxim replied no, it is on the north end of the subdivision's property. Mr. Barber said the actions the applicant is taking to clear the road doesn't affect the subdivision other than changing the fence lines, and it's unusual that he would be doing that. Ms. Maxim said she learned from a resident who lives on the back side, abutting this fence line, that there are drainage problems because the road is not level, it has been raised, so the water runoff is not flat, it is running off causing drainage problems.

Albert Benson stated last January/February he went out of town and when he came back he thought Ralph Miller was trimming trees, but it turned out that it was Mr. Mattioli, and he told him he was taking 20 ft. of his property. He said in looking at the plats, Miller Cove Road says 'private'. He said he could own a piece of that because according to the plat there are drainage easements that go into that Miller Cove Road area. He stated Ed Mason and Ralph Miller enlarged the swale which made the drainage better until Ralph decided to put up a dam.

Kim Rezanka stated the plat of Palm Shores Estates specifically shows Miller Cove Road not being there and shows no drainage structures. She stated access is a site plan issue by County Code, and the staff report says LTM is going to have to have access. She noted the subject property was formerly zoned as BU-1 with a beer permit in 1963, so there must have been access at some point. Miller Cove Road is a 1923 platted road; it has utilities, power lines, and trash collection. She stated the County has taken the very limited view that since it hasn't maintained this road it doesn't own the road, but that's not what case law says, which is the reason for the declaratory judgment. She said they could have done this back in April when this issue arose, but they tried to work through the County because they couldn't understand why the County would not say it is a public road because it's been used by the public. She said it's called Common Law Dedication and Acceptance, and that's what she will be suing for in a counterclaim. She said they can't build without access, so she asks that the board not make that its determining factor to not grant the request. She said Mr. Washburn stated CP is not the highest zoning, and she apologizes if she mis-stated, but when looking at the Town's Code it's the third in their Code. It says, C1, C2, and CP. She noted automobile service stations are allowed in C1, C2, and CP, and repairs to automobile are allowed in C1, C2, and CP, so long as they're indoors, as will all the uses be at this warehouse, and she will make that an extra condition. She said a surveyor has been to the property and has said there are no obstructions that he's concerned about and he agrees with the owner's surveys as to the 40-ft. right-of-way. She noted the County told them last week they can grant a waiver to that 40-ft. right-of-way because they're not going to need any sidewalks going back to this property. She said the 331 ft. that allegedly is owned by Mr. Mason and Mr. Miller came about because of an invalid 1992 ordinance; the ordinance doesn't say where the 331 ft. is, and it doesn't even say who's asked for the vacating of the 331 ft. She said the Mr. Mattioli's surveyor is very familiar with the area and did all the surveying of Palm Shores Estates and he has said that 331 ft. cannot be on Miller Cove Road as it is now because the only reference in the vacating ordinance is to the Indian River Shores 1923 plat; therefore, it must be on the other side of the railroad. She stated there is a 3-acre wooded buffer between Ashley Oaks and the subject property, and that three acres is probably going to be a single-family home for Mr. Mattioli, but that is

not before the board, so Ashley Oaks has no concerns at this time. That single-family home is going to have to have access, and it will have access down Miller Cove Road, so whatever is going to be built there has to have access. Regarding the 331 ft., Mr. Miller and Mr. Mason have never paid taxes on it; and they've never made a claim to it until recently. She said Mr. Mattioli has talked to Mr. Miller and Mr. Mason and has met with everyone along Miller Cove Road individually, and there has been a meeting at the end of the cul de sac with all of the residents who were interested. She stated there has not been a formal meeting with the HOA, but Mr. Mattioli has met with each and every person along Miller Cove Road. As to Mr. Pawley and the clearing of LTM's property, there is a clearing permit that was issued by Brevard County and is in board's packet, so the clearing was done properly. As to Mr. Chambliss' concerns, the use will not be industrial, and her client is not asking for any industrial uses. Regarding Ms. Maxim, on the plan M.E.C. did, it does show the potential for LTM to hook into the utility line in the HOA, but that belongs to the City of Melbourne, it does not belong to Palm Shores Estates. She said the drainage problems are because the swales that are on that plat have been filled in by each individual owner, because no one wants swales in the front or back of their yard, so they filled them in and put in fences, so the drainage problems have been caused by the individuals in Palm Shores Estates. She stated as to Miller Cove Road, it has not been improved; the 150 ft. into Miller Cove Road was approved by FDOT in 2003/004 during the widening of U.S. 1. FDOT purchased some land, put in a 65-ft. entranceway, some swales at 150 ft., and put in some drainage structures. FDOT has made the only real improvements of concrete and asphalt on that property. Other than that, LTM didn't fill in that swale by FDOT, did not fill in any swales that belong to anybody, or any drainage system for Palm Shores Estates. As to Mr. Benson stating the Mr. Mattioli took 20 ft. of his property, that is not true. As to the 12 inch pipe Mr. Benson installed, it is not part of the plat, it's part of the St. Johns River Water Management Code violations, as well as a retention pond on Mr. Mason's property that is also part of the SJRWMD code enforcement because they are illegal, and it doesn't matter who reported them, they are illegal. She asked that the board approve the small scale plan amendment and the rezoning limited to the BU-2 uses. She noted minor automobile repair is allowed in BU-1, so they put it in the BDP under an abundance of caution, but it will be indoors.

Mr. Minneboo asked Ms. Rezanka when she became involved with the project. Ms. Rezanka answered she has been involved since the rezoning application was filed. Mr. Minneboo said the board likes to let the neighborhood know what's going on. Ms. Rezanka replied Mr. Mattioli spoke with the Town and everyone who would be directly impacted. Mr. Minneboo asked if there was a public meeting. Ms. Rezanka replied no, there was not. Mr. Minneboo asked if her client got a land clearing permit. Ms. Rezanka replied yes, he did, from the County.

Mr. Minneboo asked if, in the last 10 years, has the board approved a commercial zoning where the access would be through a subdivision. George Ritchie, Planner III, replied he is not aware of any commercial going through a residential subdivision. Mr. Minneboo said he doesn't recall the board ever approving it.

Mr. Barber said there is not one thing that would help him support the request. He said the applicant cannot solve the drainage issues in Palm Shores Estates.

Motion by Andy Barber, seconded by Ron Bartcher, to deny the Small Scale Plan Amendment from Residential 15 to CC. The motion passed unanimously.

Motion by Andy Barber, seconded by Ron Bartcher, to deny the change of classification from GU to BU-2. The motion passed unanimously.

LPA AGENDA:

Item 1. An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the adoption of Large Scale Comprehensive Plan Amendment, 2017-2.1; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions with require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date.

- a. Plan Amendment 2017-2.1 – a proposal initiated by Imperial South, Inc., to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from Planned Industrial (PLNIP) to Residential 15 (RES 15) on 30.70 acres, located on the east side of N. Wickham Rd., approx. 380 ft. south of Jordan Blass Dr.
LPA Recommendation: McLellan/Wadsworth – Approved. The vote was unanimous.

Bruce Moia, MBV Engineering, representing the applicant, stated the difference between what was previously proposed and this proposal is that now there isn't a single building within 400 ft. of the concrete plant; it has all been moved away. He said he and his clients met with the concrete plant members and came to an agreement, and from that agreement they developed a BDP which has about 10 conditions, including buffers, walls, layout, and a notification to tenants that the concrete plant exists, and that his clients will not petition the County about the plant. He said he thinks they put in the protection that was required, and it is a much better plan.

Motion by Ron McLellan, seconded by Mark Wadsworth, to approve the adoption of Large Scale Comprehensive Plan Amendment 2017-2.1. The motion passed unanimously.

P&Z AGENDA:

- IV.A. Change of Zoning Classification, Re: PIP to RU-2-15. Imperial South, Inc. (Bruce Moia). The property is 30.7 +/- acres, located at the east side of Wickham Rd., approx. 330 ft. south of Jordan Blass Dr. (17PZ00109) (District 4)
P&Z Recommendation: McLellan/Wadsworth – Approved. The vote was unanimous.

Motion by Ron McLellan, seconded by Mark Wadsworth, to approve the change of classification from PIP to RU-2-15. The motion passed unanimously.

- IV.B. Conditional Use Permit, Re: Security Mobile Home and Fee Waiver. Seminary Covenant Community, Inc. The property is 2.92 acres, located at 1260 S. Courtenay Pkwy., Merritt Island. (17PZ00135) (District 2)
P&Z Recommendation: Barber/McLellan – Approved. The vote was unanimous.

Paul Rossbury, President and Pastor of Seminary Covenant Community, stated he is seeking a Conditional Use Permit to have a security trailer on the property. He said there is a parsonage on the property, but it is occupied by the retired pastor and his wife who are in their 80's, and for security they are not competent to be able to take care of things. He said the arrangement with them is they are to live there until they pass. He said that is the reason they need an additional security trailer on the property. There have been some incidences over the years, and he has blocked off a roadway that goes in the back where people were dumping trash, but there has not been any issues in which he has had to call the police.

Motion by Andy Barber, seconded by Ron McLellan, to approve the Conditional Use Permit for Security Mobile Home and Fee Waiver. The motion passed unanimously.

