

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

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on December 7, 2017 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Chair/Commissioner District 1	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Kristine Isnardi	Vice Chair/Commissioner District 5	Present	

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezonings and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness testimony showing that the request meets the Zoning Code and the 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 to be 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, the 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. Likewise, if a Commissioner has made a site visit, inspections, or investigation, the Commissioner must disclose that fact 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 of 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.

INVOCATION

Reverend A. J. Davis, St. James AME Church, Titusville, provided the invocation.

PLEDGE OF ALLEGIANCE

Commissioner Isnardi led the assembly in the Pledge of Allegiance.

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ITEM I.A., RESOLUTION, RE: CONGRATULATING THE 2017 VIERA HIGH SCHOOL HALL OF FAME INDUCTEES

Commissioner Smith stated there is no one present from Viera High School; but he wanted to recognize them for their Inagural Hall of Fame recognition ceremony on Saturday, December 16th.

ITEM II.A.1., CHANGE ORDER NO. 1 TO BID #B-3-17-27 WITH FLORIDA DREDGE AND DOCK, LLC, RE: MIMS BOAT RAMP REMOVAL PROJECT CONSTRUCTION

The Board authorized the County Manager to execute the Change Order with Florida Dredge & Dock LLC to obtain off-site fill material necessary to construct the containment berm for the temporary dewatering facility.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM II.A.2., CHANGE IN COST SHARE FOR SUBSTITUTE PROJECTS, RE: SAVE OUR INDIAN RIVER LAGOON PROJECT PLAN (SOIRLPP)

Commissioner Tobia expressed his appreciation to Commissioner Barfield for speaking on this Item on October 10th and advising the Board to back off because of the support and attention to detail; there is now a proposal that is a fair way to determine the cost share eligibility through the County; and he thinks the Board can agree that not only does this version promote fairness, but it is a more common sense approach to calculating the costs. He expressed his appreciation to Commissioner Barfield and staff for coming up with a much more equitable proposal.

Chair Pritchett agreed with Commissioner Tobia.

The Board approved the Replacement Table ES-1 to be incorporated into the 2018 annual update of the Substitute Projects for Save Our Indian River Lagoon Project Plan (SOIRLPP); and directed the associated changes in cost share eligibility be implemented for all future substitute project requests including those due in December 2017 and January 2018, for consideration in the 2018 SOIRLPP update.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM III., PUBLIC COMMENTS

Charles Tovey stated he has a list of things; he has the Board's Thanksgiving card; but he did not know when the gifts to people were starting to the clock, because of the \$25 limit and things; and the wish was there. He went on to add this is a notice from people who get paid money for the people that live in houses, and they get taxpayer money for everything; he had to commit

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fraud, because they asked him if he lived there and how many people lived there; it took him a while due to his mailbox situation and receiving his mail; and he never did figure out why they destroyed his mailbox three and a half years ago. He stated he told them he lived there and he hoped he did not entrap himself but he was caught in between a situation. He is up here because appointments are hard to come by; the time value is practically unworthy of his drive to make the appointment, and all of the others things, plus he does not want to leave his property; he can address the Commission as a whole, and even though it has changed throughout the years, there are two more years of this Commission; he does not know who is running for election yet; but he is going to look into that next. He inquired where else is he going to go; he stated he cannot go to Town of Palm Shores; they outlawed him from the Town; and everyone he knows had to live at the end of his road, they shoot guns off, and the police come and they want to look at him while he standing in the rain with a towel and his bible. He stated to say he meets all of these requirements and they come to terms on everything; he inquired what is he then allowed to do, what is he not allowed to do, and can he then go to Palm Shores; he has no city water out there; they ripped out some of his water line; and the Board knows some of his stories. He stated he thought the nice Spanish style like the office at the end of Washington and Post Road, Burton Townhomes, he thought it looked nice; he recognized the environmental value; there are springs there; there is a seven to 10 foot artesian free flowing well on his property until they dried it up; and he has not been out there because he gets so upset and he has to control himself. He stated he is looking for suggestions.

