

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

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on May 7, 2015 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

ZONING STATEMENT

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

INVOCATION

The invocation was given by Pastor Logan Dalton, Calvary Church, Merritt Island.

PLEDGE OF ALLEGIANCE

Commissioner Smith led the assembly in the Pledge of Allegiance.

PUBLIC HEARINGS

Vice Chairman Barfield called for a public hearing to consider Planning and Zoning Board Recommendations of April 6, 2015.

ITEM III.B.1., (15PZ00003) - FMKT MEL OWNER, LLC - (TROY COX) - REQUESTS A SMALL SCALE PLAN AMENDMENT (15S.02) TO CHANGE THE FUTURE LAND USE FROM PLNIP TO CC, AND A CHANGE OF CLASSIFICATION FROM PIP TO BU-1 ON 7.444 ACRES; AND A CHANGE OF CLASSIFICATION FROM PIP TO BU-2 ON 9.957 ACRES, LOCATED ON THE EAST SIDE OF N. WICKHAM RD., APPROX. 0.20 MILE SOUTH OF PINEDA COURT.

Cynthia Fox, Planning and Zoning Manager, stated this is a change in the Future Land Use from Planned Industrial to Community Commercial and from Planned Industrial Park (PIP) zoning to BU-1 and BU-2, for commercial development.

There being no comments or objections, the Board adopted Ordinance No. 15-08, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the second Small Scale Plan Amendment of 2015, 15S.02, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Jim Barfield, Trudie Infantini, Curt Smith, Andy Anderson

ITEM III.B.2., (15PZ00005) BREVARD COUNTY - (BRUCE MOIA) - REQUESTS A SMALL SCALE PLAN AMENDMENT (15S.01) TO CHANGE THE FUTURE LAND USE FROM RESIDENTIAL 2 TO CC, AND A CHANGE OF CLASSIFICATION FROM GML TO BU-1 ON 0.51 ACRES, LOCATED ON THE NORTHWEST CORNER OF MINTON RD., AND HIELD RD.

Cynthia Fox, Planning and Zoning Manager, stated this Item is also known as "Nana's House", this is a change in classification from Residential 2 to Community Commercial and a re-zoning from GML to BU-1 for the purposes of using this property as a thrift store.

Commissioner Barfield questioned if the purchase was for right-of-way or for expansion.

Ms. Fox answered Commissioner Barfield by stating that this piece of property, a considerable amount of the parcel was to be taken for right-of-way, so the entire parcel was purchased at the same time.

Commissioner Barfield then asked if there would be widening post approval.

Commissioner Anderson stated that when the Commissioners had that discussion and heard from John Denninghoff, Public Works Director, that part of the lease agreement was whether or not they would have to relinquish the lease once the Board reached that point, because they do not have the funding available for anytime in the near future. Commissioner Anderson went on to say the he believes Mr. Denninghoff could provide an answer for the part of the lease agreement, if this ever came about they would have to vacate.

Mr. Denninghoff agreed that this was also his understanding of the lease agreement. He stated that Minton Road was designed, property was acquired, retention ponds and permitting done, to eventually be able to six lane this road, which is currently a four lane road. He then stated that, at the time of widening the road, it is anticipated that right turn lanes will be added at intersections with signals. He added that in order to widen the road and add a right turn lane, this structure would have to be demolished. He explained there is no timeline on doing these improvements, but every traffic study that has been performed over the last 20 years indicates these improvements will have to eventually be made due to more homes being built in the Palm Bay area causing the traffic volume to exceed the capacity of a four lane road.

Commissioner Barfield clarified for the Board that Nana's House has a lease and the owners are going to make improvements to the facility; and he expressed concerns about the owners investing a large sum of money into the improvements, if in fact the facility has to go back in order for the road to be widened.

Commissioner Anderson stated he estimated that, with the parkway expansion and the slow down with home developments in Palm Bay, the future road planning is about 20 years from being developed.

May 7, 2015

Commissioner Infantini provided background on Nana's House, stating that one and a half years ago the Board approved leasing this property to Nana's House to be used as a home facility to house children. She went on to state that now, one and a half years later, it is no longer needed as a home facility for children, instead the owners wish to use this facility as a thrift store. She added that she knows individuals who are currently leasing property being used as a thrift store for a non-profit organization who pay upwards of \$3,000 per month; if the Board is going to be getting into the business of leasing thrift property at \$1 a year, there should be pool of applicants and a ranking system rather than converting a property that was originally intended for housing purposes; and she recalled Commissioner Anderson's previous statements at the time of the original approval regarding this property, stating that this property could not be sold due to it being part of a right-of-way, and it is not suitable for commercial activities because it is on septic, and parking is limited to four or five spaces. She stated based on these concerns, she believes the opportunity to convert this property to a thrift store is eliminated and she would not be in favor of rezoning.