- IV.C. Change of Zoning Classification, Re: AU to RU-1-11. Donovan Homes, LLC. The property is 0.83 acres, located at 1050 N. Tropical Trail, Merritt Island. (17PZ00138) (District 2)
P&Z Recommendation: Barber/McLellan – Denied, and further requested direction from the Board of County Commissioners on how the P&Z board should evaluate rezoning requests that would create drainage problems for surrounding property owners.

Rob Donovan, 1985 North Tropical Trail, stated he is seeking to subdivide the lot and have it rezoned from AU to RU-1-11.

Bill Coe stated he lives adjacent to the subject property, and he has a big concern about flooding. During the last storm there was 3 ½ ft. of water going into his backyard and almost into his house. He is concerned about building pads for new houses where it is currently zoned for a single house, because more pads will push more water into his property.

Henry Minneboo stated the new home is supposed to be responsible for its water. Mr. Cohen said right now all the water drains into a County ditch on the east side, that runs north and south. At the moment it is full; it is not draining properly for some reason. The second problem is he doesn't know where the home is going to be placed. He said when he bought his property he bought it with the understanding that it was agricultural single-family residential. He said if Mr. Donovan builds a house on the street where the other homes are it is not such a big issue.

Mr. Minneboo asked staff if the rezoning is approved, can the project be flagged so the Building Department will know to take special care of the flooding issue. Erin Sterk, Interim Planning and Zoning Manager, stated if they were splitting the parcel into three lots they would have the subdivision requirement where they would have to do specific onsite drainage, but because they are only splitting into two lots, it will not trip that threshold. She said there are no additional requirements staff could apply.

Craig Wenrich, 1020 North Tropical Trail, said the new houses that have been built on Lucas started the flooding problem and now they want to continue building that berm around him which is creating a swimming pool at his house. He said he's one of the lowest properties there, but he's been in his house for 39 years, and it never flooded before, but it's starting to flood now. He asked who was responsible if his house floods because a new house is built. He noted there is no percolation in the area.

Ron McLellan stated that has been a problem in the county for years.

Mr. Wenrich said there wasn't a flooding problem until the first three houses got built on Lucas. He stated if the next house is built higher, which is supposed to be 2 ft. above the street level, he's going to be under water.

Ron McLellan said the request is for RU-1-11 zoning, which is all around it.

Misty Long, 1030 North Tropical Trail, stated she has lived there for 20 years. There hasn't been any flooding in the area until recently when the houses were built on Lucas and the property was built up. In August Mr. Donovan was rezoned for the corner of Lucas and North Tropical so he can build more houses there. She said when there has been flooding it doesn't go down for days, and she's really concerned about that because when at the houses on the corner of Lucas and Tropical, the water diverts into the ditch. If Mr. Donovan builds another house where he wants to rezone now, the people to the east and south are going to be under water. She asked the board to deny the request.

Andy Barber said the proposed zoning would allow three lots, even though Mr. Donovan said he only wants two, and asked what would prevent him from developing three lots.

Mr. Minneboo pointed out if he builds three houses he has to do a subdivision.

Mr. Donovan said when he built the one home on Lucas, the drainage is all from the rear of the house to the front, and that's what the County required, so none of the drainage from that is going into the ditch.

Mr. McLellan said he's not going to be able to do that on North Tropical Trail. Mr. Donovan said he was just speaking to what the neighbors said about the properties on Lucas causing flooding on their properties, and the County's requirement was to slope it all to Lucas.

Mr. Minneboo said now he's trying to build on North Tropical Trail, and the County won't force him to put it in front.

Mr. McLellan said the board needs to table the request and get some kind of resolution, because it is a serious problem all over the county.

Mr. Barber said he doesn't think it's fair to keep adding and adding to the woe of the neighbors. The law says you have to keep it onsite, but to put it in a ditch that's already overflowing is terrible. He said normally he would approve this, but because of the drainage being so critical he doesn't think he can.

Mr. Donovan said his land has been the neighbors' drainage for 39 years, and from that point it's not fair for them to have the right to build their home and not for him to have the right to use his lot for what the intended use of the land is and the surrounding land.

Mr. Minneboo asked Mr. Donovan how long he has owned the property. Mr. Donovan replied less than a year.

Motion by Andy Barber, seconded by Ron McLellan, to deny the change of classification from AU to RU-1-11, and further requested direction from the Board of County Commissioners on how the P&Z board should evaluate rezoning requests that would create drainage problems for surrounding property owners. The motion passed unanimously.

IV.D. (NMI Item)

IV.E. Change of Zoning Classification, Re: RR-1 & RRMH-1 to AU. Werner R. Seiler (Joyce Cole). The property is 7.2 acres, located at 4680 U.S. Hwy 1, Mims. (17PZ00146) (District 1)
P&Z Recommendation: LaMarr/McLellan – Approved. The vote was unanimous.

Joyce Cole, 4680 U.S. Hwy 1, Mims, stated she would like to build a bigger barn for horses, and tree farm. She said she believes all the property around her is AU.

Motion by Robert LaMarr, Seconded by Ron McLellan, to approve the change of classification from RR-1 & RRMH-1 to AU. The motion passed unanimously.

IV.F. Change of Zoning Classification, Re: AU & RRMH-1 to all AU. Tina G. Conover (John Conover). The property is 2.13 acres, located at 6751 Barcelona Ave., Cocoa. (17PZ00147) (District 1)
P&Z Recommendation: McLellan/Wadsworth – Approved. The vote was unanimous.

Richard Powell, 4745 Ivan St., Cocoa, said he agrees with the proposal and it's consistent with the area.

Motion by Ron McLellan, seconded by Mark Wadsworth, to approve the change of classification from AU & RRMH-1 to all AU. The motion passed unanimously.

- IV.G. (This item has been automatically tabled by the applicant to the 02/05/18 P&Z, and 03/01/18 BCC meetings. Letter received 12/28/17.) Change of Zoning Classification, Re: RU-2-15 to BU-2, and removal of existing BDP. Southern Self Storage, LLC (Jake Wise). The property is 1.10 acres, located at 6 20th St., Cocoa Beach. (17PZ00148) (District 2)
- IV.H Conditional Use Permit, Re: Alcoholic Beverages for On-Premises Consumption. CLA Retail, LLC (Carmine Ferraro). The property is 1,820 sq. ft., located at 2338 Citadel Way, Unit 103, Melbourne. (17PZ00149) (District 4)
P&Z Recommendation: Barber/McLellan – Approved. The vote was unanimous.

Motion by Andy Barber, seconded by Ron McLellan, to approve the Conditional Use Permit for Alcoholic Beverages for On-Premises Consumption. The vote was unanimous.

- IV.I. Amendment, Re: Existing Binding Development Plan. Powell-Geary Services, LLC (Richard Powell). The property is 2.79 acres, located on the south side of Broadway Blvd., and east of Industrial Dr., approx. 0.47 mile west of U.S. Hwy 1. (17PZ00150) (District 1)
P&Z Recommendation: Barber/McLellan – Tabled to the 01/22/18 LPA meeting. The vote was unanimous.

Richard Powell, 4745 Ivan St., Port St. John, said he had been looking for a commercial piece of property in the area and found this one. He did some background investigation and found that there was a BDP on the property, so he cancelled the contract because it would be cost prohibitive. The seller then lowered the price, so he entered into another contract. He said he attempted to speak to all of the area residents; he also scheduled a meeting on the property and one gentleman showed up; and some people who could not come to the meeting called him. He said there was one person who refused to speak to him. He said his original intention for the property was for personal use; he has equipment that doesn't belong in a residential neighborhood. His proposal is to put self-storage on part of the property; and keep part of it for his personal use.

Henry Minneboo said there is some letters of objection, but it is related to Mr. Powell not being very clear with the neighborhood as to what he's going to do on the property. He asked staff if he board can table the item until Mr. Powell knows what he's going to do. Erin Sterk replied the board can table it to allow him time to speak to the neighbors, but she knows from other staff members that he has called with a few different ideas of what he's interested in doing, and he's very clear about what he intends to do in the application.

Mr. Powell said he understands that one of the objections has to do with putting up a fence or some kind of buffer, but that is one of the requirements of PIP zoning. He stated he plans on putting up buildings for self-storage and partly for his own personal use. The existing BDP talks about no truck parking, but it doesn't define trucks; and he is proposing no truck parking in excess of six wheels. The existing BDP also says there can only be an office building on the property. The previous owner needed an office building, but only having an office building is not economically feasible, and he wants to build anything that is permissible in PIP, BU-1 and BU-2. He said he went through the list and picked out things that are not conducive to being next to residential, and put them on the exception list as things that will not be done.

Andy Barber stated he would like to see a BDP with what Mr. Powell will do. He made a motion to deny the request and allow Mr. Powell to come back to the board with a BDP depicting what he wants to do on the property.

