

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 9, 2018, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair, Ron Bartcher; Rochelle Lawandales; Andy Barber; Ben Glover; Brian Hodgers; Scott Langston; Bruce Moia; Robert LaMarr, Vice Chair; and Jeff Holleran.

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

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, May 3, 2018, at 5:00 p.m.

APPROVAL OF FEBRUARY 5, 2018, MINUTES

Motion by Rochelle Lawandales, seconded by Rob LaMarr, to approve the minutes of February 5, 2018. The vote passed unanimously.

IV.A. Jeffrey D. and Karin Atwell request a change of classification from GU to AU. The property is 1 acre, located at 3775 Felda St., Cocoa. (18PZ00004) (District 1)
P&Z Recommendation: Lawandales/Moia – Approved. The vote was unanimous.

Jeff Atwell, property owner, stated he would like to have a shed on his property in order to have bees and extract honey.

Rochelle Lawandales stated the request should be a conditional use, or the board can discuss a binding development plan to limit the agricultural operations to the beekeeping, processing, and selling of honey.

Erin Sterk stated a BDP (Binding Development Plan) would be an option the board can do, as there's a full range of agricultural pursuits that would be allowed without a BDP.

Bruce Moia noted that according to the map there's a lot of similar parcels with AU zoning in the area that probably don't have any restrictions on them at all, so he doesn't want to unnecessarily restrict Mr. Atwell. Ms. Lawandales stated she is fine with that, but staff referenced in the staff comments that there were several recent rezonings that had a BDP in the area.

Mr. Moia asked if any of the surrounding properties have BDP's? Ms. Sterk replied of the three that are mentioned in the staff comments, going from GU to AU, or GU to AU(L), two of them have a BDP limiting the agricultural pursuits, and the other one is for building size.

Motion by Rochelle Lawandales, seconded by Bruce Moia, to approve the change of classification from GU to AU. The motion passed unanimously.

IV.B. Matthew C. Strickland (Z. Sid Cheyhayeb) requests a change of classification from AU to RR-1. The property is 2.96 acres, located at 2155 Tomato Farm Rd., Mims. (18PZ00005) (District 1)
P&Z Recommendation: Moia/Lawandales – Approved. The vote was unanimous.

Sid Cheyheyab, stated he is with Consulting Civil Engineers, representing the owner. The site is zoned AU and the Future Land Use is Res 1, and his client is requesting RR-1, which allows him to have a flag lot.

Motion by Bruce Moia, seconded by Rochelle Lawandales, to approve the change of classification from AU to RR-1. The motion passed unanimously.

IV.C. Clair John Jaussi and Janet Hamilton Jaussi Revocable Trust requests a change of classification from EU to SEU. The property is 7.04 +/- acres, located at 1655 N. Tropical Trail, Merritt Island. (18PZ00007) (District 2)

P&Z Recommendation: Moia/Lawandales – Approved. The vote was unanimous.

Clair Jaussi stated he is proposing a change from EU to SEU for the purpose of having a six-lot subdivision.

Bruce Moia stated currently there can be 14 units, and asked if they want to down-zone it to six units.

Erin Sterk replied yes, the property has a unique situation where the County came in and changed the land use designation, which made the current zoning inconsistent with the land use designation, so technically, in order to retain the current zoning they would have to do a comp plan change to retain the current density, so they are actually bringing their property into compliance with the comp plan by reducing their zoning. There is an impression that they're getting a bunch of lots of this, but they are actually getting much fewer than they could with their current zoning, so it really is kind of an anomaly, and quite a compromise.

Rochelle Lawandales stated it looks like there's a lot of other EU zoned properties out there, and asked if staff is looking at some administrative rezoning for that area, or are they just going to handle it as they come in.

