



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Minutes to Approve

D.1.

2/24/2026

Subject:

Minutes for Approval: November 6, 2025 Zoning Meeting; December 11, 2025 Zoning Meeting

Fiscal Impact:

Dept/Office:

Brevard County Board of County Commissioners

Requested Action:

Minutes for Approval

- November 6, 2025 Zoning Meeting
- December 11, 2025 Zoning Meeting

Summary Explanation and Background:

Clerk to the Board Instructions:

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, November 6, 2025

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:03 PM

Present: Commissioner District 1 Katie Delaney , Commissioner District 3 Kim Adkinson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Thad Altman

Absent: Commissioner District 2 Tom Goodson

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears request for rezoning and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

C. PLEDGE OF ALLEGIANCE

Chairman Feltner led the assembly in the Pledge of Allegiance.

H.4. Housing Authority of Brevard County (Michael Bean) Requests a CUP for Mitigating a Non-Conforming Use, in RU-2-30 Zoning Classification (25Z00022) (Tax Account 2702810)

Chairman Feltner called for a public hearing to consider a request by the Housing Authority of Brevard County for a Conditional Use Permit (CUP) for mitigating a non-conforming use in RU-2-30 zoning classification.

Billy Prasad, Planning and Development Director, stated H.4., is for the Housing Authority of Brevard County, represented by Michael Bean, requesting a CUP for mitigating and non-conforming use in RU-2-30 zoning classification under application 25Z00022, located in District 5.

There being no comments or objections, the Board approved the request by the Housing Authority of Brevard County for a CUP for mitigating a non-conforming use, in RU-2-30 zoning classification (25Z00022).

Result: Approved

Mover: Thad Altman

Second: Katie Delaney

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

H.5. Lawrence Crumley Requests a Change of Zoning Classification from AU to RU-1-13 (25Z00023) (Tax Account 2501503)

Chairman Feltner called for a public hearing to consider a request by Lawrence Crumley for a change of zoning classification from AU to RU-1-13.

Billy Prasad, Planning and Development Director, stated Item H.5., is Lawrence Crumley requesting a change of zoning classification from AU to RU-1-13, under application 25Z00023, and located in District 2.

There being no comments or objections, the Board approved the request by Lawrence Crumley for a change of zoning classification from AU to RU-1-13 (25Z00023) (Tax Account 2501503).

Result: Approved

Mover: Kim Adkinson

Second: Katie Delaney

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

H.6. Richard Brandon Requests a Change of Zoning Classification from GU to AU (25Z00030) (Tax Account 2314034)

Chairman Feltner called for a public hearing to consider a request by Richard Brandon for a change of zoning classification from GU to AU.

Billy Prasad, Planning and Development Director, stated Item H.6., is Richard Brandon requesting a change of zoning classification from GU to AU, under application 25Z00030, and located in District 1.

There being no comments or objections, the Board approved the request by Richard Brandon for a change of zoning classification from GU to AU (25Z00030) (Tax Account 2314034).

Result: Approved

Mover: Katie Delaney

Second: Thad Altman

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

H.7. John McLeod Requests a Change of Zoning Classification from GU to SR (25Z00031) (Tax Account 2802679)

Chairman Feltner called for a public hearing to consider a request by John McLeod for a change of zoning classification from GU to SR.

Billy Prasad, Planning and Development Director, stated Item H.7., is John McLeod requesting a change of zoning classification from GU to SR, under application 25Z00031, and located in District 5.

There being no comments or objections, the Board approved the request by John McLeod for a change of zoning classification from GU to SR (25Z00031) (Tax Account 2802679).

Result: Approved
Mover: Thad Altman
Second: Katie Delaney
Ayes: Delaney, Adkinson, Feltner, and Altman
Absent: Goodson

H.1. Adoption of Petition to Establish Sun Terra Lakes Community Development District Developer: Jen Florida 48, LLC

Chairman Feltner called for a public hearing to consider adoption of petition to establish Sun Terra Lakes CDD – Developer: Jen Florida 48, LLC.

Billy Prasad, Planning and Development Director, stated Item H.1., is a request for the adoption of a petition to establish the Sun Terra Lakes CDD, the developer is Jen Florida 48, LLC, and it is located in District 5.

Tucker Mackie stated she is with Kutak Rock and represents the petitioner.

Chairman Feltner stated he would not have guessed Ms. Mackie was a Tucker.

Ms. Mackie remarked she gets that a lot.

Commissioner Adkinson stated she does not know if this is the appropriate place for this question, but when she was going over this with staff, she is learning, and they were talking about spine roads; she knows that is not exactly what is being talked about in this; but she asked with the spine roads, is that something that the County may be asked at some point to take care of and be its responsibility in the future.

Ms. Mackie responded to the extent of familiarizing with the Commissioners with CDD, it is asking the Commission today for the establishment of a CDD for the provision of public infrastructure, including roadways within the district boundaries that would include both the internal roadways and the spine roadways themselves. She stated this is not a zoning approval for a land use approval; she thinks there was a Binding Development Plan that provided for the County to own, operate, and maintain those spine roads once they were developed and the district may be the financing tool that delivers that infrastructure; and, however, if that is a continuing conversation between the petitioner and the County, that is something that the district, as a local government could own, operate, and maintain as well.

Commissioner Adkinson remarked that would be talked about later.

Ms. Mackie stated she thinks it could be talked about further; representatives of the petitioner are present today; but this does not bind the County to any one determination here today, by approval of the district.

Chairman Feltner inquired if that is something staff wants stipulated tonight going forward.

Mr. Prasad responded it certainly is something that the Board can consider making clear, as part of its motion, that the exhibits indicating that the County does have responsibility to maintain spine roads are not binding going forward, and are subject to future discussions and negotiations.

Ms. Mackie advised the petitioner is fine with that.

Chairman Feltner stated he would feel more comfortable with that. He stated he does not have any other cards, except the folks working on the project.

Commissioner Altman mentioned he met with the staff and he has no problem with the CDD to help provide the infrastructure, but the Board would like to put some language in the CDD, that would just make things more clear; he would love to have the staff read that into the record; the Board could fold that into a motion; and it does not address the spine road, but if Chairman Feltner felt that should be included in that, staff could probably move that in.

Mr. Prasad stated he does think that the potential language would include discussion on the spine roads.

Commissioner Altman asked if he thought it would.

Mr. Prasad replied yes; he stated a potential motion would be to find that the petition meets all statutory requirements for the establishment of a CDD and to adopt the ordinance, establishing the Sun Terra Lakes CDD, with the specific understanding that any language contained in the petition, which designates ownership or maintenance responsibilities are non-binding, and shall not be used as a basis to argue that the Board has consented to any obligations to construct or maintain any infrastructure identified in the petition, including, but not limited to roadways.

Commissioner Altman asked if that would include the spine roads.

Ms. Mackie stated absolutely.

There being no comments or objections, the Board approved the request by Jen Florida 48, LLC, approved finding that the petition meets all statutory requirements for the establishment of a Community Development District; adopted Ordinance No. 25-20, establishing the Sun Terra Lakes Community Development District located in unincorporated Brevard County and containing approximately 1,082.242 acres, with the specific understanding that any language contained in the petition, which designates ownership or maintenance responsibilities are non-binding, and shall not be used as a basis to argue that the Board has consented to any obligations to construct or maintain any infrastructure identified in the petition, including, but not limited roadways; providing for the authority of the district; providing for the establishment of the boundaries for the Sun Terra Lakes Community Development District; providing for the designation of the initial Board Members; providing for the District name; providing for statutory provisions governing the district; providing for conflict and severability; and providing an effective date.

Result: Adopted

Mover: Thad Altman

Second: Kim Adkinson

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

H.2. City Pointe Landfall LLC (David Bassford) Requests a Small-Scale Comprehensive Plan Amendment (24S.11) to Change the Future Land Use Designation from RES-1, RES- 2, RES-4, and NC to CC and RES-4 (24SS00009) (Tax Account 2411252)

Chairman Feltner called for a public hearing to consider a request by City Pointe Landfall LLC for a Small-Scale Comprehensive Plan Amendment (24S.11) to change the Future Land Use designation from RES-1, RES-2, RES-4, and NC to CC and RES-4.

Billy Prasad, Planning and Development Director, stated Items H.2. and H.3., are companion applications; he will read them together, but will require separate motions; Item H.2., City Pointe Landfall LLC, represented by David Bassford and Kim Rezanka, requests a Small-Scale Comprehensive Plan Amendment (24S.11) to change the Future Land Use (FLU) designation from RES-1, RES-2, RES-4, and NC to CC and RES-4 under application 24SS00009 in District 1; and Item H.3., is City Pointe Landfall LLC, represented by Ms. Rezanka, requesting a change in zoning classification from EU and RP with an existing Binding Development Plan (BDP) to PUD, with the removal of an existing BDP, under application (24PUD00003), and located in District 1.

Kim Rezanka, Lacey/Rezanka Attorneys at Law, stated she is present on behalf of City Pointe Landing, who is the owner of the property; and she asked for clarification if Commissioner Goodson is on the line or is not here.

Chairman Feltner responded he is not here.

Ms. Rezanka advised they have been here before; they went to Planning and Zoning twice; she believes the Board is very familiar with this area; it had many, many emails, and probably meetings with members of the community; this is a slight change in density to an area that had a BDP put on it in 2008; this is an increase in FLU, but is really only a tiny increase in density from 19 units to 13 units; while the FLU is changing to different density, the map she provided the Board in the first document shows that RES-1 does not really make sense where it is; and she suggested to the Board that was done back in 2008, because of the economy at the time, that was a difficult time, the bankruptcy of the Lehman Brothers, the crash of 2008, and it happened in September of 2008. She stated she suspects the developer took whatever it could get back then, because they were trying for more and they took less; this is a troubled property, it has been through foreclosure a couple of times, certificate of titles were issued, and it has not been developed because the zoning for it is not consistent with what is in the area or what is needed to develop; this is an interesting piece of property, it goes from a higher elevation to a lower elevation; the neighbors have concerns about that because Indian River Drive has flooded; she drove it this weekend and there was still some flooding from last weekend from the rain the weekend before; but that road is a maintenance road by the County, it is not maintained by the developers, the owners, or anything else. She added if there are improvements or right-of-way dedication that has to be done that will be done during the platting time; this is a troubled property, it is 17 years of non-development; she does want to address the Sudermann's, they have been the most vocal, and they live nearby; when she says everyone thought the concerns were addressed, she meant about the zoning Preliminary Development Plan (PDP); she knows they have had concerns about the FLU, but what is not recognized is that FLU is limited by the PDP; and the PDP is binding, both the narrative and document before the Board. She mentioned when she says that they have tried to meet all of their requirements at both of the community meetings; the first community meeting, they were dead set against townhomes; the first large page she provided the Board with was the first PDP, that is the single one that had the townhomes and the two buildings of Recreational Vehicle (RV) storage, and they have come way down from that development proposal, way down, and they have no townhomes; they have no access on Parkchester; they have no access on Indian River Drive; they have a walkway for the community to go to the dock, which is able to be built on the other side of Indian River Drive; all of that was changed based upon community input, so that is what she meant when they thought they had satisfied the neighbors; and everything she had read is they are concerned about the FLU. She went on to say the FLU is already four units to the acre on four acres of the property on Indian River Drive, where it does not belong, and they could move that to FLUM to RES-2, but it takes a legal description; this is the most convenient way to do it; to transfer the density that they should be able to have on the wetlands to the center area; what they are putting in that center area and with that four acres of RES-4 already there, is two units to the acre which is what Parkchester to the north already has;

and this is consistent, it is made consistent by the PDP, the PUD zoning. She noted for the record, RES-4 is not high density, it has never been considered high density by anyone in this County or anyone in land development; in fact, if looking at the FLU Code, it starts with RES-30, goes down to RES-10 which is a transition; RES-6 is a transition between higher and lower intensity uses; RES-4 is an additional stepdown in density from the more urbanized; it is not a high density, it is a misconception; she also wanted to explain that the PUD cannot just be changed willy-nilly; she knows there has been some comments that a BDP can be changed; the PUD zoning starts with the PDP and receives tentative zoning, if a final development plan is not approved in three years, the zoning reverts back; that is in the Land Development Code, starting at Section 62-1448; and if there is no final development plan, the PUD zoning is terminated. She advised that does raise the issue with the RES-4, but the RES-4 of the wetlands is never going to be able to be developed; they would have to come back to do anything else for zoning; as mentioned with the PDP, there is a preliminary development plan, and a 10-page document that is binding on this property that tells exactly what they are going to do and when they are going to do it; the large set of documents that she provided to the Board is the entire PUD drawing; that explains what the zoning is going to be; the one waiver request, which is on the tracks and the open space exhibit, there is waiver information, a waiver from the undisturbed 15-foot buffer shall apply to the project, and back belt should be landscaped to provide a vegetative buffer and shall be a minimum of 15 feet in width, because of the change in elevation from US 1 to Indian River Drive; that is why that waiver is being requested; and there will still be a 15-foot vegetative buffer, it just may not be in its natural state because of what they are going to have to do to the property to account for stormwater, to account for the building pads, and to maintain the wetland. She went on to say it does show the Board the changes that were made; it can be seen on that tract and open space exhibit, they have cut the commercial use in half, and there is only one RV storage; they have gotten rid of the townhomes; they have made the amenities through some of these stormwater tracks and some of that open space, but the staff report still says they are asking for a waiver from open space, and they are not; and the boardwalk is going to be the bike path, which is part of the open space where there is no stormwater ponds, and they do not need that. She stated what they are seeking is 23 homes on 10.94 acres; currently, there is a RES-1 of 6.44 acres, there is RES-2 of .47 acres, and there is RES-4 of 4.2 acres; to make that consistent, they went to RES-4, and the intent is not to put 54 units on there, it is to do exactly what the PDP says; currently, the EU zoning is inconsistent with RES-1 and RES-4; the Administrative Policies and the staff report says that this is consistent with the character of the area that is proposed, which is the size of the lots next to Parkchester that are nearly identical, and the staff report does say it is consistent; the PUD is to encourage planned range of residential types, as well as industrial, commercial, and institutional uses; it is commercial on US 1 and transitioning to single-family homes; there are no concurrency issues in traffic or schools with the PDP because the lot sizes are compatible; the proposed uses are compatible; the proposed open common space is compatible; and the staff report does support the FLU and the change in zoning to PUD. She reiterated that BDP is only for the seven acres in the middle of the property, not over the entire property as many people seem to believe; and Bruce Moia, the engineer of record, has spoken to the Public Works, and there are some concessions that have been made, regarding dedication of right-of-way and other conditions that Public Works has asked, and Mr. Moia will discuss that. She concluded by saying they request the Board to change the FLU as requested and approve the PDP, with the one waiver; this is not a dramatic increase, it is going from 19 potential units to 23 units, and they have reduced the commercial that is also reducing the intensity of the development; currently it is in the RES-4, but for the wetlands they could have 16 homes there; this is not an increase of a dramatic increase, but this does provide consistency with the PDP for the Board to know exactly what is planned; and if there are other conditions, this is the time to do it because right now, is the PDP stage. She asked if at this time Mr. Moia would come up.

Mr. Moia stated he is with MBV Engineering, Inc. and he is the engineer of record for the project; there has been several conversations with the Public Works staff and mostly because of drainage; he understands drainage is a huge concern of this area; what he would like to offer is kind of a way to make a difference and make it better, because if they do not do anything, then nothing really changes; if the Board is familiar with that roadway, it is low, it only has rights to maintain it based on a maintenance map, that he does not think has been recorded yet; he would like to go ahead and provide property to allow the County to maintain it, and do any future road projects that it might have in the works; he thinks that might be happening since he understands there is a survey that has been done of that roadway from SR528, all the way up to where it turns into US1; one thing that he can and will do is, not only just meet the reduced discharge rate of the designed stormwater; but also reduces the volume that is discharged off of the property and into the outfall. He stated beyond the County's Code as well as the St. Johns River Management District (SJRM) code to ensure that no more water goes to that roadway than goes there, they would reduce it as much as they possibly can; another thing they will do, because he knows there was concern about groundwater, they will do a groundwater modeling analysis to make sure that they address any groundwater issues that might be contributing to that runoff; and if they can, dedicate up to 50-foot of right-of-way to the County, to give it a lot of room to do any kind of drainage improvements, that might need to happen in the future. He added, he thinks between all of that they can definitely make a difference and make it better than it is now, and having an improvement of what they are seeing now; even though he will be developing it, but the way it drains now is a really high gradient from US 1 down to Indian River Drive; it is uncontrolled right now, the water just goes straight through there, flushes through the wetland, and goes right over the road; and if that can be controlled, they can slow down the rate, reduce the volume, and make the drainage, in that area better than it is now. He advised one other thing that was done was, they were intentional when they did the PUD design; and the lots that abut Parkchester to the north, they are all the same size lots as those lots are, and the smaller lots are on the other side of the road.

Commissioner Delaney inquired for clarity if the new plan has swales behind the houses to the north or if they were filling that in; and she stated that she felt when she met with them they had talked about the possibility of swales.

Mr. Moia responded that is one of the reasons they are asking for the waiver of the 15-foot buffer, because Code was written that it is not supposed to be touched; but those houses, because they were built so long ago, the houses were built high in the middle, and it just drain away from it, so there is actually runoff coming onto this property; he does not want to block them, he wants to make sure its conveyed for that water to go down to the stormwater...

Commissioner Delaney interrupted by saying the stormwater box to the river.

Mr. Moia went on to say as it ends up now, but instead of going into the system, it will just bypass.

Commissioner Adkinson inquired about the 15-foot buffer; she stated she is not a fan of pulling out stuff that has been there forever; she inquired if he is talking about pulling out invasive species or is he talking about ripping out everything; and if so, what is he going to be put back.

Mr. Moia responded that is a good question, it really is going to depend on what they need to do to make the drainage work, because the last thing they want to do is block the neighbor's drainage; even though it is coming on this property, they want to build a system that will handle it, and not back it up; if they have to clear it and replant it, that can definitely be done and cleared very limitedly if that is what they have to do; obviously, they have to fill their lots, others will have their lots filled, and there is going to be a low spot in the middle; they have to make sure that water flows, because there are a lot of subdivisions where there is subdivisions

budding against subdivisions, and if the water does not get out from in between the two subdivisions, a lot of complaints come in; and he wants to make sure that they handle that and the only way they can, is to allow them to be able to disturb that buffer. He advised they will only disturb as much as they have to and keep the trees, or replant, if they can; and they have to do landscaping anyway and they will definitely reestablish any vegetation that is there.

Commissioner Adkinson stated she is asking Mr. Prasad as well, that she would like to know for sure that if big, huge, deciduous trees, or something are being taken out, that they are going to put back something similar; and she appreciates Mr. Moia's intention to want to put it back close, but intentions sometimes are changeable. She added she thinks somewhere it said similar; and she asked if she is correct in remembering that.

Mr. Prasad responded the language included in the PDP says in lieu of the undisturbed buffer, they would include something similar to a Type B buffer.

Commissioner Adkinson inquired if there is a way for the County to tighten that language up; and she advised that she would feel more comfortable with not just a couple of palm trees being thrown in, and they would be done.

Mr. Moia advised Mr. Prasad could explain what a Type B buffer is; it is a combination of trees and shrubs every so often; the trees have to meet the minimum tree size criteria, not just throw in palm trees; and the canopy trees have to be thrown in.

Commissioner Adkinson remarked similar means something, right.

Mr. Moia stated if there were canopy trees out there now, they would put the canopy trees back.

Mr. Prasad asked if Mr. Moia is committing to meeting all of the Type B buffer requirements, because it says similar to Type B buffer requirements; and he asked if he is committing to meeting all of those requirements.

Mr. Moia responded sure.

Commissioner Adkinson advised she would be happy with that.