Gerald Lostutter, 5320 Monroe Ave., Cocoa, said he is one of a half-dozen residential properties adjoining Mr. Powell's property. In 1981, his father believed the developer when he claimed the area was going to remain rural and there would be no commercial development at all. In the meantime, there has been commercial

development to the west. The property in question, through 1996, was residential; it was only in 2006 that the previous owner decided he needed an office, but an office was never built. He said his belief is that the previous owner persuaded the board to change the zoning so he could double his money. Since then, there has been an incrementalism of commercialism; there has been light trucks, pickup trucks, dump trucks, and now 18-wheelers running on Industry Drive. If this incrementalism is allowed, Mr. Powell can later sell the property and the next owner will believe he or she is able to do something more significant. The homeowners in the area are elderly, families with pets and children, and they envisioned a lifestyle where they can look to the west and enjoy the landscape and sunset. He said he understands Mr. Powell is suggesting the possibility of self-storage, but he's been aware of other types of self-storage in which the units are rented out to businesses, such as welding and auto repair. He is also concerned about traffic and commercial uses along Broadway Ave.

Henry Adams, 5370 Monroe Ave., said he lives directly behind the subject property, and when he bought the property he was told no one would ever build on it. There is a lot of traffic on Broadway, and sometimes it takes 15 minutes to get to U.S. 1 from Broadway because there are tractor trailers and dump trucks. He asked the board to not let things escalate, and to let Mr. Powell have undeveloped property like it was supposed to be.

Mr. Minneboo asked Mr. Adams who told him no one could ever build on the property. Mr. Adams replied the realtor who sold it to him, as well as his neighbors.

Mr. Powell asked if he could amend the BDP to include what he intends to do.

Mr. Minneboo asked if the board can table until he does all that. Ms. Sterk recommended the board table to a date certain.

Motion by Andy Barber, seconded by Ron McLellan, to table to the January 22, 2018, Local Planning Agency meeting. The motion was unanimous.

Upon consensus, the meeting adjourned at 5:22 p.m.

**NORTH MERRITT ISLAND
DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, January 11, 2018**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, Merritt Island.

Board members present were: Mary Hillberg, Chairman ; Chris Cook; Jack Ratterman; Gina Lindhorst; Ted Balke; Catherine Testa; and Jim Carbonneau.

Staff members present were: Erin Sterk, Interim Planning and Zoning Manager; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator II.

Mary Hillberg – I don't think Gina got a packet.

Gina Lindhorst – I did not get a packet? She says you have the wrong email address for me. I sent you the current address.

Jennifer Jones – I did get an undeliverable message for you when I emailed you, but I mailed your package to your physical address.

Gina Lindhorst – I didn't get it.

Jennifer Jones – Are you still at 5136 Royal Paddock?

Gina Lindhorst – Yes.

Jennifer Jones – That's what I have for you. I'm sorry. I could have made you one today.

Gina Lindhorst – I didn't get a call, so I didn't know if we were having a meeting. You had my right email address before, so I don't know why. It's alright.

Mary Hillberg – She has a new one, it's gmail.

Gina Lindhorst – It's not new, it's old, but I don't know if you have the new one. I sent you an email with the updated stuff just to make sure.

APPROVAL OF NOVEMBER 16, 2017, MINUTES

Mary Hillberg – Our first order of business is the minutes. Does anybody have any suggestions for the minutes?

Catherine Testa – The minutes that are here do not have the correct date.

Mary Hillberg – Okay, it was November 16th. That wasn't our last meeting?

Catherine Testa – I have October 12th on mine.

Jack Ratterman – I've got November 16th.

Catherine Testa – Were these from October?

Mary Hillberg – This was the regular session for November. Our last meeting was November 16th, so this is correct here. We've already approved the July 13th and the October 12th minutes.

Gina Lindhorst – Where are the November minutes?

Mary Hillberg – These are the November minutes.

Catherine Testa – But it doesn't say that.

Jim Carbonneau – Half way down the page it says October.

Mary Hillberg – This first part here says July 13th. The second one says October 12th, and it talks about how we approved the October minutes, and then IV.A. is the item for the November 16th minutes.

Catherine Testa – I think it should have where the minutes for that actually begin.

Mary Hillberg – At any rate, I don't have a problem with any of the minutes.

Gina Lindhorst – The date at the top is wrong.

Mary Hillberg – No, that's it, these are the minutes.

Gina Lindhorst – I see, okay.

Mary Hillberg – The only addition that I have is under July 13th minutes, can you add, please, "motion by Gina Lindhorst, seconded by Jim Carbonneau, to approve the July 13, 2017, minutes 'as corrected'"?

Jennifer Jones – Sure.

Mary Hillberg – Just add those two words and that would be fine, because we did correct them.

Jennifer Jones – They went from summary to verbatim.

Mary Hillberg – Do I have a motion to approve the minutes?

Jack Ratterman – I'll make a motion to approve the minutes.

Jim Carbonneau – I'll second.

Mary Hillberg – All those in favor?

All: Aye.

Mary Hillberg – Okay, the minutes are passed.

THE MINUTES OF JANUARY 11, 2018 ARE AS FOLLOWS:

IV.D. Change of Zoning Classification, Re: AU to EU-1. Frank E. Jones, Jr., Trustee (Raonel Jesus Barrial). The property is .64 acre, located on the south side of Jones Trail, approx. 560 ft. west of N. Tropical Trail. (17PZ00140) (District 2)

NMI Recommendation: Ratterman/Lindhorst – Approved as SR. The vote was 5:2, with Balke and Carbonneau voting nay.

Raonel Barrial – My name is Raonel Barrial, I live at 1550 Anchor Lane, Merritt Island, Florida, and I am here on behalf of Mr. Frank Jones, who happens to be my best friend's father. Frank and I spoke some time ago and he's owned that orange grove for a very long time, since I was a little boy. I grew up in Merritt Island and am still a resident here, and my wife and I have three young kids and we decided we would like to build a

home on Merritt Island and would love to build on the grove. Frank and I came to the agreement that he would sell me a parcel of his land, which is the topic tonight, and we're requesting permission to change it over to .54 acres. It's .54, not .64. It's .54 acres from Agricultural, AU, to EU-1 residential, so we can build a single-family home.

A gentleman from the audience asked to see a map of the subject property.

Mary Hillberg – Sir, who are you?

James Arnold – My name is James Arnold, I own the property just west of the property in question.

Mary Hillberg – You need to have a seat and we'll follow along, and when we get to audience participation we'll call you and you can come up and give your name and address.

James Arnold – I'd just like to have the information to know what he's talking about.

Mary Hillberg – We don't have handouts for everyone.

Raonel Barrial – We're just wishing to get approval today to be able to build our family residence on this land.

Mary Hillberg – And how much land is that, exactly?

Raonel Barrial - .54 acres.

Mary Hillberg - .54 acres.

Raonel Barrial – It's a little over half an acre.

Mary Hillberg - .64 acres it says here.

Jim Carbonneau – The background says .64, and I believe the legal description on your survey says .64 in the write-up, but .54 is on the drawing, so you've got an error some place.

Raonel Barrial – I have the application that we did with George. May I approach?

Mary Hillberg – Sure.

Raonel Barrial – This is all filled out and it's .54.

Mary Hillberg – You're asking for .54, but your application says .64?

Raonel Barrial – It shouldn't say .64.

Mary Hillberg – What does the County have?

George Ritchie – I used the survey as the correct acreage.

Jennifer Jones – At the bottom of the survey it says .64.

Mary Hillberg – You might want to correct this survey.

Erin Sterk – That says .54, but the legal says .64.

Raonel Barrial – On the survey it says .54 acres.

Erin Sterk – But also on the same survey it says .64.

Raonel Barrial – We can have the surveyor correct that, but the parcel that we're cutting out is .54, so I want to clarify that's what we're purchasing.

Erin Sterk – The good news is that we've over-advertised instead of under-advertised, so we're covered as far as the process.

Mary Hillberg – It isn't a matter of mistaking the numbers, it's a matter of we want to make sure we pass everything correctly so that we have the right information.

Raonel Barrial – All the forms that I filled out with the County specify the .54, which according to the survey, when you see the actual outline of the section it also says .54. Thank you for clarifying that portion on the bottom, and I'll make sure the surveyor fixes it.

Erin Sterk – We'll get that from you before the next meeting.

Mary Hillberg – Excuse me, can we have quiet in here? If you all would like to talk, could you go outside, please? This is a very sensitive mic in order to pick up everybody and there's a lot of background noise.

Jim Carbonneau – Everything is being recorded.

Mary Hillberg – Go ahead. Is that your application?

Raonel Barrial – Yes, ma'am.

Mary Hillberg – Does anybody on the board have a question?

Jim Carbonneau – I do have a couple of questions. The legal description on the survey is an error, which we have pointed out. Given the shape of the entire property that is owned by the Trustee, Frank Jones, it's an odd-shaped lot that you're cutting out.

Raonel Barrial – That's the last parcel of land he purchased when he completed the purchase of his grove, and I think he made that purchase in the early to mid '80's, and that was from the gentleman that used to own the orange grove across the street from him, before Jones Trail was paved a long time ago. That was the last section he purchased. When he and I spoke about it he asked how much land I was looking for, and this works out, because Mr. Jones' agricultural portion of it.....he still harvests oranges and grows citrus there, and he also has bees that he takes care of and harvests local honey, so that way it was kind out of the way for what he still utilizes the orange grove for, and that's the reason he decided to sell us a parcel of it.