Commissioner Anderson responded to Commissioner Infantini by stating that the Board is discussing a zoning change from Residential to Community Commercial, regardless of who the applicant is, and the previously approved lease agreement is a separate discussion. He went on to state that there have been more intense operations in the building before it was leased out; he mentioned a U.S. recruiter station for the Army or the Navy, which had far more recruiters going in and out than would be customers at a thrift store, the Fire Department used the building to house the ambulance portion while their station was being rebuilt; and upon the completion of the Palm Bay Parkway, the traffic on Minton Road and the traffic light wait times for residents on Hield Road will be significantly reduced. He reiterated that there is already a history of using high intensity and there is already a remedy for the traffic situation. He indicated, to the Board that the septic issues can not be remedied until the owners get through the process of rezoning; and the financial burden of the zoning process and meeting all of the requirements for approval in order for this building to be a thrift store is on the applicant.

Motion by Commissioner Anderson to approve the request.

John Connelly stated that Hield Road is a dead end road and that a portion of the road is Palm Bay and the other portion is County, and there are only people being notified at 500 feet, he does not believe that this does any justice to Palm Bay or to the County because no one knows what is going on there; this house has been there for a long time; and he agreed with Commissioner Anderson with regards to the Fire Department using this house, however, he claims the vehicles were parked across the street because the ladder truck could not be accessed on the property. He also added that the owners have previously obtained a permit for a residential child facility, which has been completed for seven months. He goes on to state that within seven months, the premise was to have five children to help in the community; he questioned what happened in that seven months that no children were helped in this completed facility; and he indicated that the reason is because the owners have decided to use this property as a thrift store instead. He reviewed his concerns from a previous zoning meeting regarding the effects of the area, he then referenced a study done in 2010 that showed 1,600 vehicles going through the area, in addition to the those vehicles there are the vehicles belonging to the employees of three nurseries. He stressed that various attempts have been made to remedy the problem of getting out of Hield Road at the traffic light, and suggested that a right turn lane is needed; Pineapple Cove Charter School is close to completion, and upon completion there will be even more traffic traveling through this traffic light; and the septic tank in the front of the property, he adds that parking will not be possible in that area, and due to another structure and property lines parking elsewhere is limited. He continued to add that the power lines are up against this house; and he agrees with Mr. Denninghoff's previous statement of the structure eventually being demolished. He explained that with the traffic back up, and a no U-turn sign, commuters use the parking lot of this structure to turn around, which will affect

May 7, 2015

the thrift store. He suggested that the owners of this property use it to house children, as it was intended to, and open the thrift store elsewhere; and the owners would need the Commissioners to waive some of the requirements for this residential house to be rezoned to community commercial.

Commissioner Anderson responded to Mr. Connelly statement regarding the waivers by clarifying that it would only be the fees for the rezoning and that other things, such as the septic requirements, would be out of the Commissioners hands and that the rest of the expenses are on the owners. He then asked Mr. Connelly if he was aware that there are very few properties on Minton Road that are zoned as residential, and rezoning to community commercial would make this property more compatible with the area. He pointed out and stressed that the traffic back up is only during rush hour traffic and not all day.

Commissioner Smith asked staff to clarify that if the zoning is changed, the owners would still have to meet the requirements of the County to make this property compatible with their desired use.

Ms. Fox clarified by stating that the owners would still need to go through a site plan process to take it from a residential use to a commercial use, and they would need to also go through the permitting process following the site plan process.

Bruce Moia, representing Nana's House, explained that the reason the owners wish to re-zone this property is because they found a separate location where they can house children and no longer need this property for that purpose; the owners need this thrift store to generate income to fund the construction of new homes for the children in need; the hours of operation for this thrift store would not coincide with rush hour traffic; and there would not be a high volume of customers, which leads to the belief that this would not add to the pre-existing traffic problems.

Commissioner Anderson recalled that when he moved to Palm Bay this was a 4H facility, and it was high intensive with people going in and out taking classes, and that for government to do something and then tell a private organization they can not do it would be hypocritical. Commissioner Anderson asked the Vice Chairman to call the question.

Commissioner Infantini stated it is her belief that when a piece of property is approved by the County to be used as a facility to house children and then comes back to be re-zoned as an entirely different use, the ordinance should come back before the Board and legally have the use of the facility be re-permitted or re-approved by the board; and that she feels that it is more appropriate to use this locate as a right turn lane.

Morris Richardson, Assistant County Attorney, confirmed that Commissioner Infantini was correct in that if this property was approved for a specific use that it should be limited that use without coming back. He explained, however, the lease does state that although the primary intended use is a group children's home, it does allow that with prior written consent of the county that Nana's House may use the premises for other uses that support the mission of Nana's House, and any other use must comply with all applicable codes, laws ordinances, zoning requirements, etc. He stated that his understanding is that the county did approve this particular use which would appear to support the mission of this house, and in order to comply with the codes they can not do so until the zoning is changed.

Commissioner Infantini questioned when that approval was made.

Mr. Moia responded by stating he believes it was discussed when the waiver of the fees was requested; and he stated that Planning and Zoning recommended that the use be approved, stating that it could only be used as a thrift store.

Ms. Fox clarified that is with the recommendation of Planning and Zoning to limit the use to the thrift store.