ITEM I.A., RESOLUTION, RE: CONGRATULATING THE 2017 VIERA HIGH SCHOOL HALL OF FAME INDUCTEES (CONTINUED)

Commissioner Smith read aloud, and the Board adopted Resolution No. 17-249, congratulating the 2017 Viera High School Hall of Fame Inductees and commended them for the outstanding examples they have set.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.A., SMALL SCALE COMPREHENSIVE PLAN AMENDMENT, (LPA), RE: RESIDENTIAL 15 TO COMMUNITY COMMERCIAL - LTM OF FLORIDA HOLDING, LLC (KIM REZANKA). THE PROPERTY IS 2.42 ACRES, LOCATED AT THE NORTH END OF DIXIE HWY., APPROX. 0.22 MILE WEST OF U.S. HWY. 1 (17PZ00041)

Chair Pritchett called for a public hearing to consider a Small Scale Plan Amendment for Residential 15 to Community Commercial - LTM of Florida Holding, LLC, for 2.42 acres of property located at the north end of Dixie Highway, west of U.S. Highway 1.

There being no comments or objections, the Board tabled consideration of a Small Scale Plan Amendment for Residential 15 to Community Commercial, requested by LTM of Florida Holding, LLC, for property located at the north end of Dixie Highway, west of U.S. Highway 1, to the January 8, 2018, Planning and Zoning/LPA meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.B., CHANGE OF ZONING CLASSIFICATION, RE: GU TO BU-2 - LTM OF FLORIDA HOLDING, LLC - (KIM REZANKA). THE PROPERTY IS 2.42 ACRES, LOCATED AT THE NORTH END OF DIXIE HWY., 0.22 MILE WEST OF U.S. HWY 1. (17PZ00041)

Chair Pritchett called for a public hearing to consider a change of Zoning Classification from GU to BU-2 - LTM of Florida Holding, LLC for 2.42 acres located at the north end of Dixie Highway, west of U.S. Highway 1.

There being no comments or objections, the Board tabled consideration of a change of Zoning Classification from GU to BU-2, as petitioned by LTM of Florida Holding, LLC, for property on the north end of Dixie Highway, west of U.S. Highway 1, to the January 8, 2018 Planning and Zoning/LPA meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.C., CHANGE OF ZONING CLASSIFICATION, RE: RRMH-1 AND GU TO AGR - LARRY R. HARRELL. THE PROPERTY IS 5.91 ACRES, LOCATED ON THE WEST SIDE OF FPL POWER LINES, APPROX. 0.18 MILE SOUTH OF CANAVERAL GROVES BLVD. (17PZ00110)

Chair Pritchett called for a public hearing to consider a change of Zoning Classification from RRMH-1 and GU to AGR for 5.91 acres located on the west side of Florida Power & Light power lines, south of Canaveral Groves Boulevard, as requested by Larry Harrell.

Erin Sterk, Interim Planning and Zoning Manager, stated Item IV.C. is a change of Zoning Classification from RRMH-1 and GU to AGR on 5.91 acres, located on the west side of FPL Power lines, approximately 0.18 mile south of Canaveral Groves Boulevard; this request is for the applicant to do a tree farm in the future; and she believes he may be present today to speak on it.

Larry Harrell stated he feels this is a better use of the property than what it is now.

Eden Bentley, Deputy County Attorney, asked the Board to confirm it has no other cards for this Item besides Mr. Harrell's.

Chair Pritchett replied that is the only card.

There being no further comments, the Board approved the change of Zoning Classification from RRMH-1 and GU to AGR on 5.91 acres of property located on the west side of Florida

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Power & Light power lines, south of Canaveral Groves Boulevard, as requested by Larry Harrell.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.D., CHANGE OF ZONING CLASSIFICATION, RE: BU-1 TO BU-2 - DONALD E. AND STACY L. CLARK. THE PROPERTY IS LOCATED AT 3810 U.S. HWY 1, MIMS. (17PZ00118)

Chair Pritchett called for a public hearing to consider a Zoning Classification change from BU-1 to BU-2 for property at 3810 U.S. Highway 1, Mims, as petitioned by Donald and Stacy Clark.

Erin Sterk, Interim Planning and Zoning Manager, stated Item IV.D. is a request for a change of Zoning Classification from BU-1 to BU-2, for property located at 3810 U.S. Highway 1, Mims; Planning and Zoning made a recommendation to approve a binding development plan limiting the uses to all of the uses in BU-1 with the addition of the BU-2 use for the manufacturing and outdoor storage of concrete yard ornaments and accessories.