Jim Carbonneau – One other question regarding the parcel. It says in our write-up, in the Background and Purpose, that the owner wishes to split off this piece from the parent tract. At this time, does he have other plans to further subdivide?

Raonel Barrial – No, sir. His son, by best friend, John, will be the heir to that grove one day when Frank passes, and John lives in L.A. California, so I don't think John is going to try to develop the property. If anything, he would just sell it off in the future. That's hopefully a long time from now because Frank is still a young man. Hopefully that won't be an issue any time soon.

Jim Carbonneau – My last question is in regards to access to Jones Road from the proposed piece of property. Any idea where that driveway or access might come from?

Raonel Barrial – Absolutely. I'd like to have the house face to the north, so the driveway.....as you come up Jones Trail there's already.....if you're traveling west on Jones Trail, to the south side of the road is already a sidewalk, so you would just come to that flag lot, make a left, and that would be my driveway. My front door would face the street to the north. It kind of works out nicely and if you're standing there looking at it, it would be aesthetically pleasing from the street, I think.

Mary Hillberg – Any more questions?

Gina Lindhorst – I have a question. Why would they not give you a whole acre like the rest of the area is zoned for, instead of just a little tiny hunk.

Raonel Barrial – Because that's all we really wanted. Like I said, we've been best friends since we were in 5th grade, and that's what my wife and I's financial position is right now is, to afford a half-acre, and that's what he's willing to sell me.

Jack Ratterman – What are those other buildings? Are those buildings, or the beehives that are on there?

Raonel Barrial – No, Frank's got quite a few things there. He's got a troller boat back there, and he stores a lot of his personal property back there. He's got an observation tower back there, and just a lot of old stuff because he's a NASA engineer from back in the day and retired now. He keeps a lot of personal belongings back there, so that's what you're seeing from the aerial.

Jack Ratterman – It looks like it was an active grove, but it's not a grove now is it?

Raonel Barrial – I don't think he sells the citrus, but he still harvests citrus from there.

Jack Ratterman – From this aerial....

Raonel Barrial – The grove is the furthest portion to the west. I don't know when the Google.....you know that stuff is outdated, those Google images are several years old.

Mary Hillberg – It's last year, 2017. Any further questions from the board? You can have a seat, sir. Is there anyone in the audience who would like to speak to this issue? Yes, ma'am, please come up.

Kim Smith – I'm Kim Smith and I'm here to represent the North Merritt Island Homeowners Association (NMIHOA).

Mary Hillberg – Your address?

Kim Smith – Their address is PO Box 542372, Merritt Island, Florida, 32954-2372. The NMIHOA voted whether to approve or disapprove this. They did not support this request as it exists, because of Administrative Policy 3.C., the proposed use being inconsistent with emerging or existing pattern of surrounding development as determined through analysis of: 1.), historical land use patterns, 2.), actual development over the immediate preceding three years; 3.), development approved within the past three years, but not yet constructed. Also, Admin Policy 8(1), the character of the land use of the property surrounding the property being considered. (3), the impact of proposed zoning classification on the established character of the surrounding property. (4), the compatibility of the proposed zoning classification with existing land use plans for the affected area. And under Factors to Consider for a Rezoning Request: (1), the character of the land use of the property surrounding the property being considered, and (4), the compatibility of the proposed zoning classification with

existing land use plans for the affected area. The HOA was concerned when they heard this request that this change of zoning to this size parcel is spot zoning, and if approved would set a precedent for future spot-zonings on this and surrounding properties, altering the character of the neighborhood. They also asked why a 2.5-acre section was not parceled off for sale instead of the .54, which would not necessitate a zoning change. Thank you.

Mary Hillberg – Thank you. Does anyone have a question of this speaker? Is there anyone else who would like to speak?

Unidentified speaker – I have a question about what she was just referring to.

Mary Hillberg – You can come back up, Kim, and have her ask you a question.

Unidentified speaker – What is that that you're reading off?

Kim Smith – This is part of the packet of consideration that the County sets up when anybody asks for a change of zoning. The County – you folks can explain it much better than I – but they.....

Unidentified speaker – What's the document called so I can research it?

Erin Sterk – It's the agenda itself, the introductory pages to every single item. Every time a zoning agenda is compiled there's an introductory section that includes the Administrative Policies that define whether or not zoning can be considered by the board, and those are in the very early section of every agenda.

Unidentified speaker – Point 2 is referring to Section 8?

Erin Sterk – Exactly, those are the Administrative Policies.

Unidentified speaker – Regarding the lot not being consistent with the area, are we talking just North Merritt Island, or are we talking Merritt Island, or are we talking Brevard County?

Kim Smith – It's the surrounding land. If you look at the maps that's included with the packet it kind of has a section, and that's what the board was looking at in considering. It's part of that packet, and I will say, in the NMIHOA newsletter that comes out every month.....

Unidentified speaker – How do I get that? I own a lot in North Merritt Island and I never heard of this.

Kim Smith – You become a member, it's \$10.00 a year and it's mailed to you 12 times a year, and it's also available at the public library. Also, you can call the County when someone is considering a rezoning, and you get a notification, a little postcard in the mail, and you can talk....you can call the County and they can tell you where you can find this online. It's also listed where you can find it online in the NMIHOA newsletter; every month it lists where you can click on this and look at these things. It was posted online. I just happened to print it out because this was, like I said, I had to read in the concerns of the HOA.

Unidentified speaker – I guess where I'm going with this is, so listening to these sections, because I own the 2.5 acres just east of the property we're talking about, and I want to see building happening on the street. There's nothing there right now; I want to see that, so children can grow up together and have friends.....

Mary Hillberg – Excuse me, if you're asking her a specific question, that's fine. When it's your turn to come up you can come up and speak...

Unidentified speaker – I guess my question is, am I going to be affected, like when I go to build, will I have to go through this process?

Mary Hillberg – That's something you would say when you came up to speak. She isn't responsible for that; she's just representing the NMIHOA umbrella group. That's NMIHOA.org, and you can look up the Association if you'd like to join, or call the County for information about zonings. For this particular issue right now, we have one person who can speak at a time, and they give a name and address, and they speak. A question is okay, but it needs to just be specific.

Gina Lindhorst – It's a formal meeting.

Kim Smith – Their concern was the size of the parcel, the .54 acres, that's why they said, "Why couldn't a 2.5-acre parcel...."

Mary Hillberg – I understand what their question was, and so....

Erin Sterk – You'll have an opportunity after everyone else, after every public comment you have a chance to come back and speak one more time, and you can address any concerns they all have.

Raonel Barrial – Okay.

Mary Hillberg – You have a question of the speaker?

James Arnold – What's the current zoning?

Erin Sterk – AU.

James Arnold – One acre, 2.5 acres. You say 2.5 acres, what's the minimum lot size?

Kim Smith – The minimum lot size for a lot is 2.5....

Mary Hillberg – 2.5 acres.

James Arnold – Is this north of the Barge Canal? Does this pertain to just north of the Barge Canal? When you say North Merritt Island Homeowners Association, what does that encompass?

Mary Hillberg – Sir, I'm sorry, you're asking her questions that you probably should address to the board. Can you wait until your turn and then you can ask us the questions? She's just the representative for her group; she's very knowledgeable, but.....

Erin Sterk – She is, but she doesn't work for the County.

Mary Hillberg – She can't answer all the questions. Thank you very much, Kim, for your input. What was the recommendation for the NMIHOA?

Kim Smith – To not support this request as it exists.

Mary Hillberg – So they recommended not approving?

Kim Smith – Right.

Mary Hillberg – Thank you very much. Who else would like to come up and speak?

Raonel Barrial – Are we allowed to respond to that?

Erin Sterk – At the end you will have a chance to address any concerns that anyone brings up, or ask any questions.

Mary Hillberg – Who else would like to come up and speak?

James M. Arnold – My name is James M. Arnold, I live at 515 Harwood Avenue. I represent the Norma Darling Arnold Trust, and we own a piece of property just west of Mr. Jones. So, the current zoning is 2.5 acres?

Gina Lindhorst – That's correct.

Mary Hillberg – That's for AU; AU is 2.5 acres.

Erin Sterk – The Future Land Use designation controls the density of the area. That's Res 4, that's 4 units to an acre. So, any zoning classification that's less than that in theory is consistent with it, so currently the parcel is zoned AU and that allows for one unit per 2.5 acres. Technically, he has the ability to request a zoning that allows for development with smaller lot sizes, up to 4 units.

James Arnold – And that wouldn't affect the rest of his property?

Erin Sterk – The request is for whatever area that they designate.

James Arnold – Currently it's 2.5 acres?

Erin Sterk – One unit to 2.5 acres, yes.

Mary Hillberg – What is your address, again, sir?

James Arnold – 515 Harwood Avenue, Satellite Beach.

Mary Hillberg – Satellite Beach.

James Arnold – 32937.

Mary Hillberg – Thank you.