There being no further comments, the Board adopted Ordinance No. 15-09, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the first Small Scale Plan Amendment of 2015, 15S.01, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [3 TO 1]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Jim Barfield, Curt Smith, Andy Anderson
NAYS:	Trudie Infantini

ITEM III.B.4., (15PZ00015) - BBC INVESTMENTS IV, LLC - (STEVE STEVENS) - REQUESTS A CHANGE OF CLASSIFICATION FROM AU TO BU-1-A ON 1.31 ACRES, LOCATED ON THE EAST SIDE OF U.S. HWY 1, APPROX. 0.19 MILE NORTH OF ROUNDTREE DR.

Cynthia Fox, Planning and Zoning Manager, stated this is a request from AU to BU-1-A for support in commercial uses for a property abutting it to the south.

Commissioner Barfield suggested that requirement of a Binding Development Plan (BDP) be added.

Morris Richardson, Assistant County Attorney, stated he would like to have the applicant come forward in order for staff to document the BDP and for the applicant to confirm what will be in the BDP that will be approved later.

Tim Pickles, applicant, confirmed the statement made by Ms. Fox; and he added that there is a Binding Development Plan, which will limit the development on the property.

Ms. Fox clarified that the Planning and Zoning recommendation limited the use to drainage, on-site and off-site parking uses, solid waste receptacles and enclosure(s), driveway access, aisle and driveway connection to U.S. Hwy. 1, and maintaining the current vegetative buffer on the east side of the property.

There being no further comments, the Board adopted a change of classification from AU to BU-1-A on 1.31 acres, located on the east side of U.S. Hwy 1, approx. 0.19 mile north of Roundtree Dr.

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

ITEM III.B.5., (15PZ00016) - PENCE LAND MATERIALS II, INC. - (BILL ALCOCK) - REQUESTS A SMALL SCALE PLAN AMENDMENT (15S.04) TO CHANGE THE FUTURE LAND USE MAP FROM RESIDENTIAL 1 TO CC, AND A CUP FOR LAND ALTERATION ON 9.87 ACRES +/-, LOCATED ON THE NORTHEAST CORNER OF SE BABCOCK ST. AND MICCO RD.

Cynthia Fox, Planning and Zoning Manager, stated this item is for the expansion of an existing borrow pit, and it is a conditional use permit process, but staff is also amending the Future Land Use Map from Residential 1 to Community Commercial to assist in the qualification for the applicant to be on a mitigated qualified roadway to impact the wetland that is left on this property.

There being no comments or objections, the Board adopted Ordinance No. 15-10, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the fourth Small Scale Plan Amendment of 2015, 15S.04, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Jim Barfield, Trudie Infantini, Curt Smith, Andy Anderson

ITEM III.C., ORDINANCE, RE: AMENDING CHAPTER 98, ARTICLE IV, PERTAINING TO THE NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT POWERS AND DUTIES

Vice Chairman Barfield called for a public hearing to consider an Ordinance amending Chapter 98, Article IV, Pertaining to the North Merritt Island Dependent Special District Powers and Duties.

Robin Sobrino, Planning and Development Director, stated that this is an Ordinance that the Board had directed staff to bring forward and this is the public hearing for the North Merritt Island Dependent Special District Board, as the Board can recall staff found that the Ordinance that was crafted many years ago, was no longer consistent with the State Statute, and had changed the authority of the Dependent Special District, and so, staff has moved forward with an Ordinance that would provide the North Merritt Island Board with the ability to give an advisory recommendation to the LPA on comp plan amendments, where right now they do not have that authority under State Statute, and also to provide advisory recommendations to the Planning and Zoning Board for rezoning requests that would increase density on the property, it

May 7, 2015

will continue to enjoy stature of being the recommending body to the Board of County Commissioners on all other rezoning items in the North Merritt Island area.

There being no comments or objections, the Board of County Commissioners adopted Ordinance No. 15-11, amending Chapter 98, Article IV, pertaining to the North Merritt Island Dependent Special District Powers and Duties.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Andy Anderson, Commissioner District 5
AYES:	Jim Barfield, Trudie Infantini, Curt Smith, Andy Anderson

ITEM III.D., ORDINANCE, RE: AMENDING CHAPTER 98, ARTICLE IV, PERTAINING TO THE PORT ST. JOHN DEPENDENT SPECIAL DISTRICT POWERS AND DUTIES

Vice Chairman Barfield called for a public hearing to consider an Ordinance amending Chapter 98, Article IV, Pertaining to the Port St. John Dependent Special District Powers and Duties.

Robin Sobrino, Planning and Development Director, stated that this item relates to a similar Ordinance for the Port St. John Dependent Special District, providing them with the same authorities as the North Merritt Island Board.

There being no comments or objections, the Board of County Commissioners adopted Ordinance No. 15-12, amending Chapter 98, Article IV, pertaining to the Port St. John Dependent Special District Powers and Duties.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Jim Barfield, Trudie Infantini, Curt Smith, Andy Anderson

ADJOURNED

Upon consensus of the Board, the meeting adjourned at 5:41 p.m.

ATTEST:

ROBIN FISHER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

SCOTT ELLIS, CLERK