Donald Clark stated he wants to get a change from BU-1 to BU-2 so he can make his cement statues there.

Chair Pritchett stated through the years she has driven by there many times; she thinks it is a good fit; he is having this approved with a binding development plan; and it is appropriate.

There being no further comments, the Board approved a change of Zoning Classification from BU-1 to BU-2, with a Binding Development Plan limiting the use to manufacturing and outdoor storage of concrete yard ornaments and accessories, for property located at 3810 U.S. Highway 1, Mims, as petitioned by Donald and Stacy Clark.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.E., CHANGE OF ZONING CLASSIFICATION, RE: BU-1 TO BU-2 - ISLAND CORNER GROUP. THE PROPERTY IS 0.95 ACRE, LOCATED AT 2625 N. COURTENAY PKWY., MERRITT ISLAND. (17PZ00128)

This Item was withdrawn by the applicant.

ITEM IV.F., CONDITIONAL USE PERMIT, RE: GUESTHOUSE - ROBERT (III) AND KATY VAN ARSDALEN. THE PROPERTY IS 0.78 ACRE, LOCATED AT 5805 EAGLE WAY, MERRITT ISLAND (17PZ00121)

Chair Pritchett called for a public hearing to consider a Conditional Use Permit for a guesthouse at a property located at 5805 Eagle Way, Merritt Island.

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Erin Sterk, Interim Planning and Zoning Manager, stated Item IV.F. is a Conditional Use Permit for a guesthouse at a property located at 5805 Eagle Way, Merritt Island; and the North Merritt Island Board's recommendation was for approval.

Commissioner Barfield stated he has no problems with this; the North Merritt Island District approved it; and he is fine with it.

There being no comments or objections, the Board approved a Conditional Use Permit (CUP) for 0.78 acre on property located at 5805 Eagle Way, Merritt Island, as requested by Robert (III) and Katy Van Arsdalen.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	John Tobia, Commissioner District 3
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.G., REMOVAL OF BINDING DEVELOPMENT PLAN AND CONDITIONAL USE PERMIT, RE: STEPHEN PROCTOR MANGUM; JULIAN SIDNEY MANGUM, JR.; AND SANDRA E. BAKER - (HARVEY BAKER). THE PROPERTY IS LOCATED AT 1740 W. KING ST., COCOA. (17PZ00059)

Chair Pritchett called for a public hearing to consider removal of a Binding Development Plan and Conditional Use Permit for property located at 1740 West King Street, Cocoa.

Erin Sterk, Interim Planning and Zoning Manager, stated this Item is a request for a removal of a Binding Development Plan and a Conditional Use Permit (CUP) that provide for an eight-foot masonry wall on a property located at 1740 West King Street in Cocoa; there is some recent development the applicant provided staff just before the meeting; staff most recently visited the site on Monday, Code Enforcement went out; and the uses were still active on the property, but they just received materials from the applicant that show that the use has ceased. She advised the Board the applicant is going to show the Board on the screen behind it that the use has ceased; and if the Board chooses to do that, it may affect its motion today.

Chair Pritchett stated if the Board tables this everything will shut down, so the Board should hear the applicant as it would be appropriate.

Harvey Baker stated this is a picture of the road leading to the building back to the back of the area which has been cleaned out; this is the front of the building taken from State Road 520, which is the south side of the building; this picture is the front of the building with nothing there, except dirt and a chained link fence; and this is a picture inside of the warehouse, which is 90 percent cleaned out. He went on to show the Board a picture of the front to the right of the building, which is a little carport area back in there; and the last picture is on the west side of the building with an open field that was used for car storage, et cetera. He stated his brother-in-law took the pictures; the County has a copy of the pictures; he understands an officer has to go out and verify; if that is the case and they are clean, the violation goes away; and he inquired if that is correct.

Ms. Sterk replied the violation does not go away; the violation with Code Enforcement is they do not have the eight-foot wall; but if the use ceases to exist, and staff can confirm that, then it would be appropriate to remove the CUP and the BDP because the junkyard

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use is no longer there. She noted they would just be limited to the other permitted uses within their Zoning.

Mr. Baker inquired if the Zoning would still stay IU-1.