Mr. Moia remarked anything that does not interfere with the drainage.

Sandra Kennedy stated she is an attorney with 30 years' experience; she is a construction lawyer who litigates what happens to projects like this when they go south and it is what has kept her making a living for 30 years; she resides in this area and she is opposed to the change in zoning; this zoning was not set because of the economy, it was set because of the many efforts of her neighbors to protect their area from flooding; they are being flooded out; and she thinks the Board is not familiar with what they are going through. She mentioned this being in the news lately; it has been on the television and it has been in the *Florida TODAY*; she did not have the benefit of seeing it, although she heard about it, and the Board may have missed it, too; they had no wake zones on their roads; the roads have not been repaired or anything in the past seven years that she has lived there; it floods over from the Indian River Lagoon; it floods down from US1; they are being flooded out by Florida Department of Transportation (FDOT); the ponds at SR528, people do not understand that in Florida, the elevation goes from south to north; what is south of them comes north and it gets into that ridge, that coquina ridge fills up and it charges, and it just pours down the ridge which is at least 75 feet, if not more; and every pond that the County puts at a high elevation daylights at the low elevation. She added it is not like it goes into some magic hole to the core of the earth, it daylights on Indian River

Drive; these problems need to be solved before considering another development in their area; as building a single house has not as much impact as talking about increasing the density to Parkchester, that is a 1960's subdivision, and that is part of what is causing their problem; that coupled with FDOT, recently saying that they are trying to restore the historical flow of the water from the west side of US1 down to the Lagoon; and to her, it sounds like it is a violation of Federal law, but it is also flooding out people with existing property rights. She stated if the Board wants people to sue, they are the ones who will sue, and there is a lot more residents than there is them; there is only one of them; she really disputes what they are saying because she attended those public meetings; it was either Mr. Moia or someone with grayer hair acting like him who said, and she asked him all they really want is to be assured that the flooding is not going to be increased by them, in their area, he said, he cannot do that, because it would be \$100,000 for them to do that engineering, and they are not going to do that engineering to find out about the flooding until receiving approval to go forward; that is what they are telling the residents; and then they come in here and they say something different. She stated she is going to call out people who have come before the zoning board, attorneys and said, oh, this project does not abut any residential land; this was a different project, same law firm, and it abuts her property; they came and they raised every single thing and by that, she means flattened everything; now she has absolutely no buffer from the commercial zoning at all; it is all gone, because of the misrepresentations of this law firm; so that is the law firm and the engineer making misrepresentations; and Vic Watson, another attorney in this firm, also acted like a member of the public, spoke before the public hearing on zoning, and said, oh, he has basically no problem with this. She remarked well sure he does not, because his law firm is the one representing the developer, trying to get this done; they have also said that they have no responsibility for addressing hurricane conditions; she gathers that they are going to say that anytime there is a flood on US 1, it was just caused by a hurricane; the king tide happens twice a year and it does not go away, because there is not one day where it is king tide, and it is still king tide out there; she has seen weeks with the hills flowing with water; something needs to be done about it, before starting; and she asked why change the Future Land Use Map, that was designed to prevent against this, what is the reason for expanding it, and right now they are at the worst of a crisis on Indian River Drive. She continued to say they have City Pointe Road to get out or they have to go north to Blacks Road and that area is usually flooded; she could go on and on; and she wished she would get more time; there is a lot of reasons for the Board to deny this; and she is begging the Board to deny them.

Ms. Rezanka inquired if she may cross-examine.

Morris Richardson, County Attorney, advised the Board that in a quasi-judicial hearing, that is being heard right now, Items H.2. and H.3., is quasi-judicial; and the applicant does have a right of cross-examination that should be reasonable and within the boundaries of what she testified to as to factual testimony.

Ms. Kennedy stated she guesses she would stay here.

Ms. Rezanka asked if she lived in Parkchester.

Ms. Kennedy responded no; and she stated she lives off of Indian River Drive.

Ms. Rezanka inquired if she lives about a half a mile from here.

Ms. Kennedy asked a half a mile from here.

Ms. Rezanka advised half a mile from the project.

Ms. Kennedy advised she does not know exactly, but here only way of ingress and egress is City Pointe Road; she lives down the road north; and this whole land use Ms. Rezanka is talking about changing is the same, consistent from her whole area; she is in Brookhill Subdivision, and this whole thing, once one gets a toe hold and starts chipping away at this Future Land Use (FLU), then everybody's is going to be like oh, well, that project warrants another one; then pretty soon they are going to be flooded all over the place; and Ms. Rezanka does not have to live with ramifications, but they do.

Ms. Rezanka inquired if Ms. Kennedy was adjacent to a Florida Department of Transportation (FDOT) easement that was between her and the property that was Recreational Vehicle (RV) storage.

Ms. Kennedy responded that was her property; if one looks at their plat, it is not identified as FDOT; it is not even identified as an easement; but notwithstanding that, that whole thing is her property on the plat, she paid for it, and she does not appreciate attorney's coming along and misrepresenting that that is not her land.

Ms. Rezanka advised the Property Appraiser's website does show it as FDOT land.

Ms. Kennedy stated Ms. Rezanka, being an attorney, knows well enough that the Property Appraiser's Office, it says right there, 'disclaimer, do not trust what we say because it may not be correct'; when she calls the County and talks about what is going on around her, she says do not look at the Property Appraiser's Office, and they said, do not worry, they do not, they look at her plat; she owns what the plat has defined as a lot; she cannot say, oh, they do not think she owns this or that; Ms. Rezanka's partner, Vic Watson, dared to say he represented her; and he actually did represent her and took her money, and told her things that Ms. Rezanka's firm asserted . . .

Ms. Rezanka interjected by saying she has never been a partner with Vic Watson ever in her life.

Ms. Kennedy commented she apologizes, but he has been involved in this; that is definitely her lot; and Ms. Rezanka can look at that, her being a lawyer, she knows that, especially a real estate lawyer.

Ms. Rezanka stated she has it pulled up, it is an FDOT easement she pulled it up.

Ms. Kennedy pointed out there is a strip of land that goes right through the middle of her property and it is an easement, and it goes right through the middle of her backyard; but that does not mean she does not own the land.

Chairman Feltner advised Ms. Kennedy that part of the problem are things are not picked up in the microphone and what happens.

Ms. Kennedy stated she is sorry; Ms. Rezanka is talking about a ditch; she had a drainage ditch through her backyard; it is not marked on her plat as belonging to FDOT; in fact, the actual FDOT easement was north of the plat, and they put the pipe through her backyard; but that does not mean she does not own the backyard; Ms. Rezanka actually did misrepresent that that project did not about a residential property; when she got up and said it did, she accepted it, she believed what Ms. Rezanka said; and she gas lighted her.

Attorney Richardson commented for the record, to be clear, he is sure there is a misunderstanding for whatever reason; Victor Watson is not affiliated with Ms. Rezanka's firm;

however, his law firm is located within the office that is just to the north of the commercial portion of the subject property.

Ms. Kennedy expressed her apology, as she thought they were in the same law firm.

Chairman Feltner stated he is glad that was clarified.

Mary Jane Duncan stated this is definitely such a heated issue, and she thinks one of the things that people just need to be mindful of is what the big goal is being looked at here, what is trying to be achieved in the community for the best of their environmental issues, as well as the population growth; there are no simple answers, but it takes all of the Commissioners doing his or her due diligence and considering all of the different options and possibilities from both sides to find the happy compromise that will meet everybody's needs in this situation because it is not an isolated situation; if this one sets a precedence for moving forward without all of the due diligence being done, then it does open up the can of worms that other things could happen as well; her request is just that everybody do his or her due diligence, really dig deep, and please consider all of the big options that are being looked at here; it is not just the importance of allowing another development to happen, and they do appreciate all that has been done by the developers; however, it is a little like negotiations; and they aim high and then they make it look like they have sacrificed a lot when really they were just taking away what they already had established.

Bill Gower commented his property backs up to that property; he has known the people that have owned it for years, back to when it was Sullivan's Groves; by the way, when one talks about trees, right down the center of that property is what their tree line used to be, and still is, rows of trees, when talking about how many trees one would have to take out from over there; that property was owned by Sullivan's Groves back way before him; he lost the property due to property taxes, which his friend, who took over the property, died; and that is part of the reason why that property has changed hands so many times. He asked why there is a binding agreement if it is not going to be held to; this gentleman said at that the first meeting there were like 100 residents, the second one maybe 20, and even tonight they are a little thin, because people cannot continue to take off to come here from work, they do not get paid to come here; but a lot of them do come in for their reasons; his property happens to be, according to the surveyors, the lowest part of Parkchester Estates to that property behind him; he does get flooded out at times, quite a bit; again, this individual bought this property knowing very well what the original plan was; he asked what makes them think that they can have it changed, this is ridiculous; how many meetings have there been over this; and he noted it does not seem like anything has changed.

Sierra Collector stated she objects to this proposal, she does not think changing the zoning classification and removing the BDP is a good idea, mostly because of the flooding; she does not know what Mr. Moia thinks he can do to stop the flooding, but any development on that land is going to make it worse, because it is wetlands and soaks up water like a sponge, more development, more flooding; at the very least, the wetland that they proposed could be zoned as a private conservation, she thinks; and she does not want to see more flooding, so she is opposed.

Benjamin Downey advised his property butts up against the proposed land; he does not agree with the proposal; the main part of the proposal that he does not agree with is that they are changing the BDP; it was put in place for a reason; he does not think it should be changed; they were talking about a difference of 23 homes and 19 homes, that is only four homes difference that they are really talking about; and he asked why what is already in place should be changed. He pointed it he does not think it should be changed; it is already in place; and he does not care to see that being changed.

Tom Kennelly stated before he gets started, since it is a quasi-judicial, and he actually listened to the promo at the beginning, he is not an expert witness; and he asked if he can actually talk.

Attorney Richardson replied he can talk; he can talk about things that he knows, facts he knows, and his familiarity with the neighborhood; and he cannot just render something that would require an expert opinion, like an engineering opinion, appraisal opinion, or something like that.

Mr. Kennelly asked if maybe in that intro that the County change that to say if he or she is a public speaker, a commenter, one is not held to that . . .

Attorney Richardson advised Mr. Kennelly is on the clock, he probably would want to . . .

Mr. Kennelly stated he has time; he saw the Commissioners received copies of the plan, but he did not get one; and he would like to object right away and say the public hearing should be stopped now because there is a plan out there, the public needs to look at it. He continued by saying he is really puzzled, he had other notes, but they want to move this to a RES-4, but they are building in RES 1 and RES 2; there is something he does not get here; just make it all RES 4; he asked why; he stated maybe an expert understands it, he does not; another thing he heard up here was Parkchester drains under that property; that property is probably just like it is up in Brookhill, full of coquina; the coquina takes the water and filters it before it gets to Indian River Drive, as opposed to putting a culvert down and running it right down the Indian River Lagoon and take everything with it; and the County needs to be very careful in how the water is taken off of that property. He noted in general, in terms of just general Brevard development, one talks about just how bad their road is on Indian River Drive, it is a third-world road right now; Public Works is good to come out and patch it, so do not blame Public Works; he thinks there is a funding issue, they have one asphalt truck for the whole County; Public Works is going to take their asphalt truck when it dries out in Indian River Drive and spend three days on their road; North Brevard probably needs it as well; he reiterated that Public Works actually needs some funding; and a County cannot grow when it does not fund Public Works. He explained what happens to a deal is a deal; the property was bought with a certain zoning; what can happen with developers, and he is not saying this is going to happen as this is wild speculation, he gets a great new zoning, now that property is worth more money, and he can go sell it to somebody else; he asked guess what; he advised they go through this one more time; he asked if there is a commitment that when these people get a new zoning that they are actually going to be the developers; he reiterated a deal is a deal and not to change anything; and he disagrees with any change that might occur.

Diane Burroughs stated City Pointe Landfall is asking for the removal of the existing BDP that, among other things, limits the number of houses on the western half of the property to seven units total; it is key to remember that designating that 10.96, as the gentleman just mentioned, as RES-4 results in a potential of many more units on that entire property; in their proposed PUD, City Pointe Landfall, self-declaring, at least at one of the last meetings they had to utilize that 2.44 acres as wetland conservation area; they do acknowledge and appreciate the fact that the developer made some concessions to address their concerns and redesign the project; however, their primary concern is that there is a fundamental mismatch between the underlying basic Future Land Use Map (FLUM) designation of RES-4; and the proposed use of the 2.44-acre wetland tract as wetland conservation stormwater drainage repository, as well as the fact that the existing BDP for this land has not been honored by the Planning and Zoning board. She went on to say they totally agree that this is a wetland and it is low and swampy and readily floods as they have seen many times over, especially after these horrific rains these last couple of weeks; as such, its current designation of RES-4 is totally inappropriate; it should have a FLUM if nothing else of private conservation; but it is also most important to remember that they maintain this wetland as wetland, no matter what transpires in the future; they are

extremely worried about the absolute fact that a much higher housing development could go into this property, such as utilizing that entire 10.96 acres and is resulting from any change; and just as perceived certainty of the permanence of the existing BDP has turned out to be an illusion, they need the Commission to review the existing BDP and keep it the way it is.

Greg Burrows commented it means a lot to them as residents that the Board does this, and they appreciate it; there were a couple of things that were mentioned earlier on that he would basically like to touch on; the Commissioners have heard about the flooding, and the Board is probably over it with that; when the roads are put in, instead of having grass and sand to percolate water that now becomes a water slide, so all of that water is going to shoot straight down Indian River Road; it would not be a terrible thing if it could be controlled; but what is going to be had in that water that is not in there now are all of the pesticides, fertilizers, and everything else that is going to go in with all of that grass, all of that landscaping for all of the houses that is going to go right down that hill into Indian River Drive. He noted they are now asking the Board to foot the bill to dig out of a bunch of trees, grass, native plants, and put stuff in that also has to be fertilized and pest controls; that is not being done now; all that is going to go straight into the Indian River; they have only been residents here just under six years; they have done a couple of the river cleanups and that is the biggest thing he hears from everybody is all the runoff that comes into it; and a lot of the complaints are from the fertilizers, pest controls, and that kind of thing. He stated all he sees is that just being, again, a water slide straight into the Indian River with the Board footing the bill to figure out a way to move the water off of that road, and not have it go straight in; the other thing was they used to have, when they moved into that neighborhood in Parkchester, they used to have a turn lane so they could get into their neighborhood, now they do not, as the City has engineered it; now it is a merge lane from three lanes down into two, with a stoplight right there; if the County polled their neighborhood, it would probably find that almost everybody in that residence has almost been rear-ended from a high-speed driver coming off of that stoplight by State Road (SR) 520, and trying to beat the traffic to cut into the other two lanes; he asked if one is pulling campers and Recreational Vehicles (RVs) in and out of that area, what is going to happen then; what happens when a camper and RV pulls out in front of three cars flying to beat the light, and now there is a fatality right there on that road; and he advised it happens. He went on to say they have a new stoplight just passed or just north of their subdivision; he asked unless they put a stoplight right at that entrance, what is going to stop that from being a fatality; and he expressed his appreciation to the Board for its time and service.

Beverly Sudermann stated she is a resident right next to this property; the neighborhood objects to changing the FLUM; their neighborhood includes homeowners next to City Pointe Landfalls property, residents on Indian River Drive, residents' on City Pointe Road, and the following subdivisions: High Point, Point Place, Parkchester, Twin Lakes, Brook Hill, and Briarwood Manor; and their letters and petitions have been sent to all of the Commissioners objecting to this project. She continued by saying a wonderful former Commissioner, Truman Scarborough, once told her that her community is the only community that has been able to stand as one to protect themselves from overdevelopment, all others have failed; it is up to all of them to continue to protect their way of life in their small but beautiful community; she is asking the Board to please stand strong to protect their way of life; development is inevitable, however, their area is a historic gem in a concrete jungle; they have a historic, scenic drive lined with historic spacious homes and nature all around; visiting visitors to the area enjoy the leisurely drive and the slower pace; and people enjoy biking, running, walking events throughout the year. She pointed out it is not a cookie-cutter neighborhood; there are no condos or townhomes; it is a unique community style that those of them who live there wish to protect and out of State visitors love to enjoy; the Commissioners before have worked hard to put in place a plan to protect their area; she asked if it is perfect, and she stated no; they were all grandfathered in and rightsized when the Commissioners before this Board created a plan that worked for everyone; and the previous Commissioners spent years working on the

community to achieve an agreeable plan that worked and continues to work for their historic area. She asked why have a BDP if it is not binding; why make it binding if it has no meaning; and she asked the Board continue to protect their unique and historic community now and in the future, and she respectfully requests that the Board deny City Pointe Landfalls request to change the FLUM.

James Sudermann remarked he lives south of this proposed development, they have lived there for 30 years; they continue to object to City Pointe Landfall's request to amend the underlying FLUM to RES-4 over this entire 10.966 acres; the Board's own County staff comments state, and he will quote, "The RES-4 designation would allow up to 43 residential units;" additionally, the requested companion Planned Unit Development (PUD) zoning could also result in a density bonus that would allow 54 residential units with a density of five units an acre on the 10.96 acres; time and time again, Ms. Rezanka has gotten up before the Board and said she believes they have addressed all of the community's concerns; and this is categorically not true. He went on to say since the very first presentation at the first Planning and Zoning board meeting in March, all through every subsequent presentation before the Commissioners, their community has been consistently opposing City Pointe Landfall's proposed FLUM amendment on the basis of inappropriately high density; there have been a total of 211 pages of community opposition recorded under the various public comment files that is on the County's website; all of the spoken comments have included concerns arising basically from high housing density, from flooding to everything else that people have concerns about, have as a basis just this idea of a lot more housing on this one piece of property; and they feel that this very significant display of community opposition has been pretty consistently ignored. He advised all through this process, City Pointe Landfall has been resolute in their demand for RES-4 on the entire non-commercial property; they have become increasingly disturbed by this insistence and have begun to suspect that there is more to it than just building the proposed PUD; what bothers them the most is if City Pointe Landfall is allowed to walk away from this meeting with a new FLUM designation of RES-4 on the entire 10.96 acres, they, or any future owner, will have the possibility of constructing up to 54 housing units on it; City Pointe Landfall could simply sell the property to a new owner who could start the PUD rezoning process all over again, this time with a starting FLUM of RES-4 on the property, or once the FLUM is changed, once they get through this meeting, City Point Landfall themselves could come back at a later date, due to economic, business decisions, or whatever, they could come back at a later date and restart with a new or amended BDP; 54 housing units is way too many, and RES-4 is way too much to ask for; he asked the Board to please reject City Pointe Landfall's request for this FLUM change.