Erin Sterk replied the applicant has the right to ask for the fees to be waived because it was created as a condition as an implementation of a previous small area study. Ms. Lawandales stated there is a subdivision to the south of the subject property that, based on the maps, appears to be zoning EU, but it also has Residential 1 future land use; and there are lots to the north that are also EU. She asked if staff is looking at administratively rezoning the area to bring them all into compliance. Ms. Sterk advised staff hasn't looked at that, but it is something that staff may want to discuss it with the board members about. Ms. Lawandales asked if any building permits have been issued in the subdivision. Ms. Sterk said she did not think so. Rebecca Ragain stated the reason there have not been any permits issued in the subdivision are the economy and some complications of the infrastructure after the plat recorded.

PUBLIC COMMENT

Charles Donaldson, 1605 N. Tropical Trail, stated he is not sure what Mr. Jaussi is proposing to do with the property. Everything in that area is pretty much one acre or above, with one exception to the south of us, which was rezoned at .6-acre, but has never come to pass. He asked if the rezoning will demean the estate nature of the whole area west of Tropical Trail.

Mr. Moia stated the applicant has seven acres and are only proposing six units, so that's more than one acre per unit.

Andy Barber asked Mr. Jaussi if he has a plan to develop this property, and if so, what size lots is he looking at. Mr. Jaussi replied he has a sketch, but nothing that he has spent money on. With the 7.04 acres, it would require a road, which will go approximately 800 feet onto the property, and then there would be four lots facing the road and two lots facing the river. Each lot would be in excess of an acre, depending on how much land the road takes.

Henry Minneboo asked if he wants every lot to be at least an acre. Mr. Jaussi replied yes, definitely. Mr. Minneboo asked if he would be happy with only five lots. Mr. Jaussi replied yes, if six lots will not fit, he is fine with five lots.

Motion by Bruce Moia, seconded by Rochelle Lawandales, to approve the change of classification from EU to SEU. The motion passed unanimously.

V. Summary of Drainage Reviews

Rebecca Ragain stated in January the board heard a rezoning request on Tropical Trail and heard objections from neighboring residents regarding consideration of the rezoning as it related to drainage. The board approved the zoning change, but recommended staff do some additional drainage review when the building permits came in for the project, and also directed staff to bring back a summary to specifically discuss drainage. She said one of the things the board has to consider is the Administrative Policies and the Future Land Use Elements that establish the criteria when considering a rezoning or a CUP. Administrative Policy 7 specifically says, 'Proposed use(s) shall not cause or substantially aggravate any (a) substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.' She said it is difficult, prior to the rezoning, to determine whether or not those impacts exist or don't exist, because typically, no studies have been done and the property owners objecting to the rezoning do not do those studies to prove that something like that might exist, so there's not a lot to go on when approving a rezoning, based on drainage. After rezoning, the developer will go through a development review process of either a site plan, a subdivision, or a single-family lot, and the lot drainage is reviewed with the building permit. She stated there are several departments that review those types of applications, so just because the zoning has been approved, it doesn't always mean a developer can develop in the manner in which they choose, because they have to address the drainage issues, and sometimes they have to revise their plans to accommodate the drainage, or in some cases they may not be able to develop at all what they wanted to develop.

Henry Minneboo clarified that the area of concern to the board in January is the southwest quadrant of Lucas Road and N. Tropical Trail. He said the board probably should not have approved the rezoning on the lot on the corner because over time it has created two lots, and creating two lots does not make someone a developer. Ms. Ragain stated that particular property owner has a total of five lots. She noted there is no action required from the board. Staff is just letting the board know that there are additional items that staff does review, such as drainage calculations.

Ron Bartcher stated the summary says that post-development would runoff the grades and can't be higher, but the volume can. He said that tells him the board is allowing more runoff of property that's being developed onto existing property, and asked what's the justification for that. Mr. Minneboo said Ron is right, and one of the problems here is that the road is high and then it slopes down to the water table.