Ms. Sterk responded affirmatively.

Mr. Baker stated they just could not put a junkyard on it without a wall; and he inquired if that would have to be presented again for that to happen.

Ms. Sterk replied exactly; she stated the junkyard use was a Conditional Use; and one of the conditions of that Conditional Use was the wall, and that is where the Code Enforcement complaint started, so if the junkyard use is gone, the applicant is no longer required to have the wall, and all of the uses will be available.

Chair Pritchett stated she thinks it will be appropriate to allow staff to go out and verify, and then come back again at the next Zoning meeting.

Ms. Sterk pointed out the next Zoning meeting is February 1, 2018, and if it is tabled, it would be to that date certain.

There being no further comments, the Board tabled consideration of a request for removal of a Binding Development Plan and Conditional Use Permit for property located at 1740 West King Street, Cocoa, as petitioned by Stephen Proctor Mangum, Julian Sidney Mangum, Jr., and Sandra E. Baker, to the February 1, 2108, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Curt Smith, Commissioner District 4
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.H., SMALL SCALE COMPREHENSIVE PLAN AMENDMENT, RE: RESIDENTIAL 15 TO CC - MARK J. FLICKINGER, AND SKIDMORE TRAILER PARK AND SALES, INC. THE PROPERTY IS 0.71 ACRE, AND LOCATED ON THE SOUTHWEST CORNER OF RIVER PARK BLVD., AND U.S. HWY 1., 7635 U.S. HWY 1, TITUSVILLE. (17PZ00096)

Chair Pritchett called for a public hearing to consider a Small Scale Comprehensive Plan Amendment from Residential 15 to CC for 0.71 acre located on the southwest corner of River Park Boulevard and U.S. Highway 1, Titusville.

Erin Sterk, Interim Planning and Zoning Manager, stated she is going to read into the record Items H and I because they are companion applications, and that way the Board can talk about the Comprehensive Plan Amendment and the re-zoning at the same time and make separate actions. She went on to say Item H is a request for a Small Scale Plan Amendment going from Residential 15 to Community Commercial on a property that is 0.71 acre in size located at the southwest corner of River Park Boulevard off of U.S. 1 in Titusville; the Planning and Zoning recommendation was for approval; and Item I is a request for a change of Zoning Classification from BU-1, BU-2, and RU-1-11 to all BU-2 on the same property in Titusville. She added Planning and Zoning made a recommendation

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to approve the RU-1-11 portion of the re-zoning request to be BU-1, and took no action on the remaining request.

Kathi Pulver stated she has a brief statement from the neighbors of River Park Boulevard; but before she reads that, she would like to provide a couple of additional photographs to bolster what it is they are saying in their statement. She went on to say the first photo is a picture that was taken after the Planning and Zoning meeting, but before the initial Board meeting; it shows an 18-wheel tractor trailer unloading the fencing supplies onto the front yard of one of the neighbors; this is not secure fencing real property, it is a private residence; and that was taken probably two weeks after the P&Z meeting. She stated she has a couple of pictures that were taken last night; one shows yet another tractor trailer, which is blocking the road, and this was about 4:45 p.m. that was unloading materials; then they proceeded to have a forklift come out to unload those materials, basically blocking the entire road for a period of about 30 minutes; and this is part of the issues they are talking about in the statement. She read, "The notification of the request for change of Zoning went to only those properties within 500 feet of Secure Fence and Rail, and that excluded more than half of the residents on a dead end street. Even though petitions have been signed and submitted to the Board indicating that 12 of the 18 properties are not in favor of re-zoning this lot to facilitate more commercial activity at the gateway of our neighborhood. The property at 189 River Park Boulevard was included because it is owned by Mr. Flickinger, who is a member of this, and it is occupied by a manager of Secure Fence and Rail at this time. Several photos were submitted at the Planning and Zoning meeting that showed poor stewardship of this property in question. This negatively impacts the residents and owners by reducing the neighborhood aesthetics in general, restricting access to our homes through employee traffic and parking used by commercial Secure Rail and Fence vehicles. Tractor trailers parked for deliveries and ongoing trash and debris, which they have cleaned up. They would also like to address the odors and noises from the construction; the strong odor of paint, loud sound of hammering can go on for hours. We understand that we cannot insist that Secure Fence and Rail not operate on Sunday's, and this means we will experience the noise and inconvenience seven days a week. We'd like to see a sign at the end of that property that indicates no commercial traffic past that point." She stated she has driven about a mile past Secure Fence and Rail and there are no other open manufacturing, commercial businesses that abut a residential neighborhood like theirs, and it is unique in that respect. She stated those are some of the things they would like the Board to consider in making its decision.