Ms. Rezanka commented she apologizes for her outburst earlier, she did not mean to offend the Commissioners or Ms. Kennedy; she does disagree with Ms. Kennedy's interpretation of her land and what that is; it is a drainage tract on her plat; she lives 3,100 miles to the north of here; there is indeed a right-of-way owned by someone; she thought it was FDOT and a triangle piece to the north of her; and there is more to what she says than it is on her property. She mentioned regardless, she asks the Board to go back to this FLUM; she wants to address the Sudermann's again; she showed the Board on her map where the Sudermann's are, next to the little RES 2; she stated they are currently RES-4, they could put four units to the acre there; they have one home, they do not intend to do that; to the north is the property at issue, it is already RES-4; they are only asking for seven acres of FLU change; part of it is that little RES 2; and the reason they have to do that, and she is sorry they are disturbed by it, but that is what the Board's Comprehensive Plan requires. She stated they do not have a choice because this RES 1 only allows one unit to the acre no matter what the zoning is, so in order to spread their density to get 23 units instead of the 19 they could now, they have to change that RES 1; in theory they could change that to RES-4 and change the RES-4 to RES 2, and they can agree to do that; they cannot put it into a public conservation easement because it is not large enough; County staff has looked at that, they have discussed it, so they cannot; they have

agreed to put in a conservation tract, that is what is on the PDP; and they are bound to that PDP unless they come back to the Board. She pointed out there is no subterfuge here, it is the law, and they have to do it; they have talked to Mr. Prasad many times about how they might be able to do it, but they cannot put more density on the FLU than the FLU allows; the RES 1 can only have one unit to the acre even if it is EU zoning, which it currently is; she showed the Board on her map this is all RES 1, this is Community Commercial, this is RES-4, this is all RES-4, this is more commercial; she advised there is a very big mix here; they are not next to other RES 1 to much extent, except just to the south of them; again, to be clear, the RES-4 is limited by the PDP and the PUD zoning; they would be willing, if they could work it out with Attorney Richardson, a way to do an agreement that should this PDP zoning ever be approved as presented to the Board now, they would agree to go back to RES 1; they would do that in a binding agreement of some sort and record it; and they could be sure that there was no subterfuge here. She explained she just came up with this, because this is what they intend to do; they are not intending to put 54 homes there, one could not put 54 homes there; if there is a way to make the Board sure that they are going to do this PDP by an agreement, they are willing to do that; again, the homes on the PDP to the north are the same size as the Parkchester homes; all of this slide off water has to be treated, it is not treated now; it will be treated once they go through this engineering process; the County's engineering staff will review everything; the engineering staff will review the tree removal plan and the landscape plan; and everything will go through County staff. She stated regarding the new plan, that plan has been in the Agenda record for a long time; she apologizes, but it is on Legistar; that plan has been in the County's records, and there is nothing new that is not already in the County records in Legistar; regarding the camper and RV turning concerns, that again is a site plan issue; and if safety warrants it, it will be required by the County's engineering staff or FDOT most likely. She noted again, 4.2 acres of this 10.94 acres is already RES-4; regarding the permanency of the BDP permanent, a BDP is a zoning; they are asking for it to be removed, so they are asking for a new zoning to go with the PDP and the PUD; they have explained their reasons for the change; there has been no competent, substantial evidence to explain why those reasons are not good; the reasons are because what they have now does not work; it does not allow for the stormwater treatment; and it does not allow for everything that has to be developed to development standards today, which are even increasing in January through the State. She went on to say the regulations for stormwater treatment are even greater; they are changing this plan to protect the wetlands; they do not want to build in the wetlands; they are not supposed to build in the wetlands, so in order to protect the wetlands, they have to have greater density towards US 1; to repeat, there is no access from this project to Indian River Drive; if the Board has any questions, they are happy to answer them; and the only engineer that has testified is Mr. Moia, who has testified that it meets stormwater, or will meet stormwater requirements.

Commissioner Altman stated he noticed on the map of this area that there is a title City Pointe Cemetery; he knows the cemetery has not been talked about; he would like to hear about that; and he noticed on their site plan, they show it.

Ms. Rezanka responded it is not on their property, they do not know anything about it; they do not know how they access it; she believes it is accessed by the property owner to the south who spoke at one of these meetings; she reiterated they do not know anything about it; but she presumes they are going to have to do a special survey to make sure there are not any bodies on their property; and she apologizes, as that was rude, but that is what they have had to do on others near cemeteries.

Commissioner Altman noted he noticed they have the City Pointe Cemetery point and it looks like it is a little bit south of them, but he noticed on their site plan there is a little square area that is basically called a landscape, titled Tract C, landscape tract; it looks like it is in real close proximity to the cemetery; and he wondered if that is what it is there for.

Ms. Rezanka advised that is a required subdivision buffer of 15 feet around the entire subdivision, and that is what that is for.

Commissioner Altman remarked no, it is just a square right near the cul-de-sac that is titled . . .

Ms. Rezanka interjected by saying she thinks that is where the lift station is going.

Commissioner Altman stated oh, that is for the lift station.

Ms. Rezanka stated where it would go if it is approved.

Commissioner Altman advised he was just curious if it was related to the cemetery; and it looked to him like the cemetery was off of their property.

Ms. Rezanka mentioned it is, yes, sir.

Commissioner Altman commented he knows there has been a lot of talk about the RU-2-4; they are basically a little over 14 acres, but she is talking about 23 units; and he asked what would be the effective density of the project.

Ms. Rezanka replied two units to the acre.

An audience member asked if he could cross-examine, he has a question.

Attorney Richardson responded cannot cross-examine counsel, if he puts on a witness, an interested party could, but not Ms. Rezanka.

An audience member asked if Attorney Richardson is saying he cannot ask Ms. Rezanka a question.

Attorney Richardson replied no.

An audience member asked if he could ask the Board a question.

Attorney Richardson replied no, sorry, he got to speak.

Commissioner Delaney stated she appreciates Mr. Moia going through and listening to the residents, having two meetings, and making some changes, but the thing she keeps coming back to is the person who purchased this piece of land, they bought it knowing that there was restrictions on the land; the research that she has done regarding how that came about is basically the Commissioner who was sitting in her seat back then, worked extremely hard with County staff, property owner, and the community at the time and this was a compromise; and this was a strong compromise that everybody agreed to at that point. She went on to say she does not think it is right or fair to the residents to go back on the County's word, especially when there are severe issues going on in the community; this community has come out over and over again; there are 211 pages of emails, 54 emails in total, and countless public comments; so many people showed up to the first community meeting, the second community meeting, and even though there was less people, it was still the same sentiments, it was kind of heated; and while people were glad that some changes were made, they still were extremely uncomfortable with the whole situation. She mentioned County staff, in the staff report, talked about that there are a lot of environmental constraints, wetlands, aquifer recharge soils, the high coastal hazard area is on this property, flood plain protection, Indian River Lagoon nitrogen reduction, septic overlay was a portion of the property, and surface waters of the State protected in specimen trees and protected species; in addition to that, Florida State Statute talks about the

coastal high hazard area and how the County should not be increasing density; while she understands it is only a small portion of the property that is actually in the coastal high hazard area, it is very close to it; it says the parcel may be susceptible to nuisance flooding; when she had her briefing, Natural Resources Management staff was talking about the seepage that comes from the property; and some of the residents were talking about it as far as the way that the water drains off of US 1, it goes through the property, and ends up on the other side towards the Lagoon. She asked if somebody wanted to develop a piece of property, and they knew what they were buying, why everybody else should suffer when this person made a conscious decision; she noted nobody pulled the wool over their eyes, they knew what they were buying, and they knew the restraints of the property; they could build seven big, beautiful homes on this property and make it make sense for them, which she is sure the neighbors would love because all of their property values would go up; she is hoping, especially after everything her District, she knows there are other Districts that dealt with flooding last week, but she spends a lot of time with her constituents, she spends a lot of time researching; she does not have another job, this is everything she does, and she takes it really seriously; she knows her constituency, her community, and she is hoping that, just as she respects the other Commissioners and his or her knowledge of their community, she is hoping she will get that same respect; she cannot support this today; and she is hoping to get support on that.

Commissioner Altman commented he knows there has been discussion of the prior BDP, he did not see it in the packet, and he did not ask for it earlier; and he asked if the Commission has a copy of that to see what it looks like.

Mr. Prasad explained attached to the zoning H.3., he is looking at it now, there is an attachment six, which is an existing BDP; he can certainly get Commissioner Altman a copy of that; but it is attached to the Item.

Commissioner Altman asked if it is on the public web.

Mr. Prasad replied affirmatively.

Ms. Rezanka provided a copy of the BDP to Commissioner Altman.

*The Board recessed at 6:20 p.m. and reconvened at 6:31 p.m.

Chairman Feltner stated the Board is still in discussion, and Commissioner Altman had some time to look at the prior BDP; and he asked if Commissioner Altman had further questions on that.

Commissioner Altman responded he does not. He stated he knows the Board is quasi-judicial, and it crosses that bridge when it comes, but if there is a tie vote since the Board is four, does it mean it continues.

Attorney Richardson advised there are a few things; first of all, the Board is quasi-judicial and it is not, so for the FLUM request, it is really legislative, that is a legislative action; for the second Item, the zoning Item, the Board is quasi-judicial; but in these circumstances, because either way there would be an application for a development permit, Statutes require the County to act on applications for development permits; he has always been concerned that if the Board just had a deadlock, Robert's Rules says if the Board is required to make an affirmative vote on something and if it does not pass affirmatively, it fails; to him, in a land use or zoning request, he thinks the Board needs a majority denial to move forward; and the Board needs to either approve it or deny it, so if there is a deadlock, his suggestion would be to continue it until there is a full Board.

Commissioner Feltner asked what if there was a motion to deny tonight and that was 2:2.

Attorney Richardson responded then that motion would fail, the Board would have to entertain another motion, and eventually either approve, deny, or continue it until there is a full Board.

Commissioner Delaney stated she would like to make a motion to deny the Future Land Use change.

Commissioner Altman stated he would second the motion.

Chairman Feltner called for a vote on the motion, and the motion failed, with Commissioners Adkinson and Feltner voting nay.

Result: Denied

Mover: Katie Delaney

Second: Thad Altman

Ayes: Delaney and Altman

Nay: Adkinson and Feltner

Absent: Goodson

There being no further comments or objections, the Board continued City Pointe Landfall, LLC's request for a Small-Scale Comprehensive Plan Amendment (24S.11), to change the Future Land Use designation from RES 1, RES 2, RES-4, and NC to CC and RES-4, to the December 11, 2025, Zoning meeting.

Result: Continued

Mover: Katie Delaney

Second: Thad Altman

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

H.3. City Pointe Landfall LLC (David Bassford) Requests a Change in Zoning Classification from EU and RP with an Existing BDP to PUD with the Removal of Existing BDP (24PUD00003) (Tax Account 2411252)

Chairman Feltner called for a public hearing to consider a change in zoning classification from EU and RP with an existing BDP to PUD with the removal of existing BDP (24PUD00003) (Tax Account 2411252).

There being no further comments or objections, the Board continued City Pointe Landfall, LLC's request for a change in zoning classification from EU and RP with an existing BDP to PUD with the removal of existing BDP, to the December 11, 2025, Zoning meeting.

Result: Continued

Mover: Katie Delaney

Second: Kim Adkinson

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

Attorney Richardson stated if one came out and spoke tonight, their comments and input are going to be part of the record on this Item for the future hearing; obviously, he or she is welcome to come to the future hearing, but if they are unable to, he does not want them to be concerned that it does not count that they came out tonight; and that will be part of the record and made available to the Commissioner who could not be here tonight as well.

H.8. First Public Hearing, Re: Adoption of Amendments to Chapter 62, Article IX, Section 62-3316, "On-Premises Signs" and Chapter 62, Article IV, Table 1, "Signs by Type and Zoning Classification," in Order to Allow Community Development Districts to have Specified Signage for Parks within Certain Zoning Classifications

Chairman Feltner called for a first public hearing to consider adoption of amendments to Chapter 62, Article IX, Section 62-3316, "On-Premises Signs" and Chapter 62, Article IV, Table 1, "Signs by Type and Zoning Classification," in order to allow community development districts to have specified signage for parks within certain zoning classifications.

Billy Prasad, Planning and Development Director, stated H.8. is the first of two public hearings regarding the adoption of amendments to Chapter 62, Article IX, Section 62-3316, titled "On-Premises Signs," and Chapter 62, Article IV, Table 1, "Signs by Type and Zoning Classification;" this is done in order to allow Community Development Districts to have specified signage for parks within certain zoning classifications; legislative intent and permission to advertise for this ordinance was issued by the Board on May 20; the Building and Construction Advisory Committee (BCAC) heard this on October 8, and unanimously recommended approval; and Planning and Zoning heard this on October 13 and also unanimously recommended approval.

There being no further comments or objections, the Board approved and conducted the first of two public hearings to adopt an ordinance amending Chapter 62, Article IX, Section 62-3316, "On-Premises Signs" and Chapter 62, Article IV, Table 1, "Signs by Type and Zoning Classifications."

Result: Approved

Mover: Kim Adkinson

Seconder: Thad Altman

Ayes: Delaney, Adkinson, Feltner, and Altman

Absent: Goodson

L.3. Reports, Re: Katie Delaney, Commissioner District 1

Commissioner Delaney stated she is not sure if the Board is allowed to talk about this or not, but she was wondering what concerns there are that Commissioners Feltner and Adkinson they have regarding that item.

Morris Richardson, County Attorney, advised he would not discuss that after the public hearing being closed.

Commissioner Delaney noted she will share her thoughts, not even regarding that, but just in general; she is wondering about all of the Commissioners are elected to represent his or her constituency and community; she spends a lot of time in her community and talking to residents

* * *

Attorney Richardson interjected by saying he is just going to advise against this; and she can do what she is going to do, but he would not want her to do something unintentionally and inadvertently that might create an issue if there is ever a challenge to an action or anything like that because she is not speaking to the other Commissioner that was outside of the public hearing, the parties have left the room, and they cannot respond.

Commissioner Delaney pointed out she is not talking about this property in particular; and she asked if that would matter that she is speaking in general about how the Commissioners represent his or her Districts.

Commissioner Altman stated he respects what Commissioner Delaney is saying, but maybe it should be talked about at another meeting, not just after this zoning because it just might hurt her case, it might be misconstrued because of the proximity of time; and he would agree with Attorney Richardson as he thinks he is trying to protect the Board.

Commissioner Delaney stated she will say to her District 1 constituents out there that she will do her best to always represent their thoughts and desires for the community; that is what they elected her to do and is what she is going to do; she wanted to give a shout out to the Road and Bridge team in the north end; they have been working like one would not believe, and she cannot thank them enough for all of the work they are putting in to clean up the community after those horrible floods; to all of the constituents out there who are still dealing with issues, to feel free to reach out to her office, reach out to the County; she believes that the portal closed yesterday for requesting assistance, but if they need clean up assistance in their homes, help removing carpets, drywall, mopping, or anything, to continue to reach out to her because she can try to help them connect with resources; and she again expressed her appreciation to Public Works that have been working really hard.

L.7. Reports, Re: Rob Feltner, Commissioner District 4, Chairman

Chairman Feltner advised he sent someone to Commissioner Altman for the Astronaut Hall of Fame advice.

Commissioner Altman stated he will look for them and give them special attention.

Chairman Feltner stated they are looking to bring a group up there, a big group; and everyone is excited about Artemis and all of those things.

Upon consensus of the Board, the meeting adjourned at 6:41 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

THAD ALTMAN, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 11, 2025

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

Present: Commissioner District 1 Katie Delaney , Commissioner District 2 Tom Goodson, Commissioner District 3 Kim Adkinson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Thad Altman

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears request for rezoning and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts, or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

C. PLEDGE OF ALLEGIANCE

Chair Altman led the assembly in the Pledge of Allegiance.

H.5. Alexis Raul and Rosemary Estevez DeJesus Request a Zoning Classification Change from BU-1 with a BDP to BU-1 with Removal of a BDP (25Z00003) (Tax Account 2004581)

Chair Altman called for a public hearing on a request by Alexis Raul and Rosemary Estevez DeJesus for a change of zoning classification from BU-1 with a Binding Development Plan (BDP) to BU-1 with removal of the BDP; account number is 25Z00003; and the property is located in District 1. He inquired if the petitioners were in attendance and receiving no response he moved on to Item H.1.

H.1. City Pointe Landfall LLC (David Bassford) Requests a Small-Scale Comprehensive Plan Amendment (24S.11) to Change the Future Land Use Designation from RES-1, RES- 2, RES-4, and NC to CC and RES-4 (24SS00009) (Tax Account 2411252)

Chair Altman called for a public hearing on a request by City Pointe Landfall LLC (David Bassford) for a Small Scale Comprehensive Plan Amendment (24S.11) to change the future land use designation from RES-1, RES-2, RES-4, and NC to CC and RES-4, application number 24SS00009, located in Titusville.

Trina Gilliam stated Items H.1. and H.2. are companion cases and they are generally read into

the record together, but the Board has to make a separate decision.

Chair Altman read into the record Item H.2., City Pointe Landfall LLC requests a change of zoning classification from EU and RP with an existing Binding Development Plan (BDP) to PUD with removal of the existing BDP, located in District 1. He noted he will have staff provide a summary.

Ms. Gilliam advised she would like to read the application numbers into the record; Item H.1., the Small Scale Amendment, the application number is 24SS00009, located in District 1; and Item H.2., City Point Landfall, under application number 24PUD00003, is also located in District 1.

Kim Rezanka, Law Firm of Lacey Rezanka, stated she is there on behalf of City Point Landfall, the owner and developer of the project; she has with her David Bassford with MVB Engineering, the engineer of record, if the Board has any questions; she feels as though she has given this presentation four times; because of the last comments that were heard, she worked with staff and they are changing the future land use from requesting RES-4 to RES-2; the reason that had not been done prior was because they did not think they could do that because part of the land was in the coastal high hazard area and because of spreading the density; they were not sure they were able to do that with the size of the houses clustered the way they were; working with the Planning and Development Director, Billy Prasad, and Ms. Gilliam, they had determined and opined that it could be changed to RES-2; and with the density bonus provided in the Comprehensive Plan, Policy 1.8, they could ask for the density bonus of 2.5 to keep the 23 units they were requesting. She went on to say what she has provided the Board is exactly what is in the staff report, and it was previously provided on November 24 or 26 and it is in Legistar; it is nothing new, she just thought it might be easier to see it up close in this document; page two is the Preliminary Development Plan (PDP) that is being requested with the PUD zoning; it shows the zoning currently is EU; page three shows the existing future land use of RES-1 and the RES-4 to the east and little bit of RES-2, will all now be RES-2 if the Board approves it; RES-2 is exactly what is to the north in the Parkchester subdivision; and the houses are compatible in sizes, that is what the engineer was able to do. She continued by saying it takes the wetlands of RES-4 and makes them RES-2; it hopefully helps some of the neighbors with the idea knowing that all the applicant is really trying to do is 23 units; if the PDP is never built, it is RES-2 and it is RES-2 all the way to the river, so it protects the wetlands to some extent; there was a request to put that in private conservation, but it was not large enough to put in private conservation, so they could not do that, but it will definitely be in a conservation tract, the wetlands to the east; and the next page is just showing the wetlands area and the temporary impacts. She noted there is going to be an elevated bike path through the wetlands as an amenity for the residents; the last page is just the overlay to show the houses next to the houses, where the stormwater ponds are, and the wetlands that will be protected; as the Board may recall, the residents have been very engaged, very vocal; they have asked that they remove the townhomes, and that has been done; and they had asked for no access on Parkchester and that access was removed, with the only access being from US 1. She stated the residents did not want any access on Indian River Drive; at one point there was a little parking area as an amenity, but it has been removed from the PDP; and the remaining issue which they have addressed is the RES-2. She mentioned there are concerns of flooding and stormwater, which has been discussed several times by the engineer of record, Bruce Moia for MVB; again, that is something that has to be engineered; this is just zoning so any flooding issues would be addressed during the plat stage; and with that, she is asking that the Board approve the request of RES-2, and then the small parcel of 1.94 acres of CC on the west against US 1, and then the remaining 10.94 would be RES-2. She commented with that, she would request the Board approved the PDP and the PUD request with the waivers; the last page the Board has, has a waiver request and that is dealing with the perimeter of the

subdivision because they have to deal with some canals and some drainage, and that is why they ask that the waiver be accepted with the PDP; there will still be a buffer and they will still commit to whatever type of buffer that is necessary to make it compatible; they have indeed put in the PDP, towards the east side, the requirement of an opaque buffer that was requested by Mr. and Mrs. Hous; the Board will see on the PDP, page two, it says "225 feet of an opaque buffer" and that is to buffer homes that would be adjacent to their home; that is in there and would be a requirement of any plat going forward; they will answer any questions; they would ask the Board to approve the RES-2, find that it is compatible because it is next to RES-2 so they could use the density bonuses to achieve the 23 units in the PDP; and she would ask that she be allowed to respond to any comments.