Rachel Gerena, Public Works Department, stated there is no volume requirement. Volume metric requirements usually only come into play when talking about isolated flood plains. She said what Public Works does require is, if it connects to a system where staff knows that the system is at capacity, then that system would have to be analyzed to make sure that they're not starting to make a system in its entirety exceed what the capacity is currently, but that's just the roadside pipes. She said if they're discharging to a legal positive outfall to the County roadside system, or a legal canal, or existing waterway, then it's just a rate, and that's the way the State does it, and that's what the current Comp Plan requires. She stated if that if it were to change to a volume metric requirement there would have to be Comp Plan and Code changes.

Mr. Bartcher stated he understands, but it doesn't seem right, and as a property owner who lived on North Merritt Island for a while he had this same situation. Before the neighbor developed his property, his lot was wet once in a while, but after the neighbor developed it flooded more often.

Ms. Gerena stated staff does everything in its power within the confines of the Code and the Comp Plan to ensure they're not draining onto other peoples' properties, but as far as the actual volume of water going into the public system, the volume is allowed to go up, it's just pre vs. post-rate.

Henry Minneboo asked if that area on the east side of N. Tropical Trail is on a sewer system. Ms. Gerena replied she believes they are connecting to sewer. The existing house is on septic as part of this subdivision and they were abandoning that septic tank and connecting all three lots to sewer.

Mr. Bartcher asked what it considered a drainage pattern. Mike McCaughin, Building Official, replied on an individual lot it's pretty much the same as a subdivision, and staff will be looking at where the water goes pre-development vs. post-development, and ultimately the applicant will have to demonstrate that the water does go to a drainage improvement of some sort.

Mr. Minneboo asked if they are required to maintain the first inch of runoff. Mr. McCaughin stated the County doesn't necessarily require the first inch of runoff on an individual lot built – single-family lot – code just requires that all the surface water on the property be diverted to an approved outfall. If they can't do that, then staff will be looking at an engineered site because the engineer will be required to retain at least the first inch and demonstrate what they're going to do with the water. In most cases we're able to get the water.

Andy Barber stated the board tells a lot of people not to worry about their neighbor's water because the County is going to make them take care of it, and he hopes that's the truth, because it's hard to control water.

Bruce Moia asked if there is a known pre-existing problem, does Public Works get routed some of these rezoning requests so that the board might know in advance if we have an area that has existing problems. Ms. Ragan replied typically, the storm drainage and review by Public Works doesn't happen until afterwards, but Natural Resources looks at rezoning requests before they happen, and if there are wetlands they make note of it in the staff comments.

Erin Sterk stated Public Works doesn't get routed rezoning requests, and even the lot that came in for a lot split didn't go through the subdivision process, there was a lot of talk about the issues there for drainage, but there still wasn't substantial and competent evidence that it exists. No one had an actual analysis that could prohibit the zoning from being approved that would justify that. Staff just know there are some challenges when they go to develop.

Rochelle Lawandales stated that to her, drainage, from a development standpoint, is handled through the permitting process and through agencies, so that's not really something that is in the board's purview to the extent that they have the knowledge at the time of a comp plan amendment or rezoning to be able to say a property can't be developed, or that it can be. Most of the time, an engineer is going to make something happen and staff is going to review and evaluate the drawings, plans, and permits, and make something happen or not happen. She said she relies on the engineers and staff to make sure that drainage, which is a development issue, is handled at the development stage.

COMMERCIAL PARKING MORATORIUM ORDINANCE

Erin Sterk announce that the Board of County Commissioners will hear this item on April 5th and April 24th.

Motion by Rochelle Lawandales, seconded by Andy Barber, to approve the Commercial Parking Moratorium Ordinance. The motion passed 9:1, with Bruce Moia voting nay.

Upon consensus, the meeting adjourned at 3:40 p.m.

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Local Planning Agency/Planning and Zoning Board met in regular session on Monday, March 19, 2018, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Henry Minneboo, Chair; Robert LaMarr, Vice Chair; Andy Barber; Robert Solito; Bruce Moia; Jeff Holleran; Mark Wadsworth; and Chad Conner.