Chair Pritchett stated the applicant may have placed the wrong letter on the card, and it is being checked on.

Julian Mangum stated he is one of the owners of the item discussed earlier that he was hoping to speak on. He stated he was going to rebut a lot of things that were said before regarding the removal of the 1740 West King Street property; it has actually been an ongoing process for quite some time; and it is a 50-year old business with over 200 automobiles on it.

Chair Pritchett inquired if this is the Item that the Board just tabled.

Mr. Mangum replied affirmatively.

Chair Pritchett advised he may want to come back to the next Zoning meeting as there will be an opportunity to speak to it.

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Mr. Mangum noted his goal was to be able to rent this property as soon as they can because it is sitting there empty and not generating any income, although there are expenses involved, such as property taxes and that sort of thing; but without some sort of clarification of exactly what the Zoning is, and without having this issue resolved, he can show the Board where the Department of Revenue has been notified that the tax exemption number has been cancelled, where the water and electric is on in the property owners names, not the business name, he can show the Board where all of these things are being done to comply with this CUP being removed and the BDP removal.

Chair Pritchett stated if he will get with staff later, they will figure out all of those things for him, but the Board is on the next Item right now, and she does not think there is a correlation between the two of them. She stated the Board had to have proof that the items were off of the property, so staff is going to have to make sure that process happened.

Mr. Mangum advised he would like to be notified when that is going to happen; so far he has been left out in the cold on this whole situation; and he should have spoken up earlier. He noted they need to move forward with this as soon as they can; and he inquired if there is a January meeting.

Ms. Sterk replied the first Zoning meeting is February 1, 2018. She clarified by saying he has all of the rights available to him in the IU-1 Zoning, so he is welcome to use a different use on the property and get a new tenant in the interim; the only thing in play is the Code Enforcement action for the wall, which is on hold pending the decision on February 1st; there is no compliance issues; and there should be nothing under the current Zoning that is holding him up from getting a new tenant.

Mr. Mangum asked if they can rent this to whatever business that is lawfully allowed to operate under an IU-1 Zoning.

Ms. Sterk responded affirmatively.

Mr. Mangum inquired if that in any way will interfere in removing the CUP and BDP for a salvage yard, and satisfying the Code violations.

Ms. Sterk advised the only thing is he is currently by his BDP required to have a masonry wall, but the Code Enforcement action is on hold for that; and if that is to be removed once the use is confirmed.

Mr. Mangum pointed out there is no business going on there at all.

Steve Mangum stated they have been left out of the loop and the family members they picked to speak for them had no idea this would be dragged on for this long period of time.

Mr. Julian Mangum stated Steve Mangum is also a majority shareholder of the now defunct company; his sister Sandra Baker, Harvey Baker's wife, is a minority shareholder of the company, and is also a property owner; and Mr. Baker is not a property owner as his name is not on the deed.

Chair Pritchett stated she is hoping staff gets out there and everything is ready. She apologized for not asking those speakers to speak earlier. She stated the Board can get

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back on Items H and I, but she does not have a card from the applicant; and she inquired what to do from here.

Kathy Skidmore Arsenault, Skidmore Trailer Park and Sales, stated they submitted a draft binding development plan for the property that has been reviewed, and they would like to ask the Board to approve it; she understands there is one item that does not meet the County's Ordinances where they said they would put an eight-foot fence, but only a four foot fence is allowed by the Ordinances; and they have adjusted for that.

Jane Panasis, Skidmore Trailer Park and Sales, stated regarding the resident from River Park Boulevard about the photo of the delivery truck; and their tenant Secure Fence has seen the picture and said that was not a delivery truck for the Secure Fence business, it was a residential delivery truck with a fork lift.