Jim Carbonneau – Is it your property to the west that's for sale by Trafford?

James Arnold – Yes, sir. Our zoning is multi-family, and it's been that way for 20-plus years or better.

Mary Hillberg – RU-10, I believe, medium density. Who else would like to come up and speak?

Van Nguyen – My name is Van Nguyen, I live at 2935 North Tropical Trail, so I live locally to that piece of property. The one thing I'd like to say is I, too, am in agreement about the consistency of the neighborhood. One of the reasons why I live there is it's my home. To have such an odd-size, .54 acres, in such a vast area is a very non-congruent to the current houses around that area. Yes, I am concerned about the precedent of what it can lead to if we allow this. The road in that neighborhood and out that neighborhood is the same in its own self, so traffic consideration is a concern for myself as well. If they ever do decide to open a large neighborhood behind there it would definitely impact access in and out. The question I also had for him is what

did he plan on doing in terms of utilities, septic, and where does he plan on putting the septic tank, being it's so close to the canal right behind him, and also the driveways and all that. That's my only questions, and that's my concern about being a local resident out there is the inconsistency with the current neighborhood with the lot size, 1, and there are environmental aspects of it, the septic tank – I'm pretty sure it's going to be septic – that's 2; and 3, what type of precedent is this going to lead to for the future, because if they do decide to sub it out to much smaller houses and much smaller land, whether that road can stand the traffic and all that. Thank you.

Mary Hillberg – Thank you. Does anyone have any questions? Anyone on the board have any questions of this gentleman? Thank you, sir.

Christine Carr – Hi, my name is Christine Carr, I live at 2833 Glenridge Circle, Merritt Island, 32953. I own the 2.5 acres that's just east of the property that we're talking about. I'm actually in agreement. I have no objections. I think they're talking about 'what if', what if it happened to the remainder of the property? That would have to go through an application process. So, I think us talking about 'what ifs' on the remainder is really a moot point because we're only talking about what's here now, right now. We're talking about one household being added to a piece of area that doesn't even have any households right now. I think it's a great thing; I think we need to see some growth, especially speaking from...I'm in the same age generation as the person who's applied and it's not very affordable for us to buy an existing home when we've got children and we're looking to get into something larger for our kids that actually has some land where you're not living 10 ft. from your neighbor, which is what you're experiencing on the central side of Merritt Island. I think that talking about the 'what ifs' isn't fair because that would have to go through a zoning application process. We're talking about one house on one street that has zero right now. I personally don't see where there's a negative impact. I think it's a positive impact to the community.

Mary Hillberg – Does anyone on the board have a question of this lady? Thank you, very much. Is there anyone else who would like to speak?

Raonel Barrial - I'd like to clarify a couple of points.

Mary Hillberg – Certainly, come right back up.

Chris Cook – Are you sure no one else wants to speak before he does that?

Mary Hillberg – Does anyone else want to speak? No one put their hand up.

Chris Cook – I just want to make sure.

Raonel Barrial – I appreciate everybody's concerns and thank you for your support, I appreciate that. Everyone, I think, made somewhat of a valid point, but there were some discrepancies that I want to clarify. Ms. Smith had mentioned that the current status is that it's got to be, or for the surrounding areas, everyone's on 2.5 acres – I believe that's what you said – I have here on my phone – again, I grew up on that orange grove with my best friend, I'm a lifelong Merritt Island resident. Directly across the street from Mr. Jones is an orange grove to the east, there's a lot you can pull up on the Property Appraiser's website and it's owned by Glen Binegar, it's 2925 North Tropical Trail, so as soon as you make a right onto Jones Trail, it's right on the right. Ma'am, that's only 1.37 total acres.

Mary Hillberg – We're talking to the board here, sir.

Raonel Barrial – I'm sorry. That's only 1.37 total acres, which is substantially less than what Ms. Smith was just referring to.

Catherine Testa – But that's not adjacent to this piece of property.

Raonel Barrial – If you're standing in front of the orange grove and you look to the right you can see it.

Gina Lindhorst – It's north.

Raonel Barrial – It's at the intersection.

Catherine Testa – But it's not adjacent.

Raonel Barrial – But it's within a stone's throw. Do you see what I'm saying? The notion that it's going to compromise the surrounding area, that everyone in that general vicinity, is what I gathered from that comment, has a home on 2.5 acres, is false. Not only that, if you're on Tropical Trail and you're traveling northbound, right before you reach Jones Trail, on the left hand side of the road, from the intersection of Grant Road, southbound to Jones Trail, there's several parcels on the left, several single-family dwellings on the left. I pulled one up just as an example, which is right at the intersection across from Jones Trail, and that address is 2920 North Tropical Trail, and that's 0.4 acre, which is less than what I'm going to purchase. So, the notion that it's going to impact the surrounding area is just not true. If you'd like to drive it I encourage you to do so, because you'll see the only homes that exist on Jones Trail is a couple right across the street from the grove, and if you travel due west you have a couple of big mansions that you can't even see from Jones Trail. I've been a deputy sheriff in this county for 16 years, so when it comes to traffic concerns I understand your traffic concerns if that were to become a huge development, sir, but I can tell you this is my childhood best friend, and he and I have a very close relationship. All I can do is reassure everyone that's here, and reassure the board, of what's being sold to me, and I can tell you Mr. Jones has no desire to sell. The only reason he's selling the property is because I'm his son's best friend, and that's it, period, point blank. Again, I'm a lifelong Merritt Island resident; I have three young children; my wife and I have been married – how many years? Our oldest son is 13. I recently just retired from the Sheriff's Office where I was a deputy sheriff for 16 years. I know that we're going to be positive members, continue to be positive members, of this community and hopefully try to make some aesthetically pleasing development in that neighborhood, because when you walk there it just like dead wood; it's all overgrown; and the people that do own their parcels of land in those groves, they don't care for them; the grass is 10 feet tall. We're hoping to make Jones Trail have a nice couple of homes on it to where, like you said, for young families to be able to grow up and continue to have their children have the same love, respect, and admiration for Merritt Island that we do, and that's why we want to purchase land on the Island.

Mary Hillberg – Thank you, very much.

James Arnold – I have a question.

Mary Hillberg – I'm sorry, but you've already spoken. You can speak with him later on, but this meeting has a formal procedure to it.

Christine Carr – Can I ask a question, like, if he addressed something that then sparked a question, are we allowed to ask that? He was referring to pieces of land nearby and their sizes, and one of the parcels on the same street, the parcel just next to me, has one acre.

Mary Hillberg – No, that's additional information, you're not asking (inaudible). Those are good comments, but we do it one at a time and there's a formal procedure here; otherwise, everyone's speaking at once and the poor lady who has to do the minutes can't hear what's going on. So, that's what we have to do and we cannot discuss anything from the audience right now. Thank you. Thank you very much, Mr. Barrial.

James Arnold – I'm sorry, I think a relevant question is how large is this home going to be? How many square feet is this home going to be? That's the question I would like to ask the gentleman at the podium.

Raonel Barrial – That's personal to me and I'm not going to discuss my personal business about how big the home is going to be.

Mary Hillberg – If that's all that you have to offer to us, right now, thank you very much.

Raonel Barrial – Thank you so much for your time.

Mary Hillberg – Have a seat.

Raonel Barrial – I appreciate it.

Mary Hillberg – We bring it back to the board.

Jennifer Jones – Kim, I can't hear you.

Kim Smith – There's one more letter that was....

Mary Hillberg – Mr. McMillian's letter?

Kim Smith – Yes.

Mary Hillberg – Yes, we received that. Should we comment on that, or read it into the record?

Jennifer Jones – You can read it into the record if you like. It's been added to the file.

Mary Hillberg – This is a comment, or letter, by resident Earl McMillian, 150 Smith Road, Merritt Island, Florida. "Dear NMIDSDB members: It is my belief that the subject request to change the zoning from AU to EU-1 of a 0.64 acre slice of property on North Merritt Island constitutes unlawful spot zoning. Spot zoning occurs when a property, often small in size and often carved out from a larger property is granted a classification that differs from property in the immediate area. Spot zoning has long been condemned." There's a reference to a legal issue in the past. "See also the City of Cape Canaveral", that's another legal precedent. "Points to consider with respect to a possible spot zoning situation include: 1.) the size of the parcel subject to rezoning, 2.), comparison of the zoning that exists and the zoning that is sought, 3.), the zoning and use of adjacent properties, 4.), the benefits and detriments to: a.) the land owner, b.) neighboring land owners, and c.) the community. 5.), comparison of the requested rezoning to the policies and objectives of the county land use plan. The burden of proof of that the proposed rezoning is not spot zoning is on the applicant. The applicant can meet this burden by competent substantial evidence that the rezoning is not only in its interest, but in the interest of the public. I apologize for not being able to attend the meeting. Respectfully, Mr. McMillian". That's the only other piece of testimony that we have here tonight.

James Arnold – Excuse me, shouldn't you enter his name and address?

Catherine Testa – She did read it in the beginning.

Mary Hillberg – It's part of the record. I'm just sharing the written part of the record with the audience. Now it's back to the board and the audience is not to speak anymore, please. What does the board have to say?