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

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

APPROVAL OF FEBRUARY 19, 2018, MINUTES

Motion by Andy Barber, seconded by Robert LaMarr, to approve the February 19, 2018, minutes. The motion passed unanimously.

IV.A. W.K.&R. Groves, Inc. (Chad Genoni) request a change of classification from AU to RR-1. The property is 110.97 acres +/- acres, located on the north side of E. Crisafulli Rd., approx. 320 ft. west of Broad Acres St. (17PZ00158) (District 2)

Chad Genoni, Beachland Managers, stated the board will hear public comment about drainage and sewage, but he asks that the board look at the zoning and future land use compatibility. He said at the North Merritt Island meeting there were some concerns about the elevation of the property, but it appears the North Merritt Island board thought the property is 1.5 feet above sea level, but it looks to be closer to 3 feet to 3.5 feet above sea level. He talked about discussion of sewer lines, and said his client has requested to use Advanced Septic Treatment Systems in lieu of sewer.

Henry Minneboo stated usually with a project of this magnitude the board sees an engineer's rendition of the project, and without one provided he is a little confused with this approach. He asked if 80 homes are being proposed. Mr. Genoni said they are early in the process, but are hoping to address all of the concerns through the site planning. Mr. Minneboo said the board is usually provided some kind of concept plan to review to help in the decision making process.

Terry White, 5595 Joseph's Court, Merritt Island, stated his concerns, as well as the concerns of the neighbors who spoke at the North Merritt Island meeting, is that E. Crisafulli Road cannot handle the additional cars if 86 homes are built, and with most houses being two-car families, that's an additional 190 cars on that road. There have been several accidents on that road, including fatalities that closed the road, and no one was able to get in or out because there is only one way to get out to S.R. 3. He said he has lived on Merritt Island for over 50 years and there are areas that flood now that have never flooded before, and he believes the new developments have added to the flooding. He doesn't think the land can handle the additional rain that it's supposed to retain in an afternoon storm. He stated the subject property has historically only been used for cattle and some citrus, and with a new development there instead, the water will have to go somewhere. He noted that several years ago he had meetings with County Commissioners to talk about future developments on North Merritt Island, and they told him they were not going to approve any more developments until something was done about a better evacuation plan, a better plan for flooding, and until a school is built on North Merritt Island, but he hasn't seen any of those. He closed by saying he hopes the board does not approve the zoning change.

Mary Sphar stated she lives in Cocoa and is speaking on behalf of the Sierra Club Turtle Coast Group. She said there have been some efforts to try to address the flooding situation on North Merritt Island, to see that development was done in a manner that the Island could handle. The Small Area Study group is currently trying to find solutions for North Merritt Island, and she would like to see the board disapprove increases in zoning until the study is completed, which should be very soon, because they are going to address the

appropriate density and environmental issues, and hopefully make some recommendations that will make North Merritt Island a better place for people to live. She pointed out that on November 6, 2014, the County Commission approved bringing back a report in draft ordinance form for special stormwater areas of concern for North Merritt Island, addressing flood plain management, stormwater volumes, and septic tanks. That draft ordinance is to come after the small area study, which is going to provide input into that ordinance. She said the hope is to get that ordinance to the Board of County Commissioners before November. She stated the applicant plans to use septic tanks, and everyone in Brevard County is affected by such a development because the Indian River Lagoon belongs to everyone, and they want to keep it in good health. She mentioned a fish kill two years ago, and brown tide, and stated the County is now planning measures to clean up the Lagoon in case of a fish kill. She requested the board deny the application based on Administrative Policy 7, and that it wait for the small area study to be completed.

Shelly Parker, D'Albora Road, North Merritt Island, stated D'Albora Road is just north of E. Crisafulli Road, and at this time it is a dirt road, and the residents pump water through the old irrigation ditches that already flows from the subject property into her area, so drainage is definitely an issue.

Mary Watkins stated she is an employee with Brevard County Human Resources. She said she lives on North Merritt Island and has properties on E. Crisafulli Road and Broad Acres, both of which were flooded in the last three major storms. She stated having been born and raised in Brevard County and having lived there all her life, the proposed rezoning is not a good idea because it is extremely low land and flooding is a problem. She said E. Crisafulli Road itself is substandard, and to put another 80 houses out there, or more, would be a very bad idea because the road is not wide enough to handle it, and there's no way to widen the road in order to handle that kind of traffic.

Chad Genoni stated a traffic study would be required at some point prior to development, but he could have one done to see what the impacts would be. He said based on information from staff, it looks like the development would not reduce the level of service to an unacceptable level. He noted the property has a fair amount of it outside of the flood zone, but there is a fair amount that is in the flood zone, and he would propose to stay out of that area, and stay out of the wetlands as well. He asked the Chairman if he would prefer him to request tabling the request.

Mr. Minneboo stated tabling is an option for Mr. Genoni, but he may want to see what the board members think after discussion.

Erin Sterk clarified that the requested zoning would allow for one unit per acre. She advised that the way staff includes that proposed number of single-family homes is based on an algorithm that extracts out the roads and the infrastructure, and then comes up with the 86, but the zoning would allow for the 110, almost 111, units. She noted there are some provisions in the code, at site plan, that would allow the developer to potentially use the open space subdivision code to conserve some space, and that's where they could get beyond that 86 units and actually get closer to 110, so the true impact, may, by the zoning, be 110 units.

Mr. Minneboo asked how many houses could be built if the applicant wasn't requesting rezoning. Ms. Sterk replied, if the applicant did not come before the board, he could build 36 homes. Mr. Minneboo asked if the North Merritt Island Dependent Special District board has ever allowed this magnitude of a development within four miles of the subject property. Ms. Sterk replied not to her recollection, and stated the North Merritt Island board has historically not supported things that other boards have, and that's how some subdivisions have come to fruition without their blessing. She added that the subject property is one of the locations that the Small Area Study group is recommending a future land use designation change on, and if that were to move forward, the current proposal would not be allowed to be made. Mr. Minneboo asked if the North Merritt Island Board had anything positive to say about it. Ms. Sterk replied the public comment was focused on the surrounding area, and the challenge for staff is assessing the site versus the surrounding area, which the

improvements to the site are not required to solve the surrounding area's problem. While they may be able to do stormwater and drainage that's sufficient for the site plan, they're in an area that has offsite complications. Most of the questions that came to the applicant, and that he addressed, were regarding that area around there, and the board kept trying to bring it back to focus on this specific site.

Robert LaMarr stated normally, the board doesn't table items too far in advance, and asked if it would be too far out to table the request pending the results of the North Merritt Island Small Area Study. Ms. Sterk replied the board could do that, but the applicant would then have to revise his request to table to the May 3rd Commission meeting, because P&Z couldn't hear it after the Commission hears it. If the applicant is amenable to that, the board could legally do that.

Andy Barber asked if the applicant waits for the Small Area Study to be approved, and the zoning is reduced, does that mean his 36 units would also be reduced, or is that based on 2.5 acres. Ms. Sterk replied the recommendation from the committee is to take any property with Residential 1 Future Land Use and AU zoning, which this application has, and change the Future Land Use to Residential 1 per 2.5 acres, which would make the comprehensive plan consistent with the zoning and the property couldn't be rezoned to get greater density, so the applicant could not even make this proposal. Andy Barber said he hasn't heard anything that would make him want to vote in favor of the request.

Motion by Andy Barber, seconded by Robert LaMarr, to deny the request. The motion passed unanimously.

Upon consensus of the board, the meeting adjourned at 3:25 p.m.