Bobby Jacobs, Secure Fence and Rail, stated he and his wife actually took a video of the semi-truck going down; they delivered to the third house on the right, delivering brick pavers; they have plenty of room for their vehicles; the semi that came in before that was their concrete company, they actually did not get the delivery out that night, so they parked; and they were parked there through the night without them knowing about it, and they have since resolved that. He noted they now know not to come in during the night.

Chair Pritchett inquired what the hours are of the business.

Mr. Jacobs replied the office is open 8:00 a.m. to 5:00 p.m.; the yard opens at 6:00 a.m. and runs to approximately 6:00 p.m. during the winter, and during the summer maybe 7:00 p.m.; and that is coming in parking the vehicles, and leaving. He stated as far as hammering all day, all they do is load materials in the yard, then ship them out; everything is built at customers houses; but as far as building stuff there, they do not really build anything there; and they do have a router that cuts holes in vinyl so the application can be put together, but they do not physically build stuff in the yard. He went on to add he has 48 cameras on his shop, he has a three-month loop that records every second of every day, every vehicle has GPS, and he can give the Board a full detail of the last three months of what his company did on a day-to-day basis if it would like those.

Chair Pritchett inquired if Ms. Sterk wants to add anything.

Ms. Sterk stated the language the way it reads now is they are requesting to memorialize a commitment to do an eight-foot fence on the east side of the property; that is in conflict with the Code 25-foot setback from the road; and it needs to be a four-foot fence, and it can be eight-foot beyond that. She noted it could even go up to 12 feet if that is what the applicants were requesting, but the language needs to be tweaked.

Mr. Jacobs inquired 25 foot from the road.

Ms. Sterk replied 25 feet from the property line.

Mr. Jacobs pointed out he would like to have someone come out and address that; he has probably one-half a million dollars' worth of inventory, tools, and equipment in his yard; and having a four-foot fence, anyone can jump the fence and steal his stuff. He stated there has always been a six-foot chain link fence around that whole property.

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Chair Pritchett inquired if this is because of Code.

Ms. Sterk replied affirmatively.

Mr. Jacobs stated he used to live behind where Mr. Flickinger owns, and as far as access and line of sight the fence is well within; and he would actually like to review that. He stated he respects the neighbor's views; they have cleaned up the yard; within means they are trying to make everything look nice; but it is a business, and it is a commercial property. He recommended allowing an eight-foot fence on that side; he stated they have already ordered a new gate and a new gate operator, so when his guys come in they can open the gate and shut it back; and when people drive by he or she does not have to see into the yard. He noted they are willing to do those things, so people feel a little bit better driving through the community, and they do not see stuff in the yard.

Chair Pritchett asked how that can be done; and she stated she is guessing it was not permitted.

Ms. Sterk advised the only mechanism to do that is to request a variance to the fence height, and he may have some luck with that if the adjacent property owner is the same owner; but they need to think about the process, because the BDP has to come back before the Board even if it were to be approved today; and where the variance fits into that process, the timing needs to be thought about. She went on to say she does not know what date certain it could be tabled to, to allow the variance process to be in place, and allow him to bring that request before the Board of Adjustment, but that is a whole other fee and application.

Mr. Jacobs stated there has already been a six-foot chain link fence, there still is on the inside of the wooden fence that was put up to kind of block the view so people do not have to see the materials sitting in the yard.

Chair Pritchett stated it may be a good idea, but the property channels need to be gone through to make it happen. She inquired if Ms. Sterk is recommending the Board table this and gets all of those things in order.

Ms. Sterk replied if that is the intent, staff just needs to be clear on what the language is on the BDP.

Ms. Arsenault stated they could use a BDP to take care of that and he can file the variance later.

Ms. Sterk noted if something is being committed to in the BDP that a variance is being applied; the language in the BDP must be compliant with Code; and then a variance can be requested later to go outside of the Code.

Ms. Arsenault stated she would like to do that so this issue can be cleared up, and it is his issue with the fence.

Chair Pritchett stated the applicant would have to come back and work on that; and she asked if that means his fence is out of compliance.

Ms. Sterk advised it does mean the fence is out of compliance.

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Chair Pritchett inquired if the fence has to come down.

Ms. Sterk pointed out it maybe should not be complicated with that, and to maybe request a tabling to work all of this out.