Commissioner Adkinson stated this is kind of the same question she has asked before; and she inquired what the buffer to the northwest side between the houses is going to look like.

Ms. Rezanka stated that it is going to be an opaque buffer; and she does not know exactly if it is going to be a fence or foliage that one cannot see through.

Commissioner Adkinson asked if it will be opaque all the way across the entire back.

Ms. Rezanka explained it will be; the applicant has only committed to the fence towards the area against the Hous' property; and if the Board wants to make that a condition of an opaque fence or buffer the entire way, the applicant would certainly accept that.

Commissioner Adkinson stated she was just thinking about if they are leaving the native trees that are already there.

Ms. Rezanka replied unfortunately, because there is an elevation difference and there is a ditch through between the properties, those trees will likely have to come out; they intend to save them, but they do not know because all the engineering has not been completed; there have been some elevations done; by the way, they all have fences there already; however, if the Board wants a condition that they have an opaque buffer the entire length against Parkchester, they can do that.

Commissioner Adkinson commented for her the opaque thing is not as important as the actual trees and things that are going to be lost; and she asked if the applicant would consider if they had to take out a big deciduous tree, putting a decent sized one back in there.

Ms. Rezanka responded affirmatively; and she added if the Commissioner wants to make a condition that like-trees go back in, they can do that and make it a condition of the PDP.

James Sudermann stated he lives just south of this project; he was happy to see the new addendum number two from staff; there were several pieces of that he would like to comment on; in light of the new alternative proposal submitted by City Pointe Landfall on December 25 and the new staff comments addendum number two he would like to voice the following, while they recognize that the latest proposal from City Pointe Landfall does not preserve the original existing BDP that they have, he keeps asking for it, it does address to a greater or lesser extent, most of the remaining ongoing concerns with density growth potential, stormwater and groundwater discharge issues, wetland preservation, and roadway flooding; if the Board were to adopt all of the conditions, staff comments, and applicant offers outlined in addendum number two, and the City Pointe PDP, their 2025, 1126 applicant alternative proposal that he thinks was just handed out, Beverly and himself would be willing to accept them as something they could

live with; but be assured that he and Beverly only represent themselves in this and cannot speak for the rest of their neighbors who have fought with them so long and hard to get this Board and this developer to listen and respond to all of their comments. He stated specifically to grant their support, they would like to see application of the RES-2 future land use map designation on the entire 10.94 acre residential portion of the property; they would like to make sure that a ban is imposed on all residential land use on the wetlands; staff comments also mention that a Public Works engineering evaluation of the outfall pipes across the Indian River roadway and of possibly raising the road should be performed, they would also like to see that memorialized here; as suggested by staff, they talk about creating a new BDP which incorporates at least the following provisions, any future change to the PDP will be considered a substantial change and require Board approval for the change; overall reduction of the rate of stormwater discharge from the subject property and overall reduction of the volume of stormwater discharge from the subjective property; the new BDP should conduct a ground water analysis to identify any groundwater concerns and address them accordingly; dedication of up to 50 feet of right-of-way for Brevard County Maintenance and roadway projects along the north Indian River Drive; and finally the provision that says the future land use designation is to revert if the final development plan are never filed. He added he would like to reiterate if all the provisions and comments from this new staff addendum are included, he and Beverly could live with it.

Chair Altman stated he noticed, and it may just be an oversight, Mr. Sudermann left out one portion in his comments, as he was following along with him, and it is the one that says preferably without the 25 percent density bonus based on FL1 Policy 1.8., if limited to 21 units, he did not hear that.

Mr. Sudermann apologized and stated he did skip that; that is true they definitely appreciate the RES-2; if they had a preference they would like to see it be without the 25 percent density bonus which gets them to a potential of 25, although with the PUD being approved, that would just limit it to 23; he did make a comment here, it says, if limited to 21 units, the developer could incrementally increase the lot size of the small southern lots, which are pretty small, and or could donate a portion of the southside property as an access path to 1800s pioneer cemetery, which has been landlocked now for decades; and that would be a nice gesture.

Greg Burroughs stated just to reiterate what the previous speaker has just said, really the main thing being looked at is the wetlands and how that is going to affect any runoff that goes down into the river, anything from the soil, and obviously, from the grasses, fertilizers, and things like that that could end up in that river going straight down; he does appreciate the two units per acre; he is not sure how that is going to affect, without any RV storage in the front; he would not mind seeing a turning lane dedicated into that neighborhood so that the three lanes which have been reduced to two right in front of that property do not cause any bottlenecks or any more accidents; and he thanked the Board for its time.

Diane Burroughs stated she wanted to reiterate along with Mr. Sudermann; she thanked the applicant for the consideration for reducing it from a RES-4 to a RES-2; and she asked to continue to keep in mind the conservation area, the flooding, and those very serious issues that are currently happening in that area, and how this is going to impact it.

Sandra Kennedy stated she lives about one-half mile north of this project; no matter how many public hearings and how many residents complain about this project, the criteria are set in the rules and regulations that are applicable to this Board; and they are binding. She continued by saying the applicant has not met the requirements for a variance; City Pointe Landfall's application does not meet the criteria for a zoning variance, even limited, and the County Commissioners must reject the application in its entirety; not once have they addressed the

community, the neighborhood; their title is City Pointe, City Pointe is a community that stretches from a little bit north of 528, around City Pointe Road, all the way to at least Blacks Road and really beyond; it is along Indian River Drive which is basically at sea level in this area; this is not the Indian River Drive portion that is on bluffs in Cocoa, it is sea level; and there is already flooding problems that need to be addressed. She went on to say one of the Board's criteria that absolutely must be met before any variance can be given is that they must not increase or cause flooding to the community; they have failed that one right away; their recent change, which she received late last night while she was preparing for this hearing, was that they were giving the Board another paragraph on what their flood control plan is; basically, they had nothing to say but what they had said before; they plan a series of ponds that they are going to allow to overflow; that is their strategy, ponds that overflow; they are going to go down to the wetlands and those wetlands are not sponges, not dry, and they do not need to be appropriately wetted, they are soaking wet; and there are ditches that run along Indian River Drive that are constantly full. She stated their capacity for more water does not exist; they are going to cause flooding; not only that, but their project, it does not abut the full wetland, it only abuts a portion, less than half of the wetland, and the other portion of the land that is a lower elevation to them, is going to get flooded out, and it is residential property; there are no ditches in front of those people's houses because it is not in an appropriate location like it is in front of that wetland; they do not have a flood control plan; they say they are going to use offsite flooding systems and that just means a ditch; she is between US 1, City Pointe Road and basically, Blacks Road or further north, and the Indian River Lagoon; this is their community, the whole entire thing is large homes on large lots; all recent developments since the 60s has been single homes on an acre or two homes on an acre; they are blowing that out of the water; they are trying to say well Parkchester is to the north, but that is not the community; and she asked why they have titled their company name as City Pointe. She noted Parkchester is a remnant from the past; it is what the Planning and Zoning rules and regulations were trying to get away from, which is strip all the trees down and try to put a whole bunch of homes crammed in; that is not bad if it is on flat land, but it cannot be done in environmentally sensitive lands where there are live oak hammocks on a slope; US 1 is like 75 feet or so and it is like a giant waterslide that goes down to Indian River Drive; and the open spaces are needed to absorb the water; the community, they go around saying, Parkchester and all these small communities, and this little property here is .2 of an acre, and they talk about the industrial area way across, but that is a different zone and not the neighborhood, so they do not match the neighborhood; they do not meet the County's criteria to receive this; they are not even a Planned Unit Development (PUD) and they are not entitled to exceed or to get that bonus; now with that bonus, they would be getting more than they have ever sought before; and they are not a planned community that is fully encompassing everything that the community would need, it is a very small strip of land. She reiterated it is not a PUD, they are not entitled to a bonus, they need to stick to the regular zoning like the rest of the community. She asked the Board to follow the law.

Chair Altman noted he has a question for staff; Ms. Kennedy used the term variance; and he asked if this is a variance or a zoning change.

Ms. Gilliam replied no, sir, it is a zoning change in a Small Scale Comprehensive Plan amendment.

Chair Altman asked so they do not use the variance...

Ms. Gilliam interjected by saying criteria.

Ms. Kennedy stated the criteria are for rezoning; she does not know the difference between

rezoning and variance; she is a construction lawyer not a land development lawyer; but the County's own criteria says for rezoning it has to meet this criteria; it is flooding that has to be met before and compatibility to match the entire community; the other thing, their PUD, they have to hide that extra density within the community so that it cannot be seen from the rest of the community; that is the only thing that would allow them to do it; and this is such a small strip of land so there is no hiding anything.

Chair Altman stated he now understands her point.

Commissioner Goodson asked in their proposal for dry retention ponds on the hill that eventually get to the wetlands, are they required to store 100 percent of the water for 24 hours; and he asked if that is correct.

Chair Altman stated before they take a motion or vote, he will let Ms. Rezanka have an opportunity to close, she might want to hear this first.

Marc Bernath, Public Works Director, stated he will let Darcie McGee, Environmental Policy and Resilience Administrator, answer this.

Ms. McGee advised they are not going to be required to hold 100 percent of their water on site based on State stormwater standards; they have to meet certain criteria to hold, and she believes it is a 25-year storm; that then gets held to treat for water quality; then there will be eventual discharge that will go through the system that they show on the Preliminary Development Plan (PDP) that goes down through the pond down to the wetlands and then out to the river; and that does not account for the volume, just the rate and the water quality treatment.

Commissioner Goodson asked as far as staff, how much water it thinks is going to occur that goes through the wetlands to the river.

Ms. McGee advised there is no way she could answer something like that; she thinks in the package, if this is correct, there was a where the engineer had previously talked about maintaining the volume and the rate of flow; and that would be something he could engineer.

Mr. Bernath commented that is correct; Mr. Moia had previously advised that they agreed to engineering concerns about ensuring post-development stormwater discharge rate and volume for the site; because this is just at the zoning stage, staff has not seen anything and cannot confirm that it meets it; but that is what he has agreed to.

Commissioner Goodson stated of course everyone agrees that City Pointe Road intersecting Indian River Road has always been low; and he asked if that is correct.

Mr. Bernath replied affirmatively.

Commissioner Goodson asked Billy Prasad, Planning and Development Director, to read off addendum number two, the concessions that he thinks are fair or he is willing to accept.

Mr. Prasad advised he will start with one that he thinks somebody had mentioned today and Ms. Rezanka had brought up last time that he does not think is appropriate, and that would be the automatic reversion of the land use if the PDP was not recorded; staff does not think that there is any legal mechanism to implement that and that is why it was left off the Agenda Report for Board consideration; he just wanted to explain why the public would not hear him say that; for the conditions that the applicant had agreed to, he will add one that they

mentioned today which is for like trees as part of the waiver request for disturbing the buffer;

beyond that, an overall reduction of the rate of stormwater discharge from the subject property, an overall reduction of the volume of stormwater discharge from the subject property, conducting a groundwater analysis by identifying any groundwater concerns and address them accordingly; and they have volunteered to offer to dedicate up to 50 feet of right-of-way for Brevard County maintenance and roadway projects along North Indian River Drive. He noted staff would suggest that if the Board is looking to implement those conditions that it do so and ask for it to be implemented through a BDP.

Commissioner Goodson asked if this gets approval and it is built, how staff will govern the discharge of water.

Mr. Prasad explained that would be done through the site plan process; and the applicant would have to demonstrate that they are meeting all of the conditions through various analysis.

Commissioner Goodson asked if the applicant would be liable down the road, six months after the project is done, to make sure they do not put too much water into the Indian River Lagoon.

Mr. Prasad stated the BDP will carry with the land; he would also say that under the County's Code that the maintenance of discharge is typically on the private entities; and it could be enforced in the future.

Ms. Gilliam advised the Board she has one other condition and that is to memorialize in the BDP that any future changes to the PDP be considered a substantial change and be brought back before the Board.

Mr. Bernath advised he would like to add one more; and he does not know if it was agreed to during the last meeting, but staff had asked for the 50 feet of total right-of-way that is proposed to be dedicated, that the applicant also agree to mitigate those wetlands in the granted right-of-way, otherwise that will become a future County cost.

Commissioner Delaney stated she wanted to disclose that she had a meeting with the Twin Lakes Homeowners Association and she did drive past the neighborhood, by the location to see the conditions last night; there have been a lot of concessions made with this project and she really appreciates that; she feels like the developer has tried to work with the community; if this was in a different area it would be harder for her to say no; but this area is so unique and there is a constant of running water throughout this area. She went on to say even the drainage pipes; being next to them it sounds like a shower all the time; that is just the ground water, it is not because there is even any rain; she is extremely concerned about the density of this project for this location because it is just so fragile; then on top of that, there is the issue of low-lying Indian River Drive; people's vehicles are getting ruined, people are getting trapped on their streets, and one resident had told her that they had to rent a car because they did not want to damage their own vehicle; District 1 is experiencing a lot of flooding and a lot of property damage; her concern is that it is going to hit a boiling point at some point to where this is going to be a Countywide problem because the County is going to have to start buying houses from people if not careful; Volusia County has had to deal with this; she does not want to see that happen here in Brevard County; and she is very concerned that if the County does not keep this BDP and keep the density low in this area that the County is going to have huge problem. She mentioned just in general she believes that a person should do their due diligence when buying property; it sounds like the applicant knew what they were buying and knew it had a BDP on it; it is not right for the whole neighborhood to have to be affected by this when the

property owners knew what they were purchasing; it is not like somebody pulled the wool over their eyes; and that is kind of where she is at.

Chair Altman stated there is another card that got mixed up with other cards.

Bill Gower stated this keeps coming back; the people who bought this property knew there was a binding contract on it; what he sees is basically they threw everything against the wall to see what would stick, make the people happy, and see what they could get away with; after a meeting they would say there is no reason for people to come to the next meeting; there were 100 of them when it started out and they were told they did not have to go to the next meeting because they were just going to postpone it, and that is why the people have dwindled down in size; he has lived there since 1989; he knows how wide that property is and by the time one puts a road through the middle for two lands, then houses and driveways, that is a lot of water that is being added to that property and no place to go; when he talked to the guys that did the survey, his property sits lower than anybody else in regards to it, and he does get flooded out when it rains; and he is on the upper side not on the lower side like some other people. He reiterated basically, they threw everything against the wall to see what sticks; if the Board approved something today, what makes this guy not go sell to somebody else and the next guys say they go away with that, let them go ask for more; and that is all he has to say. He commented that paperwork that was passed up there, he did not see any of it from the developers.

Chair Altman advised he thinks what was provided by the applicant is the same as what is in the Board packet online.

Ms. Rezanka stated she wanted to thank Mr. Sudermann for his comments as they have tried to work with the residents; Mr. Burroughs asked about a turn lane and if FDOT says it is necessary, certainly that would be put in; she does need to point out that right now water is just sleeting off of this property with no treatment, no nothing; this will retain the water, it will treat it, and it will be better than it currently is, after this is developed; the County has ensured this, Mr. Bernath, by asking for these conditions to which the developer has agreed, reduce the volume of stormwater to better control runoff, reduce the rate of stormwater discharge which will improve what is going on with the water leading to Indian River Drive, and they have agreed to like trees for like trees; this is not a BDP, these are all conditions of the PDP; they do not usually do a BDP, they are willing to do it, but usually they do not do a BDP with a PDP for a PUD; and any changes to the PDP, that is part of the County's Code and if it increases density, but any changes could be a change to the road, so she would ask that not be a conditional ask, to just follow the Code. She continued on to say if the PDP is changed in a substantial way determined by Mr. Prasad, then they will have to come back; she does not want that to be part of it; if the Board puts it in there then they will agree to it, but it is already in the Code and she does not think it is necessary; all the flooding issues are engineering issues and Mr. Bernath, Ms. McGee, and Ms. Gerena will be reviewing all of these; those are all plat issues, site plan issues; no one can prove a negative at this point, but based upon what staff has required, it is going to be a better condition for flooding and stormwater than it is currently; with that she would ask the Board to approve the alternate request to RES-2, find that it is compatible because they are doing like-size houses, RES-2 to RES-2 to allow the density bonuses to 23 units, as 23 is demanded by the PDP which governs it, and if not it is just a RES-2 all the way to the river, and takes in the wetlands that right now has RES-4. She reiterated she is asking the Board to approve RES-2 and the PDP, with the waiver.

Chair Altman commented Ms. Rezanka may have addressed some of this towards the end of the presentation, but maybe she could elaborate further; one of the big questions that has been brought up to the Board is that there was an agreement for a BDP and now that is being

changed, so people are feeling like that is sort of a bait and switch or that the developer is going against the commitment of the land owner; and he asked what is the reasoning for going with the change.

Ms. Rezanka replied as she mentioned in the October meeting, this has really been a troubled piece of property; it has been in and out of foreclosure, back and forth between owners, it has not been developed, and there are challenges to the land with the wetlands, the sloping, and with access; this really is a challenging or troubled piece of property; a BDP was agreed to in 2008; in 2008 it was kind of the crash of the market, or the beginning of it, so she believes they just took whatever they could get; regardless, it has not been developed; it is only the seven acres in the center, so there is other developable land that is RES-4 and in theory could put another 12 units on it as is; they could have the 12 and the seven which is 19; it is just like a change of zoning, it could not be built that way; and it is not feasible to be built that way when they add in all the stormwater and all of the other requirements of subdivisions that were not the same in 2008. She continued by saying the costs of construction have doubled in the last five years; it was not feasible for the owner in 2008; her client bought it in 2021 and it was not feasible for him; basically, he is asking for a rezoning, removing the BDP is really just a rezoning action; she has said the reasons why the applicant wants to do it; and basically, it is the conditions of the property.

Chair Altman stated he knows he looked at the original BDP that is in the packet; and he asked if the original BDP preserved the wetlands, the river.

Ms. Rezanka explained all it did was limit the seven acres to seven units.

Chair Altman asked if it limited access to River Road.

Ms. Rezanka commented she does not recall that, but they are not going to Indian River Road.

Chair Altman noted there are some advantages.

Ms. Rezanka explained there was a limit that they could not access Parkchester and it did not really define what that meant; Parkchester has a road that goes directly into the property, the applicant's property dead ends; that was her interpretation of what cannot access Parkchester, but the neighbors thought it meant that they could not access that road, which is a public road; but that was the access, it was not Indian River Drive, one cannot access Parkchester; and they have taken of access to Parkchester.

Commissioner Delaney asked if Ms. Rezanka thought it would be extremely expensive to mitigate this property to the point where they could build to that capacity, if they were to build the 12 houses on the RES-4 portion, and if that is really realistic.

Ms. Rezanka explained what she is missing is there are three acres that is not wetlands and still RES-4, that is between the wetlands and RES-1.

Commissioner Delaney stated but she would still have to account for the stormwater and all of that stuff.

Ms. Rezanka commented all she is saying is the allowable density right now in her opinion is 19 plus the commercial; she is asking for 23; that does not include the wetlands; and the staff report says something else, but she disagrees with the staff report.

Commissioner Feltner stated they are going to have to do a lot of work to this property, there is

no doubt; there is expense in getting this ready; he asked in ideal market conditions, how much are they asking for each one of these homes; and he explained he is asking that because nearby neighbors sometimes say they do not want these cookie-cutter houses.

Ms. Rezanka replied based upon the developers, it is \$450,000 to \$600,000; and she does not know about this, but what she knows from other developers that are developing similar products, that is the sale price, between \$450,000 and \$600,000.

Commissioner Goodson asked if Ms. Rezanka would be agreeable to everything that Mr. Prasad quoted would be attached to this permit.