Jack Ratterman – I have a question to the County about the septic, since that was brought up, the septic setback. Generally, what is that, 25 feet?

George Ritchie – Zoning doesn't control the septic; that's done by the Environmental Health Department with the State, so they'll actually be getting a permit through that State office that is at Judge Fran Jamieson. They are co-located in our building, but they have their own rules, so we don't have any say about that.

Erin Sterk – And we don't have that information because that's not a requirement to make the zoning request. It's more of a site plan issue. That's why details about that are not included in the staff report.

Gina Lindhorst – I have a comment. I'm not sure why it was jumped to the request for EU-1 from AU, because AU is 2.5 acres for one house, and then you go down to one acre, and then half an acre, but we've jumped down to 12,000 square feet of lot size for a house, which I think is a huge difference, which does make a difference in the neighborhood, if that's what we're talking about, which I think we are. So, that's one of my concerns. I think it should not be that big of a leap and more of a gradual, since there has to be a line somewhere that we have high density, which is on the other side of Tropical, and then lower density has to start somewhere, so it's already been done on that side of Tropical and should continue with a gradual change, if any at all.

Mary Hillberg – Anybody else?

Chris Cook – I've got some questions. I'm a little confused. I was under the understanding that the Port owns the property along the Barge Canal.

Mary Hillberg – 500 feet, isn't it?

Chris Cook – No, not 500, 50?

Several speakers – 50-foot easement.

Chris Cook – 50-foot easement, okay. The other thing is, I'm looking at that property to the west that's zoned RU-2-10(3), and was that originally supposed to be part of this other development that was RU-2-10(4), on the east of it, on the other side of Tropical Trail?

Mary Hillberg – I don't know. Do you know?

Raonel Barrial – No.

George Ritchie – They are two separate properties, each have their own zoning. The zoning RU-2-10 is the zoning classification; however, the parenthesis and the number means what they are limited to. So, even though the zoning classification would allow up to 10 units per acre, the zoning on one side is limited to three units per acre and the other one that's the RU-2-10 capped at 4 is capped at 4 units per acre, and both of those zonings are consistent with the comp plan, which says Residential 4. This is not a Residential 1 area that requires one-acre lots. This would basically be 4 units per acre down to quarter-acre size lots if you're doing single-family development.

Mary Hillberg – Anyone else have questions? I was wondering, looking at some comments from Natural Resources, I guess. "Property located on the Barge Canal designated as a Class III water, 25-foot surface water protection buffer is required" and so forth and so on. This property is not surrounded by any properties that are this densely zoned, right?

Erin Sterk – I don't know if that's true because the property to the west has a zoning that's up to 4 units per acre.

Several speakers – 3

George Ritchie – I think it's 4 to the east and 3 to the west. This parcel does not abut the Barge Canal, it's a couple hundred feet away.

Mary Hillberg – Right, but the property that we're talking about is surrounded by AU, and across the street is AU, and to the right is SR. Is that right? I mean, the actual property that we're looking at to zone, that piece, is surrounded by AU, AU, and SR.

Catherine Testa – To the east is actually AU.

Mary Hillberg – To the east is a different property?

Gina Lindhorst – That's that lady's property.

Jim Carbonneau – Right, that's owned by this young lady over here.

Catherine Testa – Everything that it touches is AU.

Mary Hillberg – It is essentially surrounded by AU, that's what I'm trying to say. The Future Land Use is higher than that, but the compatibility with the surrounding area, according to our Administrative Policies, and that's not the trend of it as of yet, so far. My question is, is it not possible for the applicant to go from – because the applicant wants to build one house on a piece of property and have a nice yard – go from AU to the next half-acre, which is SR, Suburban Residential, that requires a half-acre of land, minimum lot size. Would that be an appropriate change of zoning for him? He can't build on it now because it's too small, so in order to give him the ability to build a home, if he went to SR he's .64, he's over half an acre, so that would give him the ability to build a home.

George Ritchie – He would meet the minimum conditions for SR, that's 100-foot wide by 150-foot deep, and a half-acre in area, so although the road does zag, he still has enough road frontage and then the depth. So, that is something that could be entertained.

Mary Hillberg – That would allow him to build his home?

George Ritchie – One house.

Mary Hillberg – One house on his property that he wants, and that would please the neighbors who would like to have another house; that would please the people who are trying to sell it; that would please the applicant himself, I'm assuming, if he wants to build a house there; and that also would not.....it would not be exactly compatible with this, but since he already owns the property.....I'm assuming you own the property, that the applicant owns the property, right? He's not going to buy it, he owns it.

Erin Sterk – The applicant owns the property, the gentleman here today does not yet own the piece.

Ted Balke – It's contingent on....

Jennifer Jones – Frank Jones still owns the property.

Erin Sterk – He's representing, he's not the applicant. He's authorized to act on behalf of the applicant.

Mary Hillberg – Okay. It's really not compatible with the homes around it; however, if they were to do that, going to SR would make half-acre lots.

Erin Sterk – The board can consider any change of zoning classification in the meeting that's less intense than the zoning that's proposed, so since you're kind of going there with trying to understand the differences between them, I'm going to ask George to elaborate on the differences between what's proposed and the other solution which is possible, which is SR. Can you describe the differences, and perhaps the applicant could consider whether not that would be something that he's interested in?

George Ritchie – The SR zoning is half-acre zoning, 100-foot wide, 150-foot minimum depth. It requires a house size of 1,300 square feet minimum area. The EU -1 zoning requires a minimum house size of 1,500 square feet in area, and is a lot size of 100 by 100, and 12,000 square feet. Based on that lot area, there's more land there that potentially could be subdivided into two lots under the EU-1 zoning, although there isn't enough width to make them roadway frontage lots. There is enough depth. The difference would be, under the SR zoning it would not be able to be subdivided and it would barely meet the minimum requirements for that zoning, which is a half-acre.

Jack Ratterman – I'm wondering, if he gets his zoning and then the next person comes in and says, "I want to have a 0.5 lot next door to him", can they do that, put a house on it?

George Ritchie – That would have to come through a zoning application just like this.

Erin Sterk – Technically, that request would also be consistent with the comp plan, so the application would be accepted, and could be considered by you all.

Jack Ratterman – I'm always concerned about the density. I don't know if the audience is concerned about density or not, but I live on Hall Road and now people on Hall Road are starting to have a dirt war; everybody is going out and buying concrete bags and building these walls, and they're putting dirt behind it, and then all the water that's on their property is going to go to somebody else's property. And all that's based on our flooding issue, so any time there's a zoning issue out here we have to be concerned about that, we have to be concerned about the density that's going to be permitted out here, because every time you put a house, that water goes somewhere.

Mary Hillberg – I agree with what you're saying about the flooding issues, and there's definitely a flood hazard area; however, we've got other issues on top of that, too. We're right next to the Barge Canal, so this....and our water, I don't know, which direction, George, the water goes? The drainage goes where?

George Ritchie – We don't request from the applicant. It would be submitted as part of the building permit to show how the drainage would go on the property.

Mary Hillberg – I don't mean the property's drainage, I mean the drainage in the whole area. Doesn't this whole area drain into the barge? It doesn't go across the street, and it doesn't....

George Ritchie – We don't collect that information on our maps, or Natural Resources maps, so I don't know.

Mary Hillberg – We do also have to consider the Administrative Policies that were voiced by Ms. Smith, 3.C., 8. and then the two factors that she mentioned. What would the rest of the board like to do?

Jack Ratterman – I would like to see if the applicant would go for the SR.

Mary Hillberg – Would the applicant like to come back up and speak?

Jack Ratterman – I mean, is his heart set on that?

Mary Hillberg – Could the applicant come back up to the podium, please? Would you be amenable to having SR zoning?

Raonel Barrial – Honestly, I've got to discuss it, because when we sat down with George to talk about it, we came up with EU as the best option for us because of the fact of the building size of the home. So, you said tonight that SR needs....

George Ritchie – 1,300 square feet, the EU-1 is 1,500 square feet. The SR zoning requires 1,300 square feet minimum living area, and the EU-1 is 1,800 square feet as the house size.

Raonel Barrial – So, you guys want me to go to SR-1 [sic], but I have to build a smaller house? That doesn't make sense to the argument that everyone is making.

Gina Lindhorst – It doesn't matter about the size of the house, it's the density of the property.

Raonel Barrial – But on SR you have to go 100 wide by.....?

George Ritchie – 100 deep.

Raonel Barrial – And on the EU-1 it's....?

George Ritchie – It's the same size, 100 by 100. EU is 15,000 and EU-1 is 12,000.

Raonel Barrial – So, the argument that everyone's making, that I'm hearing, really serves no valid point.

Mary Hillberg – We were talking about SR.

George Ritchie – SR is 100 wide by 150.

Raonel Barrial – So, you've got 50 feet more deep to the....

Gina Lindhorst – It's the size of the lot with one family on it, with one building on it, and then the EU-1 says you can put one building on 1,200 [sic] square feet, which is way denser than SR.

Mary Hillberg – If you're looking to build a home, and I think it's a matter of 200 square feet for the house.

George Ritchie – It's actually 1,300 to 1,800; it's 500 feet difference as a minimum.

Gina Lindhorst – EU says you have to build a bigger house than the other one, which we don't care about that; we care about the density of the dwellings.

Raonel Barrial – I want to make sure I'm understanding this correctly: For EU-1, the lot minimum has to be 100 wide by 100 deep, or 150?

George Ritchie – The lot size for EU-1 is 100 ft. wide, 100 ft. deep, and 12,000 square feet.

Raonel Barrial – For SR, it's?

George Ritchie – It's 100 feet wide, 150 feet deep, and one-half acre, which is 23,000 square feet.

Raonel Barrial – You're talking about just a little bit bigger lot, but it's not a substantial amount. Again, everyone.....I'm hearing concerns from everyone bringing it up, this gentleman who lives on Hall Road, that's

half a mile down the road. Directly across from Mr. Jones' grove, to the north – I'm on the Property Appraiser's website right now – the address there is 2945 North Tropical Trail, I could throw an orange and hit that yard, and that is....let me pull up the details – and this is a different one than I read to you earlier – this one is 1.4 acres.

Jack Ratterman – Is there a house on it?

Raonel Barrial – Yes.

Gina Lindhorst – One house.

Catherine Testa – What's the problem with SR? It requires you to build a smaller house, which gives you options. If in the long run you decided 1,800 square feet minimum could be 50 square feet too much.....

Raonel Barrial – I think the issue is with the way the lot was cut out, the shape of it, that's why we decided on the EU, I think.

Catherine Testa – SR gives you more options and more freedom in case you want 1,800 square feet. You might be going for 2,200 square feet, I don't know, but at least it gives you an option. You don't have to build 1,800 feet, because once (inaudible) it might be out of your budget, as prices keep going up and up.

Gina Lindhorst – I think Mr. Barrial misunderstands what our goal is.

Catherine Testa – Going this way, with SR, you would be required to have that half-acre, where EU only requires you to have a twentieth of an acre, or something small, and that would allow for the neighboring properties to also be a lot more dense, and this would give us a bigger plot. So, if it does snowball into other properties, it snowballs at half acres, not a tenth of an acre, or an eighth of an acre, that kind of thing.

Gail Barrial – When we went in....

Mary Hillberg – You need to give your name and address.

Gail Barrial – My name is Gail Barrial.

Mary Hillberg – Sir, are you finished?

Gina Lindhorst – Just one person at a time.

Mary Hillberg – One at a time.

Gail Barrial – Gail Barrial, 1550 Anchor Lane, Merritt Island, Florida, 32952. When we went in to speak in regards to possibly getting this rezoned, we were trying to....we were told we can go down and then the request can be for higher, but we can't be higher and request lower. We had to start somewhere and we could go upwards, correct? We're asking for the EU, but you guys can recommend us to go to SR. If we had requested SR and you guys didn't accept that, we couldn't go backwards and go for the EU, we could only go upwards, correct? Isn't that what you explained to me?

George Ritchie – Yes.

Gail Barrial – Yes, thank you. So, we were discussing what to request for. We were trying to find out what would make the board the happiest in building a home. We thought, in our opinion, that a small home would not be something that you guys were looking for, a nicer home that is aesthetically pleasing to the area,

because there are larger lot sizes. Most people don't want a 5,000 square foot next to a 1,300 square foot home. That was the reason that we looked at the EU, because the requirement for the house had to be bigger.

Raonel Barrial – She reminded me, that's the other thing, that's exactly right. The main issue was that we could always request to go up, but we can't go in reverse the other way. So, at this point, we're not going to consider the SR until the County Commission tells us otherwise. We want to stick with the EU. Again, for what it's worth, and I don't even know if it's worth anything to anyone, but I just don't understand why anyone would be anti a young family, former law enforcement....16-year former law enforcement veteran, to be living in a subdivision. That boggles my mind, but all we can do is respectfully request it and if it gets denied by the County Commission, then it does, and we'll revisit the SR at that point.

Chris Cook – We can't take a look at who the applicant is. You can be the greatest guy in the world, or you can be the biggest not-the-greatest-guy-in-the-world, we have to look at what our requirements are in the County. At lot of times.....we've been on this board, some of us, at least I have, some of these guys have been on this board for a while and we've seen guys get their zoning and they're great guys, community leaders, the next day they get their zoning and they turn around and sell it to a robber baron who goes and does the absolute worst thing that that zoning will allow. We have to take a look at the worst case scenario, what's the worst thing that can happen if we give you your zoning. And that's what we're looking at. I think what she's looking at is we'd rather see a nice density, we'd rather see less density on a per square.....on a lot rather than the house. You're going to build whatever size house is suitable to you, and we don't have any control over that, really, we just have the minimum, we have no control what that looks like, or anything like that, and it doesn't do any good discussing it. I just want to make sure you understand that. The other thing is, we look at stuff like this and see weird shaped lots like that, and we've dealt with all kinds of issues over years, where these little sliver of lots where people have done things with the zoning and it creates headaches, headaches unbelievable, when people try to sell it. It becomes very contentious and it complicates everything. So, we're trying to look at what this is, but we're also looking down the road, too, as far as the whole area. I think that's the direction. Just so you understand, we're just looking at this paper, we can't look at you as a person.

Raonel Barrial – And I understand that, and I can tell you exactly what my intentions are and what's going to happen if we purchase this lot. To ease your mind on the weird shaped little lot, the property directly to the east of me there's straight lines, but everything to the west of me is Mr. Jones' grove, which he's not selling, which I've already reiterated that, like, 10 times.

Chris Cook – He could sell it tomorrow if he wanted to.

Raonel Barrial – He could do a lot of things....

Chris Cook – That's what we have to contend with.

Raonel Barrial – Again, if we want to play the 'what if' game, we could be here for six hours. All I can tell you is what's actually happening now.

Gina Lindhorst – I have a suggestion. If you could think about what we're doing, we're objectively looking at the properties and how many families are on each chunk of land. That's what we do; we don't look at the person and how nice they are and all, but we have to consider what's going to happen in the future. There's a Comprehensive Land Use Plan, and there are other kinds of Administrative Policies that we have to go by. If someone wants to carve out a little tiny piece of a significant piece of property that's zoned one way, we have to consider what's going to happen next, the next trend for the person next to you, for instance, might be something that we don't recommend doing, and they can say, "You did it for this guy, so why not for me, too, because I'm nice." So, you understand that's where we're coming from, so it's not personal thing and we don't want it to turn that way.

Raonel Barrial – I'm trying to ease your mind and say that you're requesting that a single home be built on at least a half an acre, is what I'm gathering, right? And I'm telling you I'm building a single home on a little over half an acre.

Gina Lindhorst – That's good for you, but we're telling you the zoning is important to the board, not just your property for yourself for what you're going to use it for. The whole zoning issue around you, you're going to change the character of those properties that are touching yours.

Raonel Barrial – Sure, but everything that you requested that the development of this land be, I'm assuring you it's going to be, and it's in writing. It's over half an acre that I'm purchasing and it's going to have one home on it. I don't see the.....

Catherine Testa – It's also the snowball effect of the zoning that you've chosen, because Mr. Jones may not sell his land or rezone the rest of his land, but the man across the street, or the woman who owns the big....how many acres?

Raonel Barrial – But everything a stone's throw across from Jones Trail, on Tropical Trail, is less than that. It's already been zoned that way.

Gina Lindhorst – It's not a stone's throw.

Raonel Barrial - I can hit it with a baseball.

Gina Lindhorst – It's another whole piece of property....but it doesn't matter.

Raonel Barrial – Again, I grew up.....I don't know if you grew up in Merritt Island.

Gina Lindhorst – I did.

Raonel Barrial – I can hit a baseball and I could throw it and hit a house.

Ted Balke – Future Land Use has been established that AU property that's vacant at this point has a specific square footage of what it's supposed to be sold as a lot size.

Mary Hillberg – Actually, the Future Land Use is in your packet here and it's a little bit different, I think. If I'm looking at it correctly.

Ted Balke – Not with that side of North Courtenay. AU property is something that is being addressed next week, right? All the vacant AU properties.

Erin Sterk – The recommendation that's in draft form by the North Merritt Island Small Area Study citizens committee, which you sit on, is for any parcel that has Residential land use designation of Residential 1, currently, that's zoned AU be changed to Residential 1:2.5. They are recommending that the Future Land Use designation match the zoning and limit the density to 1:2.5. Now, that is not this property. This property currently does not have a Res 1 Future Land Use designation, it has a Res 4 Future Land Use designation. The recommendation that's still in draft, but that we said any application that comes through that would be affected by that, we note that in the staff report. That recommendation wouldn't affect this proposal. The recommendation is for anything with Res 1 to go to Res 1:2.5, and most of those parcels are off of Crisafulli, up in the northern end of North Merritt Island. I think through the evolution of that committee that they felt like there wasn't teeth to get traction to change something from 4 units per acre to 1 unit per 2.5 acres. I think

through committee discussion that seemed like a far stretch to get the Commission to approve that, so they limited the recommendation down to the Residential 1.