Mr. Jacobs stated when the original County person came out, he said the side fence was fine, it was well within the parameters of the County, the six-foot fence on that side; and now Ms. Sterk is saying it is not. He added the gentleman was the initial person who came out when the residents were complaining; the fence is not in the right-of-way or easement or anything; and it is inside the property line a good bit as well.

Rebecca Ragain, Planning and Development Assistant Director, stated she is wondering if staff does not address the fence on the side of the property adjacent to the road, to leave it out of the BDP; and then he can address it as a separate action if he wants to come in with a variance. She stated it looks as if he is agreeing to do that, and the neighbor would be in agreement, so they could leave that part out of the BDP.

Chair Pritchett stated it will not complicate things more.

Ms. Sterk asked if what the applicant is saying is they have a fence today that is meeting the commitment of what is being put into the BDP; and she stated it may not be necessary to put that commitment into the BDP if the applicant already has that fence, and staff would not have to scrutinize that so carefully.

Chair Pritchett inquired about the Noise Ordinance on Sunday, as it was a concern of the community; and she asked what time the applicant starts making noise on Sunday.

Tad Calkins, Planning and Development Director, stated he is not sure of the exact time, but it may be Sunday's being 9:00 a.m. to 5:00 p.m., and the other days are sunrise to sunset is what he recalls, but he is not 100 percent sure.

Chair Pritchett commented since the Board is changing the Zoning on this it is imperative that guidelines are set to protect the neighbors. She inquired what would be a comfortable time to put into the BDP.

Mr. Jacobs replied they have worked Sundays mainly through the storms; they usually try not to come in before 8:00 a.m. on Sundays; and the hours could be 8:00 a.m. to 5:00 p.m. He pointed out there is no office staff on Sundays, but usually guys coming in, the gates are opened up, and they head out.

Chair Pritchett stated she would like to have that inserted, and she would be more comfortable with this.

Mr. Jacobs stated he will make sure as far as the routers, they do not get ran before 8:00 a.m.

Chair Pritchett stated she is comfortable with this; and she asked if the fence is being taken out right now and worked on.

Mr. Jacobs noted he would like to get someone out there and go over it.

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Chair Pritchett stated hours will be included for Sundays of no earlier than 8:00 a.m. and no later than 5:00 p.m.

Mr. Jacobs inquired if he comes in at 10:00 p.m. and open the gates to bring in his truck to leave it after hours.

Chair Pritchett stated she is sure he can go in and out of his business.

Mr. Jacobs stated all they do is open the gate, park the truck, and leave.

Commissioner Barfield stated if he understands this right, there is an active Code Enforcement case against this right now; it looks like what is being done is trying to get the Zoning changed so the applicant will not be in non-compliance and will not be in Code Enforcement. He stated he kind of has a problem with that; if it is already in Code Enforcement, and the applicant is purposely using the wrong reason, and now he wants to change it to minimize it, he thinks it needs to be brought out.

Ms. Arsenault stated they have two parcels; one was Zoned Residential; it was an oddity that sliver of land from U.S. 1 would be residential; and the other was Zoned Commercial but it was BU-1.

Ms. Sterk stated something that was just brought to her attention is she is the property owner of one of the pieces of property; the person who was authorized, and this BDP would apply to both of the property owners, the person authorized to act on behalf of that other property owner, she is not sure if she is here today; and she does not know if they have a confirmation the other property owner is making a commitment to the same criteria.

Mr. Jacobs stated yes, that is Mark Flickinger, he is here on behalf of Mark; they are in Maryland.

Ms. Sterk pointed out that is not what they have in their file; and they have a form authorizing Jane Panasis.

Ms. Panasis stated she is here.

Ms. Sterk stated as long as she is present and she can agree that Mark Flickinger is in agreement with conditions spoken to today.

Eden Bentley, Deputy County Attorney, advised the Board that Mr. Flickinger will need to sign the BDP.

Commissioner Isnardi asked how long the applicant has been operating this business.

Mr. Jacobs replied they got their license May 2013.

Commissioner Isnardi stated she knew it was a few years; she just wanted it on the record. She stated she would encourage the Board if it approves it, to find a way to approve it; taking the fence out of the BDP is the most logical thing to do; and she appreciates that. She inquired how long the applicant has been trying to go through this process.

Mr. Jacobs responded six months.