Ms. Rezanka responded in the affirmative.

Commissioner Goodson asked if that is okay with Mr. Prasad.

Mr. Prasad stated if he could just ask for one clarification from the Board; and he believes Ms. Rezanka just said that she prefers not to have the condition that any change to the PDP come back to the Board, and that is completely at the Board's discretion whether it prefers to keep the typical, which is a substantial change that would come back to the Board, or if it wants any changes come back to the Board.

Commissioner Goodson asked Ms. Rezanka how she would agree with that.

Ms. Rezanka noted she thinks the Board should stick by its Code, and Ms. Gilliam is who stated that not Mr. Prasad; she would prefer it not be added in there; they will accept it; but to her, she thinks there is a Code and because any change as, she said, could change the location of the road, and that to her should not have to come back to the Board.

Commissioner Goodson stated he thinks within reason, staff is not talking those changes; and he asked Mr. Prasad if that is correct.

Ms. Rezanka pointed out he said any change.

Mr. Prasad noted the way it is written, and this was mentioned at the last Board meeting and that is why it was put in there, it does say any change; and he would say if there is some middle ground that the Board wants to consider, it can do that as well.

Chair Altman stated there might be a change that is better for the land and the neighborhood.

Ms. Rezanka interjected by saying they could take out two units and they would have to come back.

Chair Altman continued by saying and they would not want to come back to do that because they would have to do this, so he is fine with having some flexibility there.

Commissioner Goodson stated he is too.

Morris Richardson, County Attorney, asked if it is staff's preference to have these conditions memorialized in a BDP as opposed to conditions for the PDP.

Mr. Prasad explained staff prefers it to be both; and the conditions of the PUD memorialized in a BDP because it is easier to track internally and transparent for the public because when they look at the map they will see the PUD with the PDP and can easily see those conditions.

Ms. Rezanka apologized that she missed that, and she stated she is not used to that for a PDP, but that is fine.

Commissioner Delaney stated she just wants to bring up what one of the residents said, that the reason why there is not a lot of people here tonight is because they have come out over and over and over again; the neighborhood still has not changed; the couple people who have come up and said that they could live with this, is not because they are happy about it; in District 1 there are still hundreds of people who are not living in their homes right now because of the flooding that it has incurred this year; it is frustrating to her that all of this is being overlooked in her opinion, from what she sees happening right now; this is her District and she knows what her constituents want and need; nobody is guaranteed a rezone, it is not a property right; and this is going to dramatically change this community regardless of what they are going to say about controlling the stormwater. She continued to say she has not seen one neighborhood in District 1 where a new neighborhood goes in next to an old neighborhood and flooding did not happen, not one; if the rest of the Board members want this in his or her own neighborhoods that is fine, but District 1 elected her to speak for them and they do not want this; she understands the rest of the Board may not like her, or her style, but this has nothing to do with her, it has to do with the people; she is asking the Board to please do what it has historically done in this County and listen to the District Commissioner, where the people have elected her to speak for them; and with that, she would like to make a motion to deny this request.

Chair Altman advised the motion dies for lack of a second.

Commissioner Delaney asked Ms. Rezanka if the developer would be willing to do any kind of shoreline shoring up in this area.

Ms. Rezanka commented she does not know what that means; she is sure they can put in that they will work with the staff to do what they can in that area because they do own property; and that can be a binding condition to work with the County to work on shoring up the shoreline on the riverside.

Commissioner Delaney stated some of the areas, obviously, not right on their property but around it, some of the owners have put more fill or whatnot, coquina rocks and stuff; that seems to help in those areas; and she does not know if they are willing to do that.

Ms. Rezanka advised the developer is because they did talk about that; staff needs to come up with a comprehensive solution that everyone can help and do the same thing; and they are certainly willing to help with that.

Commissioner Feltner asked if that is something that they would have to go to BDP for when on the edge of the river.

Ms. McGee advised they would have to get a permit from the State and get a permit from Natural Resources as well, although Natural Resources does not allow sea walls, but they can do coquina, slope revetments, native vegetation, living shoreline, so there are other strategies that could be used.

Commissioner Feltner asked for clarification that they will not run into issues with the County.

Ms. McGee commented it depends on what they propose, but yes, they should be able to get a permit from the County.

Commissioner Feltner noted he is not asking for a commitment. He stated there are other property parcels along there that have these treatments that they could potentially duplicate.

Ms. McGee advised they can probably do better; sometimes staff sees when people do their own thing maybe it is not as fortified as it could be if it is properly engineered and has filter cloth and mangroves, and that sort of thing; and they do encourage that sort of thing.

Commissioner Feltner asked and some of those other things, DEP has signed off on, maybe in the last few years.

Ms. McGee responded affirmatively.

Commissioner Feltner commented he just does not want false hope that they will do something and then they run into a problem with DEP.

Chair Altman stated that is a good point; this property when it makes a transition, the lots have been sold or it reaches a certain threshold, it goes into a homeowners association, he would assume, and he thinks the St. John's now requires that, so they are responsible for maintaining the stormwater; they also own, and it is probably part of the amenity to the project, they have a pedestrian access they can literally walk to the river, so that is their property on the river; if the shoreline starts to fail or even jeopardizes the road, they would probably have a duty to maintain it, would they not; and he asked who that responsibility would fall on. He commented he knows they may have a desire, but he never thought of that, one who owns property on the river and if it is eroded and the road is threatened, who is responsible for going on that property to protect the road.

Mr. Bernath stated it depends on who actually owns and then any maintenance conditions; he may be missing something, but he was not aware that this goes all the way to the river; in which case they may provide the recommendations that Commissioner Delaney had just suggested; but ultimately, if it is impacting a road then it would be a public cost; and he would add that staff needs to be very careful, a revetment system could actually wind up trapping the water and making it worse; and they are in the process right now of doing a major study for that road and there is not an easy solution. He noted he has said this before, but the actual solution is about \$1 billion; there is also lots of private properties that staff would have to even figure out how to overcome that; the big issue is how to keep the water out; it is not necessarily the stormwater that is going down the hill as much as it is the waves over topping; the road is very low as was mentioned earlier; and now if it is raised up, whether it is some sort of revetment system or someone builds a great big wall, someone has to raise the road. He continued by saying if one raises the road, it has to move utilities, and move all the connections to all the houses and road system; and that is where the billion dollars comes in.

Chair Altman asked when he said a billion if he meant the entire River Road.

Mr. Bernath advised the study focused on 9,000 linear feet, which he would suggest the juice is not worth the squeeze at that point.

Chair Altman stated if that is an issue he is sure that the County will deal with St. Johns permitting and homeowners would probably want to keep that as nice as they possibly can.

Commissioner Delaney stated there is obviously a lot in this motion so if staff could help, what she is looking for is, and she inquired if the applicant would be amenable to not doing the

bonus density, doing 21.

Ms. Rezanka responded affirmatively.

Commissioner Delaney asked if the Board could move to approve with all of the things that staff has said, plus working with staff to shore up the shore line there.

Ms. Gilliam stated first there has to be a motion on Item H.1. for the Small Scale Amendment, then H.2. when that motion is made he or she can add all that.

Mr. Prasad stated what he is hearing is the motion is to CC and RES-2 without the finding required for the density bonus.

Commissioner Delaney noted that is correct.

Commissioner Delaney moved to approve and Commissioner Feltner seconded.

There being no further comments or objections, the Board adopted Ordinance No. 25-22, 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 2025, 24S.11 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), The Future Land Use 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; approved changing the Future Land Use designation from RES-1, RES-2, RES-4 and NC to CC and RES-2 (24SS00009).

Result: Adopted

Mover: Katie Delaney

Second: Rob Feltner

Ayes: Goodson, Adkinson, Feltner, and Altman

Nay: Delaney

H.2. City Pointe Landfall LLC (David Bassford) Requests a Change in Zoning Classification from EU and RP with an Existing BDP to PUD with the Removal of Existing BDP (24PUD00003) (Tax Account 2411252)

Chair Altman called for a public hearing on a request by City Pointe Landfall LLC (David Bassford) for a change in zoning classification from EU and RP with an existing BDP to PUD with the removal of the existing BDP, application number 24PUD00003, and tax account number 2411252, located in District 1.

Commissioner Delaney asked Billy Prasad, Planning and Development Director, to assist her with the motion.

Chair Altman asked if needs to be reread into the record.

Mr. Prasad explained if it is said all the conditions outlined in the Agenda Report with the addition of some of the ones that were heard today, which is as part of the waiver request that would have to be approved as part of this application, like for like trees; then also mitigate any wetlands within the 50 foot right-of-way should they have to be dedicated...

Ms. Rezanka interjected by saying they cannot agree to that because it impacts their ability to mitigate.

Chair Altman asked which one that was; and he asked that Ms. Rezanka come up and clarify that.

Ms. Rezanka stated it was asked that the 50 foot right-of-way that is being dedicated, that they take on the responsibility for mitigating the wetlands; and she explained they cannot do that because it impacts the wetlands on the site because it would all be done at the same time; they only get 1.8 percent to impact; therefore, they cannot agree to that.

Chair Altman stated so they are going to give up the land...

Ms. Rezanka reiterated they are not agreeing to...

Chair Altman interjected by saying mitigate somebody else's land.

Ms. Rezanka stated they may agree later on, but right now they cannot because they have to mitigate their own; and that was not something that was listed that she has agreed to.

Ms. Gilliam asked if staff could make a comment.

Ms. McGee stated she just wants to add that when talking about the dedication of the 50 foot right-of-way, they had talked about that not counting against their 1.8 percent because that would be to the benefit of the County for that 50 feet; that would not count against the other wetland impacts for the 1.8 percent for the applicant; but again, the mitigation being part of that cost.

Mr. Bernath agreed, and stated he would just add that if they do not do it now, that is County right-of-way, and the taxpayers are going to be doing it if it ever decides to widen that road.

Chair Altman inquired if the County owns it, would it not be the County's responsibility to mitigate for widening the road, that is the public benefit to widen the road; if they have given up that right-of-way it would be the public's responsibility to mitigate for the public good of building the road; he understands their point, they are giving up the land and now they have to mitigate; he does not know; but he agrees with the applicant on that, he does not think that should be a requirement.

Mr. Bernath stated he does not know if they will agree to it, but buy credits for mitigation.

Ms. Rezanka noted she does not have the authority to do that or to spend her client's money who is not in attendance to agree, when he told her not to agree to that; and at this point she cannot agree to it.

Chair Altman commented they are basically giving land.

Ms. Rezanka stated they are giving land that would have to be taken by eminent domain at a valuable price.

Chair Altman commented and a lot of legal costs so he appreciates her doing that.

Mr. Prasad stated so with that said, the conditions would be as outlined in the Agenda Report, if

the Board would like he will restate them but he has already stated them before, it would be for like for like trees, and work for the County to add potential treatments to shore up the shoreline along the Indian River Lagoon.

Chair Altman stated on the issue of clearing, because he is not for clearing land as much as possible, but he has seen a lot of projects where some of which he voted on to preserve the native buffer, but if one goes back and the buffer is dead because when one does the improvements of the property, it affects the drainage, just a little soil on some of those trees kills it; and he agrees with not having to be able to go and it would have been a healthier, more attractive buffer if it was replanted, so he supports that. He mentioned that he does have a question, and he asked when it is said like for like trees is that species or size because there are some very large trees there.

Mr. Prasad explained he thinks they are looking for similar type and size of trees, but he would defer to Ms. McGee whose Department implements that.

Ms. McGee stated like for like can work depending on how big the lots are and what that buffer is; they may not be able to put back the same number of oak trees that may crowd out or may interfere with the buildings or structures.

Chair Altman commented he worries about their ability to do the size too.

Ms. McGee stated that is kind of a tough one to apply at permitting because if they take out a 20-inch oak they would not put back a 20-inch oak, they are going to be smaller ones.

Chair Altman mentioned he has been by the site many times; he does not think a tree survey has been done; and he is just concerned with saying like for like, the size should not be a requirement.

Mr. Prasad stated perhaps similar within reason.

Chair Altman stated okay, that is good.

Ms. McGee noted they like to make it specific to help staff apply it when it gets to permitting; she does not know if Mr. Prasad can put language in there to negotiate with Natural Resources Management for appropriate buffering vegetation that will thrive and mature into a good buffer; and she asked if that would be acceptable.

Chair Altman stated he likes the word mature.

Mr. Prasad stated if he could just add one more thing, they were talking about PDP conditions, if the Board could just include to memorialize that in a BDP.

Commissioner Delaney stated the motion would be to change the zoning from EU and RP with an existing BDP to a PUD with the removal of the existing BDP, but to add another BDP, including the things the Board has spoken about; she asked if she needs to read out all of those; and what does she need to say with the PDP.

Mr. Prasad stated as part of the zoning approval, the Board would be approving the PUD with the conditions specified to be memorialized in a PDP.

Commissioner Delaney made that motion. Commissioner Adkinson seconded the motion.

There being no further comments or objections, the Board approved the request for a Change of Zoning classification from EU and RP with an existing BDP to PUD with the removal of existing BDP and approval of the PDP; approved a waiver to Section 62-2883(d) requiring an undisturbed 15-foot buffer around the perimeter of the project with the condition that any vegetation removed shall be replaced with reasonable similar vegetation in consultation with Natural Resources Management Department for appropriate buffering vegetation that will thrive and mature into a buffer similar to its natural state; and making the PUD subject to the following conditions, which are to be memorialized in a BDP: an overall reduction of rate of stormwater discharge from the subject property, overall reduction of volume of stormwater discharge from the subject property, conduct a groundwater analysis to identify any groundwater concerns and address them accordingly, applicant voluntarily offers to dedicate up to 50 feet of right-of-way for Brevard County maintenance and roadway projects along North Indian River Drive, and the applicant to work with staff on shoring up/improving the shoreline on the Lagoon. (24PUD00003).

Result: Approved

Mover: Katie Delaney

Second: Kim Adkinson

Ayes: Goodson, Adkinson, Feltner, and Altman

Nay: Delaney

H.3. Jacob Founé Requests a Small-Scale Comprehensive Plan Amendment (25S.14) to Change the Future Land Use Designation from RES-1 to RES-2 (25SS00008) (Tax Account 2000804)

Chair Altman called for a public hearing on a request by Jacob Founé for a Small Scale Comprehensive Plan amendment, 25S.14, to change the Future Land Use designation from RES-1 to RES-2, application number 25SS00008, and tax account 2000804, located in District 1.

Trina Gilliam, Planning and Zoning Manager, stated this is a companion application and he will need to read into the record Item H.4., as well, or she can read it into the record for him.

Chair Altman advised Ms. Gilliam to go ahead and read it into the record.

Ms. Gilliam stated Jacob Founé requests a zoning classification change from SR with a Binding Development Plan (BDP) to SR with removal of the existing BDP and in addition of a new BDP, under application number 25Z00037, located in District 1.

Jacob Founé stated he bought this land, submitted permits, got everything accepted and started building; he already has concrete block done and all inspections have passed; he has had his trusses sitting for nearly six months; he and his wife have spent their life-savings on this and just want to continue; he relied on the County and did everything as he should; and to clear one thing up from the last meeting, he is an employee for a very reputable air conditioning (AC) company and he does not work for Minnick. He noted he does new construction HVAC for many small builders in Brevard County, including Minnick.

Pat Ramer stated what she wants to address has already been spoken about many times here and that is the density; increasing density in this area, which is already prone to flooding, is only going to make the problem worse; every time the Board approves a variance or a zoning change to increase the density, it is increasing the chances of flooding in that area; people are suffering right now; during the last 2025 calendar year, they have had six flooding events in that

particular area; she understands the house has already started to be built, it is significantly higher than the property behind it; and it is going to cause flooding to that other property. She asked the Board to consider that as it look at this request.

Michael Biegler stated he has lived at 4125 Golden Shores for 22 years; he has lived in Brevard County for 61 years, and doing construction for 40 years; he has worked for many contractors throughout the State of Florida, some very big ones; he has never heard anything like what he is going to talk about in his entire career; Scotty Minnick is a contractor who sold 0.54 acres to Jacob Founé; alterations were done to the lot which violates the condition of the BDP, Section 62-2102 Brevard County Code of Ordinances, which states that no person shall separate the lot in a manner which violates the law; but the land was unlawfully split and an unlawful permit was given anyway. He continued by saying they would have all been at the public hearing along with Clifford McKnight of 3900 Golden Shores, on November 17, if they were notified, but the notification only went out to a few people that live within 500 feet; the letter was deceiving to most of the elderly who received it; it states that the land change was for 6.24 acres, not 0.54 acre, and that is not right because for many years the residents have been paying taxes, living on Golden Shores, and a lot longer Scotty Minnick and the applicant Jacob Founé, who is trying to unlawfully split land and build a house with an unlawful permit on 4060 Golden Shores Boulevard, which is going to be the launching site for McKnight, Minnick whatever construction it is, and other builders so they can break up property into smaller sections to build more houses and make more money; there was situation that took place right beside him on 3.10 acres; the Code Enforcement was called and they stopped it because the law was being broken; sad to be said, the guy that owned the land died and his heart sunk for him and he cried for him; it was just a small little thing that man had to take care of, but he had over three acres; but everyone is not talking about three acres, two acres, or even 6.24 acres, it is under acreage, and the people do not want it out there. He commented that just does not make sense to anyone who is in attendance today; he was just notified about this this week; they are law abiding citizens that have been living in Mims and Scottsmeer area for many years who voted for the County officials to represent the people and uphold the law; and he hopes this Board does its job and votes no for a law that has been broken.

Stephanie Knight stated the proposed change alters the established character of this neighborhood where every residential lot is an acre or more; she initially chose to build there in a low density area relying on the zoning regulations that were put in place to preserve this area for herself and her kids; those standards should be upheld by the Board and all employees of Brevard County Zoning, Brevard County Property Appraiser, and the Brevard County Permitting; allowing permits for substandard lot sizes is only inconsistent with the zoning requirements, but raises serious concerns about accountability with the permitting process; when unlawful or improper permits are approved, especially using taxpayers resources, it enables and reinforces the very practices that created the issue; each time Commissioners vote in favor of these applicants, it further empowers that Department to continue using permits that do not comply with the law; and this request is incompatible with the current development plan and undermines the long-standing character of this community. She added approving this would set a troubling precedent, opening the door to further expectations that could gradually transform the area into a disorganized, higher density landscape, precisely what many residents sought to avoid in that area; zoning regulations should not be modified to accommodate negligence or oversight on people who work for the County, instead enforce, and accountability must be prioritized; granting variances under these circumstances only complicates matters and signals to other builders and property owners that non-compliance will be excused; this seems to be a problem within departments, that they need to be addressed and corrected so this does not keep happening; and she is confident if the department was audited it would find multiple unlawful permits such as two properties on Todd Lane, this one on Golden Shores, and there were problems with two properties on Aurantia where squatters

decided to try to take over property and it was approved at the Appraiser's Office until the owner of that property got wind of it and had to fight to get the property back; and the Property Appraiser's Office should know that in order to take over property people have to be there for seven years, and they were there two months. She continued by saying Mr. McKnight asked her to read this because he could not be in attendance; and she read, "Dear Commissioners, I'm writing on behalf of numerous residents of Golden Shores Boulevard in Mims regarding the removal of the existing BDP, along with the new land, land use request is inconsistent with the current development plan and undermines the character of our community. This change sets a concerning precedent that could transform our area into disorganized urban landscape, something many of us sought to avoid when we chose to live here. Even with the proposed half-acre variance, this rezoning should not proceed. The Brevard County property website lists that parcel as .45 acre contrary to the .51 acre indicated by the new survey. Additionally, the houses directly behind the parcel located at 4070 Golden Shores Boulevard has a driveway running right through the proposed property, not on an easement. This situation raises significant concerns about access that impacts the actual usable acreage of the lot. We emphasize, the current zoning regulations should not be adjusted to accommodate the negligence and oversight of your department. And this discussion is occurring after construction had progressed to a quarter completion due to the breakdown in the planning process. It is critical that accountability is enforced rather than granting variances that would complicate situations and set again, a precedent for other properties and builders. Notably the contractor responsible for the construction is also the seller of the property who is a realtor. He should have known better and given his experience building homes in the area, he should have been fully aware of the zoning regulation and BDP. Our community cannot support such extensive changes and strongly implores that the current BDP remain intact. Thank you for your attention in this manner and we hope that you will consider our concerns and seriously prioritize the integrity of our community." She stated she does feel for the person who bought the property, but Mr. Minnick knew as he was the one who did the BDP and he should have known not to sell it to that gentleman, and it should not be the taxpayers that have to suffer for the County's mistake that its employees made in the permitting office.