Mary Hillberg – What they're trying to do, too, is not have it seem like they're trying to take, or reduce the rights of the property owners.

Erin Sterk – What that recommendation would prohibit would be those folks who have AU zoning coming in and seeking a zoning classification that's lower that would allow for one unit per acre. Right now, the zoning allows for 2.5 acre lots.

Mary Hillberg – And this committee is doing this not for.....is doing this because of the issues with the land, with the flooding, with the traffic, because of the particular issues that are specific to North Merritt Island. These aren't the same issues as other parts of Merritt Island have. South Merritt Island is packed-in and build-out and they don't have these kinds of issues that we have; they don't have to keep pumping water in circles; they're not in a bowl.

Erin Sterk – But this part of North Merritt Island would not be affected by that recommendation.

Ted Balke – All AU undeveloped properties.

Erin Sterk – With a Residential 1 Future Land Use designation. This is not a Residential 1 Future Land Use designation.

Mary Hillberg – Is there anyone else who has any questions? Okay, you can have a seat, sir, thank you.

Erin Sterk – Just to clarify the tools that are at your disposal, you have the ability to recommend a zoning classification that is less dense than what is proposed, like you suggested. You also have the BDP as a voluntary tool that you can use to limit the property to one unit. Those are tools at your disposal.

Mary Hillberg – I have a question, George, can you clarify for me, is it actually that Suburban Residential is actually.....the home is larger or smaller than Estate Use Residential.

George Ritchie – Its required size minimum is less. SR is only 1,300 square feet.

Mary Hillberg – The minimum is less?

George Ritchie – Yes. You can always have a bigger home.

Mary Hillberg – You can always have a larger house.

Erin Sterk – But the lot size is larger.

Mary Hillberg – In EU-1 the minimum is larger?

George Ritchie – Correct, that's an 1,800 square foot minimum.

Catherine Testa – The minimum house size is larger, but the lot size is smaller.

Mary Hillberg – Exactly. That would be the opposite from what I was understanding the applicant was saying, we're not forcing him to build a big house, we're actually giving him the option of a smaller one.

Gina Lindhorst – He doesn't want an option, he wants to show that he's going to build something bigger than what is the minimum.

Mary Hillberg – He can build something bigger. He can, right?

George Ritchie – Yes.

Ted Balke – That's the minimum size, so he can't build anything smaller than 1,800.

Mary Hillberg – SR allows for a smaller home than EU-1 does. We want to make sure we're not putting the applicant in a position where he has to build a bigger house than he wants, or that he's impinged upon in any way. We want to make sure that we're not hurting the applicant, but at the same time we want to make sure that we've got continuity and compatibility in the surrounding area because the surrounding community does have an investment in the area that surrounds their home. You don't buy a home in New York and expect to have a big field and horses....in New York City, I mean. The same thing goes here, you buy a home in an area that is zoned this way, AU, and that's Agricultural, you could have horses, you could have chickens and whatnot, and then you have a smaller cut-out there and pretty soon it starts.....this is hard for the people that already own property, is what I'm trying to say, and we're trying to balance the current residents and what is there now along with trying to help the applicant get what he wants, and he wants to build a home, and this allows him to build a home, larger or smaller, that isn't a problem, and it wouldn't affect him in any way. Is that what you're....do you agree? George?

George Ritchie – It wouldn't affect him in any way, what do you mean?

Mary Hillberg – As far as building his home.

George Ritchie – If he only wants one house he could always do a BDP to make the house bigger, but the requirement is 1,300 square feet.

Mary Hillberg – He doesn't have to have a big house. We don't care about a smaller house; it doesn't matter. This gives him an option. What I'm trying to say is we're not hurting the applicant, is that correct?

George Ritchie – Correct.

Mary Hillberg – I'll let the board come up with something. I'm kind of thinking that going from AU to SR is a half-acre, it's compatible with everything that the applicant says he wants, it's more compatible with the surrounding area – it's half an acre as opposed to 2.5 acres, it's not as good as that, but then of course there's always the option of denying it entirely. I don't know how the board feels; it's up to you.

Jack Ratterman – I would say that if he'd like to go to SR that I would vote for that. If wants to have the zoning remain as-is, then I vote to deny. That's my thought.

Mary Hillberg – Is that a motion?

Jack Ratterman – Yes, I'll make that a motion.

Mary Hillberg – We have to ask the application.

Jennifer Jones – That can't be a motion until....the applicant has to say whether he wants one or the other, right?

Erin Sterk – It can be a motion that the board makes. I think he's expressed that he can achieve what he wants to.

Gina Lindhorst – It doesn't prohibit him from doing what his plan is.

Mary Hillberg – You made a motion to recommend SR, and is that the correct motion?

Erin Sterk – That's correct.

Mary Hillberg – You made a motion to recommend SR.

Jennifer Jones – He said he approved as SR if he agrees, if not, then he wants to deny it.

Chris Cook – Get rid of that part of it. Just make a motion to move it to SR.

Jack Ratterman – I make a motion that we approve as SR.

Mary Hillberg – We have a motion to approve SR for this applicant. Is there a second?

Gina Lindhorst – I second that.

Mary Hillberg – Okay, Gina seconds it. Now we can discuss it. What do you think? What does everybody think?

Catherine Testa – I think SR is better for the neighborhood. It's consistent. The property to the right is already SR. You'd have to go across the road, and across the road to get to EU. So, again, with the neighboring properties it's more consistent, and it doesn't prevent him from building the house because it's over the half-acre that he required. And it also gives him the option of building a smaller house, and he's not required to build 1,800 square feet. He can, but he doesn't have to.

Ted Balke – The property next to him is not SR, it's AU.

Catherine Testa – I know, I'm just saying the closest property.

Ted Balke – The second property.

Catherine Testa – SR is closer to him than EU.

Ted Balke – Right, but he should be one-acre minimum.

Gina Lindhorst – I have a comment. I way prefer to stay AU or go to whatever the other one's are, like ARR, or REU, but since the applicant has requested a more dense piece of property and just cutting out a small chunk, then to go ahead and compromise, I think it would be better for SR, and I do not think the EU-1 is at all acceptable for this area. It's way too big of a jump from AU and SR to EU.

Mary Hillberg – EU-1.

Gina Lindhorst – I don't think that's at all acceptable for this area. In other parts of North Merritt Island it would be fine, but not this part. We're trying to help with the other peoples' property values as well, and when people buy property they expect it to stay the same, generally.

Mary Hillberg – Does anybody else on the board have a thought? Jim?

Jim Carbonneau – My thought is whether it's SR or EU, we're talking about house sizes, and I think we ought to be talking about acreage.

Mary Hillberg – We are.

Gina Lindhorst – I don't care about house sizes; we don't determine any of that.

Jim Carbonneau – Again, I think the concern is the zoning of the parcel, not the size of the house.

Gina Lindhorst – Right.

Mary Hillberg – You're saying going from 2.5 down to a half an acre is what you're concerned about?

Jim Carbonneau – Exactly. And I would ask for not changing the zoning.

Ted Balke – I agree. Everything else in that area is a minimum of RR-1.

Mary Hillberg – No, it's not, it's AU.

Ted Balke – Everything is AU and the minimum that's there now is RR-1.

Mary Hillberg – He's not planning on buying that large.....

Jim Carbonneau – Unfortunately, we don't have the Trustee here to be able to discuss his future plans for the rest of the acreage that they are carving this out of.

Mary Hillberg – Destinies change, so we never know.

Gina Lindhorst – I think it's a compromise and it's a good one for everybody involved, personally. I'd like it to stay AU because that's what the one's around it are, less dense.

Mary Hillberg – What's the pleasure of the board? We have a motion and a second. No more comments? All those in favor of the motion say 'aye'.

Hillberg, Lindhorst, Cook, Ratterman, and Testa – Aye.

Mary Hillberg – Opposed?

Carbonneau and Balke – Nay.

Mary Hillberg – Okay, so the motion passes and we recommended SR to the applicant. This is as close as we want to get from moving from 2.5 acres that it is zoned currently.

Ted Balke – So, we didn't approve it as EU-1?

Mary Hillberg – Right, we recommended SR.

Ted Balke – We recommended that he re-file again as SR?

Erin Sterk – No. The recommendation is that the Commission consider changing it to SR. He's still going through the process, and he's still being considered as requesting EU-1 by the other boards, but they'll take your recommendation.

Mary Hillberg – This recommendation, too, is also dependent on the.....or I should say the flooding issues for North Merritt Island and the drainage issues, stormwater drainage, really have an impact here, so we're trying to slowly turn the big ship around so we're all not flooded. A lot of properties here are still flooded.

Ted Balke – We flooded just with the rain the other day. You've got to be realistic about this. If you're talking about half-acre properties, you're getting to a point where there's a major problem.

Mary Hillberg – Mr. Jones' next stop is the P&Z, and that comes up when?

Jennifer Jones – The 22nd.

Mary Hillberg – P&Z board on the 22nd and then the Board of County Commission on February 1st, if anyone is interested. Without any more business, we call the meeting to a close.

The meeting adjourned at 7:19 p.m.