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Ms. Arsenault stated since July 2017.

Ms. Bentley stated there is a reference to peak hours in the agreement for truck loading and unloading, and that is when the gates can be opened; she thinks 'peak hours' need to be defined; it can be a range of hours, it does not just have to be 8:00 to 9:00; and she does not know if the Board wants the hours to be 8:00 to 5:00 because that can be an interpretation.

Chair Pritchett asked if that is just for Sunday.

Ms. Bentley replied no that is during the week, as it says, 'maintain gates in a closed position except during peak hours, which is Paragraph 3; and she does not want any difficulties with what are considered peak hours.

Mr. Jacobs stated usually his guys start coming in at 6:00; at the latest 9:00, they are loaded and out; and he would stay 10:00 just to be safe. He added they have already hired gate operators to close the side gates on the other side, so those will be closed after the trucks come in, and the employees will leave out, because the guys actually leave out of the west side of the property with access to U.S. 1 so they are not coming out on River Park.

Ms. Bentley asked if his hours in the morning are from 6:00 to 10:00.

Mr. Jacobs advised 6:00 to 10:00, and about 3:00 to 6:00 for the most part.

Ms. Bentley inquired if that definition is in the agreement.

Chair Pritchett stated that needs to be defined.

Ms. Sterk noted to be enforceable, yes.

Mr. Jacobs asked if he has a truck coming in, the gates opened and his guys is at lunch, and the gate does not get shut back, he would like clarification. He stated he has a disabled veteran who works for him part-time for a few hours a week who does a little bit of loading to cover the lunch hours.

Chair Pritchett stated she thinks what it is saying is Mr. Jacobs is going to keep it maintained in the closed position, and it is reasonable to open the gate to let a truck in and out, she does not think it is binding him on that part of it. She stated she is more comfortable with it; the fence should be taken care of; the operating hours on Sunday's are important; and she thinks the applicant is fine with that. She pointed out the applicant has done a good job maintaining a good business there, and he has made that area very attractive; and she stated she appreciates that.

There being no further comments or objections, the Board adopted Ordinance No. 17-27, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Eleventh Small Scale Plan Amendment of 2017, 17S.07, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(e), entitled the Future land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

December 7, 2017

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER: Curt Smith, Commissioner District 4
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.I., CHANGE OF ZONING CLASSIFICATION, RE: BU-1, BU-2, AND RU-1-11 TO ALL BU-2 - MARK J. FLICKINGER, AND SKIDMORE TRAILER PARK AND SALES, INC. THE PROPERTY IS 0.71 ACRE, AND LOCATED ON THE SOUTHWEST CORNER OF RIVER PARK BLVD., AND U.S. HWY 1., 7635 U.S. HWY 1, TITUSVILLE. (17PZ00096)

Chair Pritchett called for a public hearing to consider a change of Zoning Classification from BU-1, BU-2, and RU-1-11 to all BU-2 for 0.71 acre of property located on the southwest corner of River Park Boulevard and U.S. Highway 1, as petitioned by Mark J. Flickinger.

There being no further comments, the Board approved the change of Zoning Classification from BU-1, BU-2, and RU-1-11 to all BU-2, for 0.71 acre, located on the southwest corner of River Park Boulevard and U.S. Highway 1; and approved with removing the fence from the Binding Development Plan, including Sunday operating hours from 8:00 a.m. to 5:00 p.m., and loading and unloading peak hours defined at 6:00 a.m. to 10:00 a.m. and 3:00 p.m. to 6:00 p.m.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER: Curt Smith, Commissioner District 4
AYES: Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM VIII.D., BOARD REPORTS, RE: JOHN TOBIA, DISTRICT 3 COMMISSIONER

Commissioner Tobia stated he recently came into possession of a letter from the Brevard County Farm Bureau, as well as the Brevard County Cattlemen's Association, signed by Mr. Tom Schuler and Doug Platt; it was addressed to Commissioner Smith; and he wants to make sure everyone else has a copy of the letter. He pointed out the rest of the Board will be receiving a copy of the letter from his office.

Upon consensus of the Board, the meeting adjourned at 5:54 p.m.

ATTEST:



Scott Ellis
SCOTT ELLIS, CLERK



RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA
As approved by Board January 23, 2018