*The Board recessed at 6:24 p.m. and reconvened at 6:36 p.m.

Sean Bohannon stated he has been a resident for a couple of decades; his parents have been here over 70 years; they moved to Mims specifically because they wanted to leave South Florida and that urban environment to go to a rural environment; the reason this really hurts him is because he lives in the home that Francis Threngle and her husband who donated the property under which Titusville City Hall sits today, and she built on Golden Shores, the Horseman's Association; here it is now where he has to spend over two years coming in front of the Board dealing with everybody involved, all the unelected public officials and that, just to be able to build a house for his aunt that is 82 years old, and it is on six acres; everything was perfectly done, and it had to be redone multiple times; he has nothing against this person, he does not know him or anything; but it gets down to the point if he wanted to live in a high density area that is where he would have moved and spent the money. He went on to say he has spent tons of money, but he is not going to go into money, because it really does not matter; they have done that, if it is trimming 100-year old oak trees, preserving things, setting up roads, paving things, they have done everything and by the book; and then this pops up, it is done illegally, against Code, against enforcement, and here it is asking for an exception. He noted whoever sold it to him, they are who should be responsible, it certainly should not be others; his road is like a washboard, half of the weeks they do not even come out and grade it; he is out there with his tractor and box blade grading the darn thing; it is oh, it rained or oh, it has not rained enough, or whatever; they are not going to pave, not bringing in septic, not bringing in water, and not bringing in natural gas, that is fine, he knew that and accepted it by

having his own standalone propane, his own four wells, all of which are permitted and licensed, and everything documented. He mentioned this is just beyond the pale, it absolutely is; he does not mean to get on a high horse, or to be loud or obnoxious, he knows he can be that way sometimes, but he is trying to refrain from that; he expressed his appreciation for the Board's time, and hopes it takes into consideration the people who have spoken and spent millions of dollars, only to see this abomination, which was illegally done; yes, there should be auditing and the audits need to go back to all of these things, all of the exceptions, and the people who did that and are not elected officials would be held accountable; and if the elected officials will not do it, then the next election is coming.

Beth Brycki stated she lives on April Lane, one street over from Golden Shores; her family moved to Brevard County, Mims specifically, because that community is rural and they absolutely love it; they have only been there a couple of months, but they really love the community and have been involved since they got there; that is like the heart of the community, the bigger lots and the rural area; her fear is that concessions are made for existing rules as to how big lot sizes are; she is afraid that sets a precedent for that to continue happening in the future; she is fearful of that happening and continuing; and she hopes that the Board votes no.

Ken Harrison stated he lives on Gandy Road in Mims and lives in that area; he has been in this County his entire life, in Mims 67 years, and 54 years on his property that is near this; this came directly from staff comments, what he is going to repeat here, it was what staff found wrong; he read, "In this particular place, the applicant is subject to Code Enforcement due to the actions of a predecessor in interest who improperly split the property into a substandard lot violating Section 62-2102 of Brevard County Code"; he continued reading, "The original BDP stipulated that the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or land development regulations. Subsequently, the property was sold and split into two lots of .54 acre, and .89 acre on April 27, 2020. The .89-acre property was sold on October 22, 2021, and the .54-acre property was sold to the applicant on June 4, 2024. These actions violate the conditions of the BDP and Section 62-2102 Brevard County Code of Ordinances alteration of lot, which states that no person shall sever any lot in such a manner that a violation of any of the provisions of this Chapter would be created on any new or altered lot, including their uses or structures. Subsequent to this unlawful split, a permit for a single-family resident was issued in error. This permit should not have been issued because the lot is a substandard lot, as a result of the split. Upon discovering the error, a stop work order was issued by the Brevard County building official. Administrative Policy number 7, proposed use shall not cause or substantially aggravate any substantial drainage problem on surrounding properties or significant adverse and unmitigatable impact on significant natural wetlands, water bodies, or habitat for listed species. Environmental constraints, Natural Resources Management Department has identified that the subject property is located within a mapped Federal Emergency Management Agency (FEMA) special flood hazard area, Zone A. The Board may wish to consider if the requested is consistent with the comprehensive plan and compatible with the surrounding area. In addition, the Board should reconsider the request based on the facts and circumstances surrounding the actions of a predecessor in interest, which resulted in the subject property being turned into a substandard lot. He stated the last paragraph is his; furthermore, the residents are concerned that an unlawful split of the property and the resulting zoning change due to the unlawful split of the property could possibly leave Brevard County complicit and condoning of an unlawful zoning action. He went on to say as far as the maps, one can see on the first one, the little yellow square, and that is the property in question; the property right next to it was SR; they were one lot before the illegal split; looking at this map, they are the only SR in the entire area, everything else is something larger; it is not that these are large lots; a lot of this area has one acre minimums; the people do not want it to go below one acre; and the next map is the Future Land Use and the entire map is RES-1. He mentioned the proposed land use for this

one lot would be RES-2, totally inconsistent with the neighborhood and the character of the neighborhood; the very last map is flood zone A that runs through the center of this property; the property behind it will be affected by flood waters; lastly, this contractor is known to do this on purpose working through the department through either strong arming them or whatever means to get what he wants; and he did the same thing on Todd Lane which is one-quarter mile away, where one of his electricians does all the houses, split a lot to a substandard size, built a house on it, and then got permission after the fact, there is a pattern of it through multiple departments.

Jerrad Atkins speaking for Scottsmoor Community Association, stated several people have taken the wind beneath his wings so he is going to truncate this a little bit; there was a meeting with a group of concerned citizens this week regarding this particular application; everybody pretty much agrees with the former Board that was here, prior to this Board, that the density needs to be limited and retained as it is in Scottsmoor; there was a small area study that was promised in 2019 and 2020 that did not happen; had it happened, there might be some more data to support that; this particular lot was rezoned in 2019; at that time the County zoning and this Board assigned a BDP to which the owner agreed disallowing the exact thing that happened, that he put in place; a few words from the staff report include unlawful, substandard, and violation, those are not good words to have in a staff report if approving an application like this; and at the zoning board meeting, the applicant spoke stating he bought the lot from Scott Minnick. He continued by saying the applicant stated he works with Scott Minnick, so people know that is the builder who split the lot; he would also agree with someone who spoke earlier that an audit or an investigation should be conducted to see why this continued to happen in this town; a couple things that the Board may be familiar with, is no constitutional or Harris Act property right to increase planning allowances under Florida Law, the purchase of land is generally subject to the existing zoning or environmental restrictions, there are no property right to change them, *Freidland V. Hollywood*, Florida third District Court of Appeals 1961, and upheld again in *Ellen V. Miami*, Florida third District of Appeals, 1959; reverse those, the other one upheld the first one; and he knows the Board has those statutes but he just wanted to give a friendly reminder.

Ed Ostopovich stated the gentleman he wanted to have up here today could not show up for various reasons, medical being the biggest one; he does spend a lot of time in Brevard County, he basically does a lot of construction in Brevard County; his whole point was a hand written letter on some calculations and verbiage that he uses on a daily basis; he uses a standard 3,000 square foot home; when one has that he or she has a square footage footprint so to speak, even with the driveways, garages, carports, and things of that nature; he is just going to use that as an example; a 3,000 square foot home having one inch of rain per hour at 6,230 gallons per inch of rain per house; and with that being said, it can use this and he can hand this off to the Board and go from there. He went on to say he is in attendance because he wants to oppose the building from further continuing on; in the early 90s he came to this area, after being born and raised here, straight out of the Air Force; he literally wanted to live out in the country, the suburbs, shoot, raise his kids, hunt, ride four wheelers like everyone else does, and things of that nature; what is happening today is not an ideal living situation because it has turned into a suburbia nightmare; people are starting to see homes developed on top of each other, the high density areas starting to increase; the traffic is increasing as people are well aware of; and they do not want an HOA scenario, they already deal with seasonal snow birds in Titusville. He added Mims has kind of a cushion for having some elbow room. He continued by saying when he first moved here he purchased a one and one-half acre lot; the average home to be built on was one to five-acre parcels for anyone to purchase; it was all zoned and cut up that way from the civil engineers back in the 60s; there again, like-minded, everybody wanted that expansion to have some elbow room and they do not want the high density in that scenario; based on what is being dealt with, today's laws and rules are being bent to

accommodate so-called errors by contractors, realtors, and title companies, are starting to affect the residents big time; and they are starting to pay the price. He stated literally flooding issues so profuse that last 20 years, they have not seen anything like this in the last five years; Commissioner Delaney is well aware of what he is talking about; using that number he pointed out earlier, there was almost three feet of rain in a one-month time frame in Mims and the water did not recede for almost three weeks; that is not an exaggeration, and it was to the point where wildlife was literally coming up in the dry land areas, pigs and deer looking for things to eat; he is pointing this out to the simple fact that there are hogs tearing up property, and there is a really bad problem right now and they are trying to mitigate that scenario; but it is not going to happen until the water recedes properly. He mentioned all he knows is that the maintenance on those culverts, especially through I-95, the box culverts have not been touched or addressed; people have actually put their eyes on them and they are overgrown and impacting the water flow to the St. John's, going west, and not to mention the flow problems through the east; as a registered voter in District 1, he wants these mismanaged overlooked areas to be audited as well; he wants more of the community to feel comfortable with what the Board does as a whole; the people trust the Board and brought them to be their voice; Commissioner Delaney is District 1's voice right now; the people want the Board to understand this whole community is really exhausted by what is happening up there through growth and development and the continued passing or exemptions of said parcels; and other than that he appreciates the Board's time for hearing the people's voices.

Commissioner Goodson stated he hears him and understands what he wished and why he moved to Mims, and asked if Mr. Ostopovich is aware of the Farmington Development and what they are proposing.

Mr. Ostopovich commented he is very aware; he had stumbled across it when he started his own personal and private distillery; he has been in front of this Board before trying to get zoning squared away; and he has a functioning and legal distillery on his private property through ATB and the Feds.

Commissioner Goodson stated that is great and he thinks the Board should open up hog hunting and it would be even better with liquor. He commented the Farmington issue being proposed, maybe in 10 years they will start developing that; and he asked what Mr. Ostopovich thinks of that.

Mr. Ostopovich advised they are opposing that as well; they do not like the large, even large than what is in Viera, he has seen all of the plat maps, as he stumbled across it; it made him nauseous to think that they moved there for this and it is going to be taken away, probably not in his lifetime; but his kids are going to have to deal with growth and expansion. He stated this is a sensitive water area and the St. Johns would not allow this; and he wonders who is getting paid in that scenario.

Commissioner Goodson noted Mr. Ostopovich made a comment about the 95 culverts; and he asked if he understand that those are Department of Transportation (DOT).

Mr. Ostopovich replied he does understand that, but asked if the Board has the voice to get them on the horn and tell them they are drowning down here.

Commissioner Goodson stated if one knows anything about DOT, that is kind of like blowing smoke; they are slower than heck; but it is not their fault.

Mr. Ostopovich noted he does understand regulations and what the Board is up against, right now the people are focused on one little thing; and if it can turn the tide and start going by laws

and upholding that, they would really appreciate the efforts.

Chair Altman advised he will give the applicant time to close; and he asked if there are any questions from the Board.

Commissioner Goodson asked if this gentleman bought it from a realtor who was shady, or whatever, and did not know what he was buying, then a permit was given by the County, where is his justice.

Outburst from the audience stating in the title company.

Commissioner Goodson asked if the title company would be guilty, he does not know.

Morris Richardson, County Attorney, stated he does not even know if he obtained title insurance, that would depend; and he asked Mr. Foune if he obtained title insurance.

Mr. Foune replied he did.

Attorney Richardson asked if he has filed a claim with his title insurer.

Mr. Foune advised he has not.

Attorney Richardson noted that he probably should do that quickly if he has not already; and he is not going to give legal advice but if he has title insurance, that is an issue.

Commissioner Goodson asked if Mr. Foune works for the person who sold it to him.

Mr. Foune stated he works for a company that does work for him; and he does HVAC all over Brevard County and he is a builder that they work for.

Commissioner Goodson asked right now, how much money Mr. Foune has spent honestly, for the cost of the lot and what he has done so far.

Mr. Foune responded by saying about \$100,000.

Commissioner Goodson stated and there is probably another \$100,000 to finish it.

Mr. Foune replied, at least, yes.

Commissioner Goodson asked if he has spoken to the realtor about this.

Mr. Foune stated he has not.

Commissioner Goodson asked why not.

Mr. Foune asked if he means the realtor he bought the property from.

Commissioner Goodson responded affirmatively.

Mr. Foune stated he spoke with the land owner, he did not have a realtor.

Commissioner Goodson inquired if the land owner said, "tough luck or I do not care, I did it and it was legal and the County approved it, yada, yada."

Mr. Founé stated he would reckon; and basically, he relied on the staff at the County to turn everything in and he got everything approved.

Commissioner Goodson stated if he knows anything about life it is to not rely on anybody, check and double check.

Mr. Founé commented he is starting to learn that. He stated one of the things is that the homeowners around the area were not notified of this meeting or anything; everything has been posted in front; the County has put signs out there; in the middle of October they put out there the amount of acres is .54, he is not sure why that has changed; that is what he has been aware of the whole time; for the flooding, he has already started building; if he can continue and put his culvert in and everything to Code, obviously that would help; and then about there not being enough land, there is two properties on Golden Shores that are less acres than what he has, one is .51 and one is .44; and it is also said that his house is higher elevation than the neighbor behind him, it is actually the same height and everything is to Code. He reiterated that he has done everything to Code, it has all been inspected, and everything has passed.

Commissioner Feltner stated he has comments so he will wait until after the questions.

Chair Altman asked if Mr. Founé is using a builder or is this owner building.

Mr. Founé stated it is all owner builder.

Chair Altman asked who drew up his plans, if he used an architect or an engineer; and he noted he thinks he is required to have an engineer for the hurricane.

Mr. Founé stated yes, working construction he has friends that have helped him out; and everything has been owner builder and he has used other people's plans.

Chair Altman clarified that he did not use an architect to draw the plans.

Mr. Founé advised he did not, it was a previous plan that had already been used.

Chair Altman asked if they had been stamped by an engineer.

Mr. Founé responded affirmatively.

Chair Altman asked if he knows who that was.

Mr. Founé advised he does not know off the top of his head.

Chair Altman asked when Mr. Founé submitted his plans to the County, if he had any idea what he was requesting was illegal.

Mr. Founé replied no, he did not.

Chair Altman asked if he basically relied upon the County; and what made him think he could build on this lot.

Mr. Founé stated he saw other properties that were around the same amount of land.

Chair Altman asked if he assumed it was buildable.

Mr. Founé stated there has been a couple new houses that have been built on that street in the last year or two; he put AC in them; and he figured there would not be a problem.

Chair Altman asked how many square feet his house is.

Mr. Founé replied 1,600.

Chair Altman asked if it is one story or two story.

Mr. Founé answered by saying it is one story.

Commissioner Adkinson commented he said he did not have a real estate agent, that he just bought it from the owner; he does have title insurance so that is good; and presumably when he went to the person whom he bought it from and said he just got told this is an illegal lot, and she asked what the response was that he received back.

Mr. Founé he responded by saying basically nothing, to figure out what the County's solution would be; and he was also told by the County that it would be resolved in a day or two when he initially received the phone call, so he did not really think much of it.

Commissioner Adkinson stated but the owner likely had an idea that he or she was doing something that was not okay and just led Mr. Founé to believe that it was okay.

Mr. Founé responded he would assume so.

Commissioner Feltner stated he does not have any questions, just a couple things that were mentioned here earlier; first of all, he has a great deal of empathy for the applicant; he does not stand in the way of someone's American dream of homeownership; someone can buy a motorcycle without a motorcycle license, but to ride it one has to have a motorcycle license, and the person who sells it, it is not their job to figure out if he or she has a license for that motorcycle; he does not mean to be difficult; in some of these things with the splits, the prior Board has been here with an issue when it took up accessory dwelling units; one could think tiny house, debate over kitchens, what would be in-law or detached things, and he actually offered an amendment at that time, that if one does the accessory dwelling unit, he or she cannot then split that property; and now what is the mechanical thing that is there that protects the County, from when someone goes into the Clerk of the Court and records a deed, he does not know that there is one. He went on to say he does not know how to do that; he thinks that is something for this Board in the future to consider how to remedy this kind of thing with something; the Board will have to meet with the Clerk and see how that is done; maybe another municipality does this and the Board can see how this can be prevented; the Property Appraiser is not the one to prevent it either, they do not do splits; and when someone records a new deed the Property Appraiser sees that as recorded and then they note the change to the property. He noted this one is troubling and he does not know that voting for this tonight cures all of these things; and he looks forward to seeing what the rest of the Board wants to do here.

Chair Altman advised he has a few more questions; and he asked Mr. Founé submitted the plans to the County, thinking what he did was legal, it went through permitting review, and he received a permit.

Mr. Founé responded in the affirmative.

Chair Altman asked if he has poured his foundation.

Mr. Founé again replied in the affirmative; and he advised he did the pre-plumbing, the concrete block, and in the middle of block he was stopped but he said due to safety if he could finish the block and get it filled, so he had that done as well.

Chair Altman inquired if he had an inspection of the block where they had inspected the lenti, the brick, the downpours, the steel...

Mr. Founé replied yes.

Chair Altman continued by asking and they passed the inspection and allowed him to pour the block.

Mr. Founé replied that is correct.

Chair Altman stated so he has block up and poured.

Mr. Founé replied yes, block is 100 percent.

Chair Altman asked so that is three, four, or five times that he acted in reliance of the County and felt what he was doing was allowed and they approved it and allowed him to proceed.

Mr. Founé replied, correct.

Chair Altman went on to say it was only after the block had run up somebody told him it was illegal, and he asked who told him.

Mr. Founé stated staff called him and he thinks it was Trina.

Chair Altman clarified it was County staff.

Mr. Founé advised yes, it was.

Commissioner Feltner asked when it is the Board of Adjustment versus trying to cure something that has already happened versus now that it is halfway through the process and the Board is at a zoning change.

Mr. Prasad advised in this case, to allow the house to be built under the current zoning, actually would be a violation of the zoning, it could not be cured through a variance; and the proper cure would be rezoning. He stated there are multiple issues with the current land use and the zoning, but it would not be cured through a variance proceeding.

Commissioner Adkinson stated she is wondering, the Board talked a little bit about precedent; and she inquired how the Board keep this from setting precedent in this neighborhood.

Mr. Prasad stated that staff has suggested a proposed BDP, which he understands Mr. Founé has agreed to, in concept, with the following conditions: one, the applicant agrees that this rezoning request and companion future land use amendment application was a result of an unlawful lot split by the predecessor and interest and will stipulate to that fact and any future proceedings regarding that action, which would be things like a future code enforcement proceeding should one be initiated, and two, this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that have arisen as a result of the unlawful split and under these particular circumstances that it be recognized that these actions are being granted based on the unique

conditions of the subject property; with that BDP that BDP would also be mapped; they have tried to tighten up the processes just so the Board knows that; and any future applications in the area if someone were to try to point to this action, if the Board were to choose to approve it, staff would see that and put it in the report that it was a result of a unique circumstance and the Board did not intend it to be precedent.

Commissioner Delaney stated this is a horrible situation; it is really difficult but at the end of the day people have to be responsible for what he or she buys; this property already had a BDP on it and this happened; she knows staff is saying it is going to tighten up processes and whatnot but, maybe; the Board will see if that works; this prior landowner is doing this all over North Brevard; and Mr. Founé working with him and he is telling the Board that he had no idea of his business practices.

Mr. Founé stated he has never done him wrong with work.

Commissioner Delaney asked if he has never heard it through the community; and how long he has lived in Mims.

Mr. Founé advised he lives in Titusville and he has worked for the AC contractor for six years and has never had an issue with him.

Commissioner Delaney asked if he has not heard any rumors.

Mr. Founé stated there are rumors of everyone.

Commissioner Delaney stated it is pretty well known in North Brevard, and he has to admit that; there are a lot of practices that go on that should not be going on; they have been going on for a really long time; it should not be everybody else's fault; she does not mean to say this with any hate in her heart, but it is not everybody else's fault that Mr. Founé did not do his due diligence and people should not have to pay for that; and that is just how she feels about it.

Commissioner Adkinson stated she thinks he was let down pretty badly by the people who were around him who should have been looking out for him whether it was a real estate agent, the title company.

Commissioner Feltner asked what the consequences are to the person who did the split when there was a BDP that said they would not do that, which they recorded and agreed to; and he asked if that is correct.

Mr. Prasad replied that is correct; he mentioned there could be a consequence, it is a Code violation; as of today there is not a complaint; but should the Board wish his office to proceed on a Code enforcement action, it does have the ability to do that.

Attorney Richardson stated what is out there right now because the person who did the split and is behind all of this, does not own the lot next to it; that has already been sold, built, and owned by another; right now there are two people in the same condition as Mr. Founé; there are two substandard lots, the other one the house is already built, they do not need a permit; but in the future if they want to sell it, do any improvements, or pull permits, they are going to have an issue; and they could have a Code action against them. He noted traditionally, Code Enforcement is against the property and so one gets into a position where if he or she is going to proceed in these cases, historically, it would have been against the innocent purchaser from a bad actor; he thinks he knows a way that the County can get after the violator and get a lien that would attach to his or her real and personal property, aside from the property at issue here;

he would ask for authorization from the Board to be proactive in cases of this nature; by Policy, staff is reactive and responds to complaints; as Mr. Prasad stated there is not a complaint on this property and even though this condition has been known for some time, they have not received a complaint that can be enforced; the Board, by consensus, could request staff to look into these circumstances, and in cases like this authorize staff to take action going after the folks who are actually creating the problem, not the end purchaser.

Commissioner Feltner asked if the State allows the County to be proactive in those things.

Attorney Richardson advised the State does; that has been a Policy of the County for some time; the reactive is not a State requirement currently; if the County receives a complaint, the State says it cannot be an anonymous complaint; and there are things in the Legislature right now that might change that, but as of right now, the Board could authorize staff to be proactive just limited to circumstances like this one.

Mr. Prasad stated several members of the public talked about the Todd Lane properties, 3680 and 3690, that is actually an example of another set of properties that were unlawfully split; unlike here, those permits were not issued in error, those permits were lawful at the time they were issued; the survey showed that as a proper lot; it was split after that; and that is a similar circumstance of what Attorney Richardson is talking about, if the Board were to give authorization, staff could proceed on those cases like that.

Commissioner Delaney stated she would love to see that happen.

Commissioner Feltner stated he is curious what the mechanism could be for the Clerk when a deed is recorded; and he asked if the clerk has the ability to say he or she cannot record this deed, there is a problem with that parcel.

Attorney Richardson stated he would have to talk to the Clerk's Office about that; he seems to recall because in a lot of municipalities, including West Melbourne where he worked, they did have a lot split ordinance that requires review; one cannot do illegal lot splits that do not meet the criteria under the Code; he seems to recall the Clerk saying before they had a statutory duty to record deeds and they are not the gate keeper for that, but he could be wrong on that; the County does not have an ordinance so he has not addressed it recently; but if there was legislative intent to pursue one or even some direction by the Board to do some initial research, he would be happy to have that conversation with the Clerk's Office.

Commissioner Feltner stated he would be interested in seeing that in a future Commission Agenda because what is happening here is a very unfortunate thing; it is very unfair and he thinks the Board should take affirmative steps, this is his own opinion, to try to put some mechanism in there; and maybe there is another County that the Clerk is aware of that does that and this County could copy off of them.

Attorney Richardson stated he would be happy to look into that; he has felt for a long time that it probably should have a lot split ordinance; and he just wants to caution that he does need to give some consideration about SB 180, as it does virtually with everything right now.

Commissioner Feltner stated he thinks there was a bill files today, so the Board is seeing it in real time.

Chair Altman stated he knows this is in the staff report, but he is going to ask it just to verify; and he asked for his house to be legal what would the size of the lot need to be.

Ms. Gilliam replied half an acre.

Chair Altman repeated half of an acre; and he asked what is the size now.

Ms. Gilliam replied it is .54.

Commissioner Delaney stated for SR.

Mr. Prasad stated subsequent to the rezoning.

Ms. Gilliam stated SR requires half an acre.

Chair Altman asked what would be allowed, the smallest lot, minimum lot requirement.

Commissioner Delaney commented right now it is one acre.

Ms. Gilliam noted SR is half an acre.

Mr. Prasad stated he is trying to think of the Land Use.

Ms. Gilliam stated the land use of RES-1 or RES-2; and RES-2 requires two units to the acre, so the smallest lot would be a half an acre.

Mr. Prasad stated right now it meets the zoning requirement for minimum lot size, it is RES-1 however so it needs to be one unit per acre under the land use.

Chair Altman asked if Mr. Prasad said it meets the zoning.

Mr. Prasad stated the suburban residential requirements according to the survey, the lot is 0.54 acres, so it is above the one half acre.

Chair Altman asked if that is the zoning, and if he is legal under the zoning.

Mr. Prasad and Attorney Richardson both stated except for the BDP.

Attorney Richardson continued by saying under the Future Land Use Map (FLUM) he is not.

Chair Altman stated okay, so he is over half of an acre; he can understand why an applicant would be confused; it meets the zoning, he gets all of these building permits, the act and the reliance of the experts, the government; he wants to say the presentations by the public have been phenomenal, very riveting, and understandable; he is a builder so he can identify with the discussion; he can say, as a builder, when he submits a site plans, he relies on the government; when the government gives permits, the reviews are quite exhaustive, they are not easy; for him it is not deciding whether this person should have a right to continue, it is if he continues will it do irreparable harm to the public; he is only building a 1,600 square foot house on a lot that is over a half acre; he does not see if the Board respects these people's rights and he relied on government that it would not create irreparable harm or any harm; it is almost dominicus; if it happened all over the place, yes; and so he is inclined to agree with this. He mentioned it may not be popular but he thinks as a government entity, the Board has the responsibility to be responsible; Mr. Founé did his job, he acted in reliance of the government officials; he thinks the harm that is done is minimal; as a body making this decision, is determined what is the level of damage; and he thinks respecting his property rights, his reliance on government, and the substantial amount of money he spent, he would imagine

\$100,000 is very substantial for Mr. Founé; he thinks he could even have legal rights in terms of taking or, equitable stoppage or acting reliance, whatever legal actions; he did not intend to do harm, he relied on the government; that is not why he would support him, the County made a mistake; it is not allowing a concrete plant in a residential area, it is a relatively small mistake and the impacts of his home; he would be tempted to ask, but does not know if he would ask if Mr. Founé would be willing to put a driveway that had impervious concrete, and would be willing to mitigate whatever runoff he had; Mr. Founé is shaking his head yes, but that is a small ask; and just so the Board knows, he is inclined to support this because Mr. Founé acted in reliance on the government and did his job, submitted permit, called for inspections, time and time and time again, and the County allowed him to continue. He mentioned then suddenly, the rug was pulled out from under him; he not only acted in reliance on the County's actions, he spent significant sums of money based on the County's actions; he supports Mr. Founé; one can have a one-acre lot, build a 4,000 or 5,000 square foot house, and have more of an impact than building a 1,600 square foot house on a one-half acre lot; Code would allow actions that would have more of an impact on drainage than what he is doing; he thinks given the facts of this request, he thinks it is the right and fair thing to do; and that is his opinion, but he is only one of five.

Commissioner Delaney stated she would have to disagree; this area is already dealing with substantial issues and the more that is packed into this area, the worse it is going to get; as a buyer, one has the responsibility to do his or her due diligence; everybody sitting in this audience did that; it is not everyone else's fault that he did not...

Chair Altman interjected by saying he thinks he did, he went to the County with a permit request and they are the ones who interpret the...

Commissioner Delaney stated no, when someone goes and purchases a property...

Chair Altman interjected saying it is not his duty to memorize, understand, and interpret the County's Code, it is staff's duty to do that; he did his duty; he drew plans, he got a building permit...

Commissioner Delaney interrupted by saying he relied on the government.

Chair Altman stated he has a right to do that, to rely on the government.

Commissioner Delaney stated that as Americans, when talking about property rights, Americans have self-responsibility; when purchasing property one has to look into what he or she is purchasing in all aspects of what he or she is spending money on; and it is not right that the rest of the community should have to bear the burden of this mistake.

Chair Altman stated she is talking about a theory of caveat emptor, buyer beware, that is long gone.

Commissioner Delaney stated she would encourage him to come to her District and see the trauma and the struggle that is going on, she would encourage all of the Board to come to her District and actually drive into the streets, not just through US 1, not just to the Space Center, not just the main roads, drive into the streets and see the people suffering.

Chair Altman asked if Commissioner Delaney thinks denying Mr. Founé of his rights, his permit to build a home, is going to fix that problem, it will not; he noted the Board needs to do a lot more; and as a matter of fact his home may add to the tax base and maybe allow the Board to do more.

Commissioner Delaney stated no way; she bets the people right around here are not thinking the same.

Chair Altman stated he is just giving his opinion.

Commissioner Delaney stated the people right around here are not going to be feeling that when their homes flood.

Mr. Founé asked if the harm is not already done for flooding.

Commissioner Delaney stated no, because he should have to put it back to how it was.

An audience member shouted out, the neighbors flood all the time, every time it rains, it floods.

Chair Altman stated he is not disagreeing with that; he does think this Board needs to do something to fix that; he agrees with them 100 percent...

Commissioner Delaney asked when and how many times these people's homes have to flood before the Board does something.

Chair Altman stated he has a lot of ideas that can be done; he will bring them to the Board if she does not; he agrees with the people...

Commissioner Delaney interjected by saying she has brought many things to the Board, so do not go there.

Chair Altman restated the Board needs to fix this, but if she thinks denying this permit is going to in any way, shape, or form help in the flooding, it will not.

Commissioner Delaney stated she would like to entertain a motion to table this until Mr. Founé has a chance to go through the title company, through his insurance, through all those different avenues before the Board makes a decision on this.

Commissioner Feltner asked if there needs to be a date.

Chair Altman stated there is a motion to table, typically if there are questions he would not second this motion and then ask the question because under Robert's Rules, one does not debate a motion to table...

Commissioner Feltner interjected by saying, just so the Board is clear...

Chair Altman finished his statement by saying there is no second, and asked if ...

Commissioner Feltner interjected again by asking if there needs to be a date that it comes back if the Board tables.

Attorney Richardson stated to table this so staff does not have to readvertise it has to be for a date certain.

Commissioner Delaney asked if the February meeting would be fair and would provide Mr. Founé enough time to talk to all of the people that he may need to talk to.

Mr. Founé noted he does not know how that works as he has never been in this situation

before; he asked how long this is going to continue as it has already been six months; and he stated he has trusses sitting in dirt.

Attorney Richardson stated he wants to be clear he is not giving Mr. Foune legal advice about the title insurance, typically zoning matters are excluded, but he would think because of the BDP that was recorded limiting it to one unit to this property; he thinks that may be an issue for Mr. Foune; but that is between Mr. Foune, his title insurer, and his counsel.

Mr. Foune stated the reason he did not call the title company is because he did not have a reason as to why he was stopped, he was just told it was a zoning issue.

Chair Altman asked Mr. Foune if he has conferred with an attorney, legal counsel.

Mr. Foune stated he has tried to get with two.

Chair Altman stated Mr. Foune does not have to answer that question, he is just more curious than anything.

Commissioner Feltner stated he thinks Commissioner Delaney had a second.

Chair Altman stated he did not hear it.

Commissioner Goodson advised he seconded; he is in favor of giving Mr. Foune time to get legal advice and his title insurer.

Commissioner Feltner stated he thinks there was a question about the date.

Chair Altman noted it is a good question.

Attorney Richardson spoke up saying Thursday, February 5 at 5:00 p.m. in these chambers.

Chair Altman stated Robert's Rules of Order says the Board cannot debate, but it does not say the Chairman has to have good hearing.

There being no further comments or objections, the Board continued the request by Jacob Foune for a Small Scale Comprehensive Plan Amendment, 25SS.14, to the Future Land Use designation to the February 5, 2026, Zoning meeting.

Result: Continued

Mover: Katie Delaney

Second: Tom Goodson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

Commissioner Adkinson stated she has heard repeatedly that Scott Minnick does this repeatedly in the area; she asked if staff can enlighten her because she has only been doing this a year; and she inquired if Mr. Minnick is a repeat offender.

Mr. Prasad replied there does appear to be a pattern of behavior associated with his activity.

Commissioner Delaney stated and Dwayne White.

Commissioner Adkinson stated as they were talking before, she thinks the County should be proactive and do something about that; the County has to pursue these people so they do not

keep doing it; and she asked how to do that.

Commissioner Feltner stated he thinks he is going to see the Clerk in the next couple of days; he is going to make a mental note to ask her about this situation; and maybe if he gets that information, he could say something at the meeting on Tuesday.

Commissioner Adkinson advised she does not want to leave this just to the Clerk, she wants to give staff permission to pursue.

Commissioner Feltner commented he is with her on that; he thinks it was said tonight that the Board would like to see something on a future Agenda; what he means by that specifically is what is the mechanism, the mechanical thing, "syntax error here, you cannot continue on with recording" because he thinks that is the issue; and when one goes to the Clerk, he or she can record a deed.

Attorney Richardson mentioned he thinks Commissioner Feltner and Commissioner Adkinson are talking about two different issues; he thinks Commissioner Feltner is speaking to prevent lot splits in the future; and he thinks Commissioner Adkinson may be speaking to enforcement of existing violations.

Commissioner Feltner and Commissioner Adkinson both responded affirmatively.

Commissioner Adkinson apologized by saying she did not say it very well.

Attorney Richardson noted she said it perfectly, they were just talking about two different things.

Commissioner Adkinson asked what staff needs from her.

Attorney Richardson replied he thinks all they would need is authorization for staff to look into circumstances like this, of which it is aware, and he will counsel staff on what he thinks is a good strategy to address those violations that are out there without going after the end purchaser like Mr. Founé, but rather going after the bad actor who causes the splits.

Commissioner Adkinson asked if staff needs a motion from her on that.

Attorney Richardson stated he just needs consensus, direction from the Board that it is comfortable with that; and frankly, any Board members, when he says proactive, he means just at staff level and Code Enforcement, Commission Offices historically have reported violations to staff before and staff pursues it; if a Commission Office is aware of a situation like this, they are absolutely welcome to bring it to staff's attention as well; but he thinks there is enough direction right now to address this issue.

Tad Calkins, Assistant County Manager, inquired if staff were to go forward with that Code Enforcement action, would the Board want it before the February 5 meeting; if staff were to find some way to do it, does the Board want them to go forward before then or does it want staff to report back on February 5.

Chair Altman stated he thinks as a Board, he would prefer not to go forward with it and report back; he feels like this applicant is trying to exhaust administrative remedies; he thinks Mr. Founé was a victim; he thinks, if anything, this discussion shows that this Board cares; that is cares about the people in the neighborhood, but is also cares about the individual; this is one individual, it does not make big campaign, the Board members get accused of things all the

time, but he does not make big campaign contributions; he is building a 1,600 square foot home; the Board members are all torn, each one is worried about the neighborhood and their input and torn about the individual; that shows that each one really does care; and he advised not to let anyone tell him that this Board is not responsive and that it does not care because it is just a false narrative. He continued by saying the Board tables this Item; there is consensus to direct the County Attorney to pursue different remedies; and staff will come back February 5, 2026 at the Zoning meeting.

The Clerk inquired if that motion is just for this Item or does it include the companion Item as well.

Attorney Richardson advised he is sure the intent was to table both and just one motion to table both will suffice.

H.4. Jacob Foune Requests a Zoning Classification Change from SR with a BDP to SR with Removal of the Existing BDP and Addition of a new BDP (25Z00037) (Tax Account 2000804)

Chair Altman called for a public hearing on a request by Jacob Foune for a change of zoning classification from SR with a Binding Development Plan (BDP) to SR with removal of the existing BDP and addition of a new BDP for application number 25Z00037.

There being no further comments or objections, the Board continued the request by Jacob Foune for a change of zoning classification from SR with a BDP to SR with removal of the existing BDP and addition of a new BDP, to the February 5, 2026, Zoning meeting.

Result: Continued

Mover: Katie Delaney

Seconder: Tom Goodson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.5. Alexis Raul and Rosemary Estevez DeJesus Request a Zoning Classification Change from BU-1 with a BDP to BU-1 with Removal of a BDP (25Z00003) (Tax Account 2004581)

Chair Altman called for a public hearing on a request by Alexis Raul and Rosemary Estevez DeJesus for a change of zoning classification from BU-1 with a Binding Development Plan (BDP) to BU-1 with removal of a BDP, application number 25Z00003, located in District 1.

Trina Gilliam, Planning and Zoning Manager, stated Alexis Raul and Rosemary Estevez DeJesus request a zoning classification change from BU-1 with a BDP to BU-1 with removal of a BDP under application number 25Z00003, located in District 1.

Chair Altman stated there is one card, Ed Skarosi; the Board tried to help him and bring him up before everyone else, unfortunately he was not there yet; he apologized that he had to wait through all of that; and he asked if Mr. Skarosi is the applicant.

Ed Skarosi replied no, he is the adjacent land owner.

Chair Altman asked if the applicant is in attendance; and if the Board can hear this without the applicant being in attendance.

Morris Richardson, County Attorney, advised the Board, it can; and he noted the applicant did

not indicate that they would not be in attendance, did not ask to have it tabled or continued, and therefore, it is the Board's discretion whether to proceed.

Mr. Skarosi stated he and his family have lived and owned the property since October 1999; his property lies directly south and east of the applicant's property; the predominant zoning classification on Aurantia Road, east of US 1 is AU with single-family residents; he is there to speak in strong opposition to removing the existing BDP; this agreement was put in place for a reason, it protects the surrounding community, nearby property owners, and ensures that any development occurs responsibly and safely; removing it would not simply clean up old conditions; it would eliminate the very safeguards that were negotiated and relied upon when the land use changes were approved; and the original BDP includes several critical protections, many of which affect his family directly, as owners of the adjoining property. He continued by saying first the limitation on the type of use originally restricted to a convenience store was included to ensure that neighboring residential properties would not be exposed to heavy commercial or high impact activities; if that restriction is removed, the property could host any type of BU-1 use, including operations far more intense than what was contemplated or promised at the time; second, all of the properties on East Aurantia contain potable wells that is extremely vulnerable to contamination; several uses permitted under the BU-1 involve petroleum based products, solvents, and chemicals; without a binding agreement requiring annual well water testing, his family and neighbors could face serious health risks and expensive remediation; removing the BDP provides no benefit to the neighboring community, but creates very real risks that fall squarely on them and not the applicant; and if the applicant wishes to expand their commercial options, that discussion should include updated protections, not the eliminations of the only ones currently in place. He went on to say he is not here to oppose reasonable business activity, he is there to ask the Board to honor the commitments that were made when this land was approved for commercial use and ensure that his family and neighbor's health, property, and water supply are not placed in jeopardy; at a public hearing held by the Planning and Zoning Board on November 17, 2025, the Board recommended denial of the request to remove the BDP by a vote of 12:1; and for these reasons, he respectfully asks the Board to deny the request to remove the BDP. He thanked the Board for its time and consideration.

Commissioner Goodson asked the people who wish for this rezoning have already been sanctioned for wrongdoing; and he asked for staff to explain to the Board what that was.

Billy Prasad, Planning and Development Director, advised the Board there is a history of Code Enforcement on the property for uses that violate the BDP, such as tire sales, car sales, things of that nature, and running multiple businesses out of that property.

Attorney Richardson advised the same owner had a different zoning violation on a nearby property on US1.

Mr. Prasad responded affirmatively.

There being no further comments or objections, the Board denied the request by Alexis Raul and Rosemary Estevez DeJesus for a change of zoning classification from BU-1 with a BDP to BU-1 with removal of the BDP for application number 25Z00003, located in District 1.

Result: Denied

Mover: Katie Delaney

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.6. Thomas Dahn Requests a Zoning Classification Change from RR-1 to AU (25Z00024) (Tax Account 2101970)

Chair Altman called for a public hearing on a request by Thomas Dahn for a change of zoning classification from RR-1 to AU, application number 25Z00024, located in District 1.

Trina Gilliam, Planning and Zoning Manager, stated Thomas Dahn requests a zoning classification change from RR-1 to AU under application number 25Z00024, located in District 1.

Thomas Dahn stated he and his wife are wanting to open a commercial agricultural produce business to sell fresh organic produce to the public; they bought an acre of land next to their current land to do that; they have combined the properties to make the land larger; and they are now asking to rezone to AU to do the business.

There being no comments or objections, the Board approved the request by Thomas Dahn to change the zoning classification from RR-1 to AU for application number 25Z000024, located in District 1.

Result: Approved

Mover: Rob Feltner

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.7. Dick Holdings, LLC (Vaheed Teimouri) Requests a CUP for a Private Heliport in AU Zoning Classification (25Z00033) (Tax Account 2317013)

Chair Altman called for a public hearing on a request by Dick Holdings, LLC (Vaheed Teimouri) for a Conditional Use Permit (CUP) for a private heliport in AU zoning classification, application number 25Z00033, located in District 2.

Trina Gilliam, Planning and Zoning Manager, stated Dick Holdings, LLC, being represented by Vaheed Teimouri, requests a CUP for a private heliport in an AU zoning classification under application 25Z00033, located in District 2.

There being no comments or objections, the Board approved the request by Dick Holdings, LLC for a CUP for a private heliport in an AU zoning classification, under application number 25Z00033, located in District 2.

Result: Approved

Mover: Tom Goodson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.8. Leslie Bishop Requests a Zoning Classification Change from RU-1-7 to SR (25Z00034) (Tax Account 3008078)

Chair Altman called for a public hearing on a request by Leslie Bishop for a change of zoning classification from RU-1-7 to SR, application number 25Z00034, located in District 3.

Trina Gilliam, Planning and Zoning Manager, stated Leslie Bishop requests a zoning classification change from RU-1-7 to SR, application number 25Z00034, located in District 3.

There being no comments or objections, the Board approved the request by Leslie Bishop for a change of zoning classification from RU-1-7 to SR, application number 25Z00034, located in District 3.

Result: Approved

Mover: Kim Adkinson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.9. Paul & Cheryl Pearson (Steve Totty) Request a Zoning Classification Change from RU-1-9 to RU-2-6 (25Z00035) (Tax Account 2611660)

Chair Altman called for a public hearing on a request by Paul and Cheryl Pearson (Steve Totty) for a change of zoning classification from RU-1-9 to RU-2-6, application number 25Z00035, located in District 4.

Trina Gilliam, Planning and Zoning Manager, stated Paul and Cheryl Pearson being represented by Steve Totty requests a zoning classification change from RU-1-9 to RU-2-6 under application number 25Z00035, located in District 4.

Steve Totty stated what he has here is about a .9-acre lot and it is located off US1 near Post Road, two lots away from Marker 99, if anyone is familiar with that; Mr. Pearson purchased this property eight or nine months ago; the concept is it has a single-family house on it and it also has a good-sized detached garage; he thought to put some apartments in there, so that was the idea; he went to work with staff on the concept and had them review all the requirements, setbacks, breezeway issues, and they got past that; and the next step is to come to the Board to see if it is okay to do that.

Commissioner Feltner inquired if the owner is going to live in the house.

Mr. Pearson answered by saying no, he is building a house next door.

Commissioner Feltner stated so the owner is going to be next door, and he made the motion to approve.

There being no further comments or objections, the Board approved the request by Paul and Cheryl Pearson for a change in zoning classification from RU-1-9 to RU-2-6, application number 25Z00035, located in District 4.

Result: Approved

Mover: Rob Feltner

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.10. Sandra Walsh and Terrie Canada (Monica Pritchard) Request a Zoning Classification Change from AU to RR-1 (25Z00036) (Tax Account 2005444)

Chair Altman called for a public hearing on a request by Sandra Walsh and Terrie Canada for a change of zoning classification from AU to RR-1, application number 25Z00036, located in District 1.

Trina Gilliam, Planning and Zoning Manager, stated Sandra Walsh and Terrie Canada, being represented by Monica Pritchard, request a zoning classification change from AU to RR-1,

under application number 25Z00036, located in District 1.

Monica Pritchard stated they have a property in Mims; it is two lots side-by-side that are basically family property; they have inherited this lot from their mother who has passed; Ms. Walsh and her husband live next door; and they would like to request a rezoning from SU to RR-1 in order to potentially do a flag lot so they can split the parcel, where Ms. Canada can own the front half and Ms. Walsh can own the back half. She continued by saying Ms. Walsh's eventual goal is that maybe her children will take care of her and they may build on the back parcel; obviously, there is a septic moratorium; she is in no rush and she does not care if she can never build on it and just has to keep a horse there or something; but because it was inherited together, they would like to separate the two, give the sister the house on the front, and have Ms. Walsh keep the back end.

Commissioner Delaney stated the idea of splitting lots in this area is concerning; and she cannot support this right now, especially since they do not have a need to build at the moment.

Ms. Pritchard stated what she thinks they really need is to separate the interest; while they are sisters, they obviously have different children, different heirs, and things like that; while they both inherited the property together, she thinks they both want to keep it as family properties; it is a unique situation and she understands Commissioner Delaney's concerns and that this is not popular in her District right now; however, while considering the larger concerns of the community, there are also individual needs of the property owner. She continued to explain the lots are conforming; it is going to be over an acre on each; she does not have any immediate plans for any of this it is just legally in order to separate it, make it fair for the two of them, she would like to keep the vacant land portion, which right now, her horses will just graze along with her property that is right next door; her sister will get to keep the house; she reiterated she understands this is not popular in District 1; she has heard all of the flooding concerns and things like that; but in this individual situation, it is not adding to the flooding concerns; and she has no immediate plans to build, but in order for her heir, should something happen to her and her husband, be able to inherit that piece of land without their cousins complicating things further, this is what would be necessary. She noted it would be a rezone in order to split it.

Commissioner Delaney asked if the applicant would be willing to do a Binding Development Plan (BDP) to say no building.

Ms. Pritchard asked if that means ever.

Commissioner Delaney explained a BDP eventually could be changed with the direction of the Board.

Ms. Prichard stated the goal would be that her kids could eventually one day when the time is right, maybe when these flooding issues are resolved, the septic moratorium is lifted, that they could potentially build there one day; and she would have to discuss that with her client because that is not something that she had anticipated.

Commissioner Feltner asked if there is a way to do that in a BDP or whatever that says that there will not be any building for three years as a means to split it.

Commissioner Delaney asked Morris Richardson, County Attorney, if there are any other options for this family.

Attorney Richardson stated he is hesitant to give advice that borders on legal advice; and if the ultimate goal is to build on the property this seems to be the path.

Ms. Pritchard stated they are part of the Mims community; they have livestock and all those things; they understand Commissioner Delaney's concerns; they are over here nodding with their neighbors, doing all those things; they get it; but while Commissioner Delaney is considering all of that, this is their individual property; it is between two family parcels; and the lots are appropriately sized. She commented there is a septic moratorium and she does not know how long that will continue, it sounds like a long time based on the testimony that she has heard tonight; they are not intending on doing anything any time soon; when they do they will go through all of the proper channels again, retain counsel again, and the Board will have the opportunity again to hear this because they will need permits and all of those things.

Chair Altman asked if Ms. Pritchard is an attorney or just a legal representative.

Ms. Pritchard replied yes, she is.

Chair Altman asked if this is part of any sort of estate planning and what they are trying to plan for the future.

Ms. Pritchard responded affirmatively saying they are planning for the future; currently her and her sister own it; they were not sure what they wanted to do with it; in order for them to separate out, her sister wants to keep the front half; her sister's heirs will be able to inherit the front half; and she gets to keep the back half.

Chair Altman asked about the size of the individual lots.

Ms. Pritchard again stated they will be over an acre, the parcel is 2.94 acres.

Commissioner Delaney asked what the Future Land Use is for this.

Ms. Gilliam replied it is RES-1.

Commissioner Feltner responded it is just one acre to build.

Commissioner Delaney and Chair Altman both answered yes.

Commissioner Adkinson states he would like to point out that Planning and Zoning actually recommended approval of this 11:2 after some pretty decent discussion.

Ms. Pritchard reiterated that she understands exactly what the concern is; but she thinks in this individual case, due to the uniqueness of this and the fact that they live next door, she would say that this ameliorates some of those concerns.

Commissioner Feltner asked if they are going to essentially be almost equal 1.5 acre lots.

Ms. Pritchard stated they are almost equal; on the application, the surveys that they submitted show what was intended eventually.

Commissioner Feltner asked if there is a way that Commissioner Delaney will be comfortable is they can only have one home per each one and one-half acre lot for each lot in the future.

Ms. Pritchard responded she is pretty sure that is the way it is already that someone can only have one home.

Commissioner Feltner asked if it is one acre to build.

Ms. Pritchard stated yes, and she thinks one can have maybe an accessory building which would be a barn, which may be of interest to them; but that is not the intention right now; she also is not sure that her children are ever going to move to take care of her; and she would say if the Board wants to do a BDP with maybe three years that would be fine with them because there are no immediate plans for this, but for estate planning purposes they would like to make it clean.

Commissioner Feltner asked if it would be not a building permit for three years.

Ms. Pritchard responded no building permit for three years would be fine with them; she reiterate there is no immediate plan to build on this; however, they are both older and they are getting their affairs in order and things like that.

Billy Prasad, Planning and Development Director, stated he is trying to think it through; the proposed lot split is attached to the Item on the Agenda, but that is for conceptual purposes at this point; and he is trying to think about how to map the BDP in the future and the actual description of the land because would it be across the whole property, so the BDP could say the house could be on the entire property with no more than one unit across the entire parcel for the next three years, subsequent to that there could be two units on the parent parcel.

Ms. Pritchard stated they are going to apply for a flag lot after this because that is the whole point, to change the zoning to apply for a flag lot; and as long as this does not impede that then...

Attorney Richardson stated they just need to record the BDP along with the zoning action because the zoning is going to paint the whole property, not just the flag lot because that lot has not been created yet, that is going to fail; the Board has to bring the BDP back, under the Code, within...

Mr. Prasad advised it is 120 days.

Attorney Richardson continued by saying 120 days, so if she could create that before.

Mr. Prasad stated then staff could have that BDP and she could come back just applying for to the southern lot.

Ms. Pritchard stated sure.

Ms. Gilliam stated just for clarification regarding a barn on a vacant property; two points, staff cannot do the flag lot application until the rezoning is approved and the properties are recorded in that configuration; and two, she had mentioned having a barn on the property and one cannot have a barn without a primary structure.

Ms. Pritchard stated they were saying that there could not be more than two structures so she understands that they cannot have the barn, it is an accessory; and she understands that.

Ms. Gilliam responded that she just wanted to clarify that.

Attorney Richardson stated that is about no more than one primary residence on the entire property for three years; and he thinks they will have to put the BDP on the entire property with that limitation because it is sort of a standoff; he was thinking they could do the split and then record the BDP, but they will not be permitted to do that until the zoning is in place; and zoning will not go into place until the BDP is recorded. He noted it is a circle so staff can paint the BDP

over the entire property; it is going to allow what they already have; it will not prevent what they have or an accessory structure on the other lot or anything like that.

Ms. Pritchard stated there are no plans that she is aware of to build an accessory structure on the other lot, so there is no...

Attorney Richardson interjected saying it could not be done on the new lot without a primary dwelling.

Ms. Pritchard stated correct.

Attorney Richardson stated if she is comfortable with a BDP and she has authorization to represent the entire property, staff is going to have to put the BDP in place over the entire property, not just the new flag lot.

Commissioner Delaney stated she just wants to explain her vote; she knows the applicant is part of the community and she hopes she hears her heart in this because this situation is very unique; she knows they are not trying to flip it to sell to a random person, but for her she made a commitment to people to not increase density in this area; but she is just one of five, so she will not be able to vote for this today.

Commissioner Adkinson made the motion.

Mr. Prasad stated he thinks staff understands that; and the BDP will come back to the Board with the final terms.

There being no further comments or objections, the Board approved the request by Sandra Walsh and Terrie Canada to change of zoning classification from AU to RR-1, with a BDP on the entire property stating no building for three years, application number 25Z00036, located in District 1.

Result: Approved

Mover: Kim Adkinson

Second: Rob Feltner

Ayes: Goodson, Adkinson, Feltner, and Altman

Nay: Delaney

H.11. Jay Steinke and Grant Steinke request a zoning classification change from GU to AU. (25Z00038) (Tax Account 2504763)

Chair Altman called for a public hearing on a request by Jay Steinke and Grant Steinke for a change of zoning classification from GU to AU, application number 25Z00038, located in District 2.

Trina Gilliam, Planning and Zoning Manager, stated Jay Steinke and Grant Steinke request a zoning classification change from GU to AU, under application number 25Z00038, located in District 2.

Commissioner Feltner asked since the applicant is not here does that mean there needs to be a motion to deny since the Board opened it.

Morris Richardson, County Attorney, stated the Board needs to act on it, either approve, table to a future meeting, or deny it.

Commissioner Delaney asked if she could just look at it and remind herself what this is.

Commissioner Goodson asked for a motion to table.

Commissioner Adkinson seconded the motion.

Chair Altman stated there is a motion to table and the Board needs a date certain.

Billy Prasad, Planning and Development Director, mentioned February 5.

Chair Altman repeated it is a motion to table to February 5.

There being no further comments or objections, the Board continued the request by Jay and Grant Steinke for a change of zoning classification to the February 5, 2026, zoning meeting.

Result: Continued

Mover: Tom Goodson

Second: Kim Adkinson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.12. Linda M. Muenz & Erran L. Muenz, Jr. Request a Zoning Classification Change from GU to AU (25Z00040) (Tax Account 2313962)

Chair Altman called for a public hearing on a request by Linda M. Muenz and Erran L. Muenz, Jr. for a change of zoning classification from GU to AU, application number 25Z00040, located in District 1.

Trina Gilliam, Planning and Zoning Manager, stated Linda M. Muenz and Erran L. Muenz, Jr. request a zoning classification change from GU to AU, under application number 25Z00040, located in District 1.

There being no comments or objections, the Board approved the request by Linda M. Muenz and Erran L. Muenz, Jr. for a change of zoning classification from GU to AU, application number 25Z00040, located in District 1.

Result: Approved

Mover: Katie Delaney

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

K. PUBLIC COMMENTS

John Buck stated he does not want to try to beat a dead horse but back to H.3., Mr. Minnick and Dwayne White; he had the pleasure of them building his house 10 years ago with life threats, threatening his life; he bought 20-something acres from him; it was a nightmare; HR3, he obviously knew what he was getting into; if one is sleeping with them, they know what they are doing; six years ago his father sold a piece of property on Aurantia Road, it was .3 acre, right next to 95 bridge, to a buddy of his out of Kentucky; all he wanted to do was come down and put a camper on it; he went to the County after the deal was done and the County said he could not even put a fireplace on it; his father returned the money to him, and not 30 days later Beach and Scott Minnick are building a house on it; and he wants to know how this works because it seems like all these mistakes are going one direction for the last 10 years, Scott Minnick and Dwayne White. He went on to say yes, the County needs an investigation in what is

going on in this County; he went to sell a piece of his property that Beach already had sold, went to the County and they said, "you know, you got to mitigate it"; he goes to the County and the County says, "it was a buildable lot"; he is glad they told him not to because he would not want anybody moving next to him; he is in District 1 and wants to stay in District 1; he did not move to the city; he runs a nonprofit rescue; and he asked the Board to excuse him for being nervous and aggravated. He added Scott Minnick is still up to his old games; like he said, something has got to happen; either the Board is going to investigate it or he is going to use his own time to investigate it; somebody at the Property Appraiser is getting paid; somebody is getting paid in this County by Scott Minnick and Dwayne White; if someone were to look where his property is and see what it is valued at, \$62,000 per acre for flood land; he did not buy it for that; but somebody at the Property Appraiser put it at that.

Commissioner Feltner stated he is going to object to that, that is not true. He mentioned he worked at the Property Appraiser's...

Mr. Buck interjected by saying he is telling the Board what is true right now.

Commissioner Feltner commented nobody is being paid at the Property Appraiser's, he worked there six and one-half years.

Mr. Buck stated he is saying something is going on, and the favoritism is always going in one direction.

Commissioner Feltner advised he has never seen that in the six and one-half years that he worked there.

Mr. Buck responded by saying okay, that is fine, he is done speaking and has said his peace.

Commissioner Feltner stated since that is spread across the minutes, he just wants that to be clear it did not happen.

L.3. Katie Delaney, Commissioner District 1, Re: Board Report

Commissioner Delaney stated she is just as aggravated as Commissioner Goodson.

Chair Altman stated to have the report, the Board wants to hear the report.

Commissioner Delaney injected by saying she is speaking; she stated she just has to correct some things that were stated at the last meeting that she was at; there was a person that came up and said a lot of things about her and her office and how they did not help them, so on and so forth; that is just not true; she looked back in her records and her staff actually did a meal train for the family in that house, brought them all sorts of new stuff through her staff members church; and she just wanted to put that on the record since her office was disparaged. She continued by saying that person does not even live in her District, she lives in Commissioner Goodson's District, and she wanted to make sure that is clear; the feedback she is getting from her constituents is people are extremely frustrated that their Commissioner is not allowed to represent them, which was heard tonight, many times; she is trying to figure out how, as a Board, to continue to move forward because she does not know how it keeps doing this; it has been a year and it has gotten nothing done; the last Board, it talked about infrastructure, and she was in Public Comment speaking down there, and the Commissioner before her said the next Board can deal with it, and here it is a year later and it is not being dealt with; and the rezones in her community keep happening, the flooding keeps happening, and she is just trying to figure out what has to be done to get some fair representation in District 1.

Chair Altman stated that is Commissioner Delaney's report; and he asked if Commissioner Goodson has a report.

Commissioner Delaney noted she hopes everybody sees this.

Chair Altman asked the other Commissioners, County Manager, and County Attorney if they had a report.

All replied no report.

Upon consensus of the Board, the meeting adjourned at 8:08 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

THAD ALTMAN, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA