

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 October 4, 2018 at 5:03 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**CALL TO ORDER**

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Rita Pritchett	Chair	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Remote	
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.

**MOMENT OF SILENCE**

Chair Pritchett called for a moment of silence.

**PLEDGE OF ALLEGIANCE**

Commissioner Barfield led the assembly in the Pledge of Allegiance.

## **CONSENT AGENDA**

Commissioner Barfield requested Item F.1., legislative intent and permission to advertise for Code revisions to hotel and motel maximum density in BU-1, BU-2, TU-1, and TU-2 and PBP, be pulled for discussion.

### **ITEM F.1., LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: CODE REVISIONS TO HOTEL AND MOTEL MAXIMUM DENSITY IN BU-1, BU-2, TU-1, TU-2, AND PBP ZONING CLASSIFICATIONS**

Commissioner Barfield stated in Section 62-1511 with all the strike-outs, he would like to leave in the Merritt Island Redevelopment area with 30 units per acre; the reason for this is Merritt Island is a little bit different because it has a tremendous amount of CC Zoning; and he would accept it with that one correction.

Commissioner Tobia stated while he sees the rationale for this, he thinks it defeats the purpose; the idea was for this to be a specific carve out in the District in which he represents; this was worked through that it would probably be best to go County-wide instead of carving out one specific area; and this would be doing that very thing. He continued, while he understands that North Merritt Island is unique, so are some of the areas in his own District as well as the other three Districts; they are all unique Districts, he believes uniformity would be best the best approach; and he cannot support something that does the very thing the Board has set to eliminate.

Chair Pritchett stated if that were to stay in there, Erin Sterk, Interim Planning and Zoning Manager, had said there were other things that stopped the situation of very dense hotels from going in bad area, and she asked Ms. Sterk to speak about what Commissioner Barfield wants left in and what the significance would be.

Erin Sterk, Interim Planning and Zoning Manager, stated there are other criteria in the Land Development Code like height limitations, parking, and stormwater are big elements of Site Development that further constrain the maximum density that can fit on a piece of property; therefore, there may be other restrictions that limit the development potential similar to the way 30 units per acre used to. She mentioned it could very well retain a criterion that is specific to an area if the Board were to support that.

Chair Pritchett inquired if Commissioner Barfield thought there was an area there that he felt this would cause harm to.

Commissioner Barfield stated specifically Courtenay Parkway; it has expanded out there and they are small areas; if it were to be increased for density, there could be a hotel going in right next to a gas station, with a highly dense place on Courtenay, especially in a redevelopment district like that because it has been used, it has been being redeveloped, and they had put a lot in with the parts store and everything the Board had to go through for that because the area was not big enough, yet it could have been a hotel there; he thinks the impact would be tremendous on the traffic, and everything else along there; he understands there would be studies done; therefore, he thinks the Board should not put that in place in this area.

Ms. Sterk stated Merritt Island is very unique in a way in that it has the largest conglomeration of community commercial land use in the County; it used to have much more than it has now; the future land use has kind of been pulled back from that; but it is still a destination for other commercial shopping; there is much more community commercial land use there than anywhere else; and she mentioned the effect would be greater.

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Tad Calkins, Planning and Development Director, inquired if the intent of Commissioner Barfield's motion is to limit Merritt Island to 30-units per acre in the redevelopment area with the TU-1 Zoning or regardless of the Zoning because hotels are allowed in other zoning districts.

Commissioner Barfield replied in the TU Zoning.

Mr. Calkins stated it may not be that particular piece for that site, so staff may have to look to make sure it is in the right place in the CUP.

Commissioner Smith stated he will second that.

Commissioner Isnardi stated her concern would be if that is District-wide then even permit-able areas would be exempt from this County-wide ordinance; and she inquired if that is what Mr. Calkins just asked for clarification, that it would include the entire Merritt Island District.

Mr. Calkins responded he believes the motion is to any zoning within the Merritt Island Redevelopment Agency (MIRA) that would allow a hotel would be limited to 30-unit per acre density.

Commissioner Isnardi explained she thinks Commissioner Tobia was spot on because her concern is the Board tried to create a County-wide ordinance; carving out a specific area that is prone to flooding and that sort of thing would be hammered out in the planning process anyway; she thinks the Board has to be careful in favoring areas because she could probably think of some areas in her District that would be questionable as well; and she thinks it is either all, or it ends up piece mailing, which is a nightmare in itself when trying to create rules in specific areas. She continued she likes the ordinance the way it is written and that is why the Board went through the process and made it fair across the board; this has probably gone on longer that it has needed to, but she believes the Board did its due diligence on this Item; and she thinks it should be County-wide.

Commissioner Barfield reiterated what Ms. Sterk had stated, this is an area that is very unique, the County is 72 miles long and there are so many different nuances in the County; this is a small area and it is the redevelopment area and the reason is it is compressed and it will be impacted; if there was another way to do then he would be okay with it, but when it is specifically taking all of this out, he does not know; and if there are other unique areas then he believes they should be addressed too. He noted this could be a serious impact.

Chair Pritchett stated she likes this being County-wide; she thinks MIRA could be vulnerable with this; she is okay with pulling this one out and still keeping it County-wide, if it is just the redevelopment area, even though she thinks there are probably a lot of protections in the Ordinances and Codes for the communities.

Commissioner Tobia inquired if MIRA ceases to exist how that would impact the ordinance.

Eden Bentley, County Attorney, stated the area can be described in an ordinance so that the area of the MIRA District is defined in the ordinance, therefore, the provision would continue to apply.

The Board approved legislative intent, and granted permission to advertise revisions to Chapter 62, Zoning Regulations to provide for no maximum density restrictions in zoning classifications where hotels and motels are allowed, in the Community Commercial (CC) Future Land Use designation, with the exception of Merritt Island Redevelopment Area (MIRA): 30 units per acre.

<b>RESULT:</b>	<b>ADOPTED [3 TO 2]</b>
<b>MOVER:</b>	Jim Barfield, Commissioner District 2
<b>SECONDER:</b>	Curt Smith, Commissioner District 4
<b>AYES:</b>	Rita Pritchett, Jim Barfield, Curt Smith
<b>NAYS:</b>	John Tobia, Kristine Isnardi

**ITEM F.2., SUPERVISOR OF ELECTIONS, RE: FUNDING REQUISITION**

The Board approved the requisition of 40 percent of the Fiscal Year 2019 budgeted funds at the first Board of County Commissioners' meeting in October for costs associated with the General Election, and 5.45 percent of the total budget on the first of each month thereafter.

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

**ITEM H.2., PUBLIC HEARING, RE: HAPPY LANDINGS HOMES, INC. (KEVIN LEE) REQUESTS AN AMENDMENT TO AN EXISTING BINDING DEVELOPMENT PLAN, IN AN IN(H) ZONING CLASSIFICATION (18PZ00088)**

Chair Pritchett called for public hearing on Happy Landings Homes, Inc., to amend an existing BDP in an IN(H) Zoning classification.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by Happy Landings Home Incorporated, represented by Kevin Lee, requesting an amendment to an existing Binding Development Plan (BDP) in an IN(H) Zoning classification; this Item is being tabled and hopefully it can be heard at the November 1, Board of County Commissioners' Meeting; and because they did not properly notice the meeting, the Planning and Zoning Board was not able to hear the Item. She advised this would be going back to them once there is documentation that they have followed procedure.

There being no further comments or objections, the Board continued the request for an amendment to the existing BDP in an IN(H) by Landings Homes, Inc., to November 1, 2018, Zoning meeting.

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

**ITEM H.3., PUBLIC HEARING, RE: W.K.&R. GROVES, INC. (CHAD GENONI) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM AU TO RR-1 (17PZ00158)**

Chair Pritchett called for public hearing on request for a change in Zoning classification from AU to RR-1 by W. K. & R. Groves, Inc.

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Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by W. R. & K. Groves, represented by Chad Genoni, requesting a change in Zoning classification from AU to RR-1; the Item has been amended by the applicant; and for those reasons, staff has revised the comments and is asking that it go back through the public hearing process, all the way back through the Advisory Boards. She advised staff is seeking Board direction to table this to the November 1, 2018, Zoning Meeting.

There being no further comments or objections, the Board continued the request by W. K. & R. Groves, Inc., for a change in Zoning classification from AU to RR-1 to November 1, 2018, Zoning Meeting.

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

**ITEM H.1., PUBLIC HERING, RE: AHUON, INC. REQUESTS AN EXPANSION OF AN EXISTING CUP FOR ALCOHOLIC BEVERAGES (FULL LIQUOR) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT, TO EXPAND EXISTING RESTAURANT, IN A BU-1 ZONING CLASSIFICATION (18PZ00082)**

Chair Pritchett called for public hearing on request by Ahoun, Inc., for an expansion of an existing CUP for alcoholic beverages (full liquor) for on-premises consumption in conjunction with a restaurant, to expand existing restaurant, in a BU-1 Zoning classification on 0.10 acre, located on the west side of Highway A1A, approximately 600 feet south of Berkeley Street, at 568 and 570 Highway A1A, Satellite Beach.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by Ahoun, Inc., requesting an expansion of an existing CUP for alcoholic beverages, seeking full liquor for on-premises consumption in conjunction with a restaurant expanding and existing restaurant in a BU-1 Zoning classification; and for an existing restaurant called Mickey's Rainbow Restaurant.

Issam Azo stated they are expanding their existing restaurant to build a banquet next door and they want to go from beer and wine to full liquor to provide for needs when there are parties.

There being no further comments or objections, the Board approved the request by Ahoun, Inc., to expand the existing CUP to include full liquor for on-premises consumption in conjunction with a restaurant, to expand existing restaurant, in a BU-1 Zoning classification on 0.10 acre, located on the west side of Highway A1A, approximately 600 feet south of Berkeley Street, at 568 and 570 Highway A1A, Satellite Beach.

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

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**ITEM H.4., PUBLIC HEARING, RE: CHRISTIAN MISSIONARY ALLIANCE S.E. DISTRICT (MATT CASON) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT (18S.05) FROM RES 4 TO CC (18PZ00073)**

Chair Pritchett called for public hearing to for request by Christian Missionary Alliance S. E. District, for a Small Scale Comprehensive Plan amendment to change Future Land Use from Res 4 to CC on 1.68 acres located on the south side of Faye Boulevard, approximately 950 feet east of Grissom Parkway, at 4855 Fay Boulevard, Cocoa.

Erin Sterk, Interim Planning and Zoning Manager, stated Item H.4., is a proposal by Christian Missionary Alliance S.E. District, represented by Matt Cason, requesting a Small Scale Comprehensive Plan Amendment changing the future land use designation from Res 4 to CC; the property is 1.68 acres in size; and is located on the south side of Fay Boulevard in Port St. John. She continued Item H.5., is a companion rezoning on the same property seeking to change the Zoning classification from IN(L) to BU-1.

Seth Lane stated he has a PowerPoint presentation; staff mentioned this is a Land Use and Zoning application going from land use of Res 4 to CC and a zoning or IN(L) to BU-1, location of the property is on Fay Boulevard; the zoning proposal comes with a Binding Development Plan (BDP); the BDP references a 9,300 square foot building, a commercial retail store; the actual square footage of the proposed use is 9,100 square feet and added the 200 square foot buffer in case there is a discrepancy in how the square footage is calculated; they previously submitted a plan to the Port St. John Advisory Committee on August 8, 2018, and received some feedback; and he would like to share with the Board the feedback received and the modifications made to the plan. He went on to say the negative feedback was primarily regarding the full access point on Balfern Street; in their subsequent plan, they eliminated the driveway completely on Balfern Street and have a cross access agreement with the property to the west of which the parent parcel they are buying from, and a primary entrance on Fay Boulevard only, so they have eliminated the access point on Balfern Street; the plan has a six-foot fence on the south side as noted in the BDP, as well as a six-foot masonry wall along the eastern property boundary to shield from the residential; he pointed out on a map, the truck path which shows how deliveries will be made to this commercial retail store; and he noted the truck path is entering and exiting from the Fay Boulevard entrance only and they will not be utilizing the cross access easement to the west access of Stillwater Avenue and because of the redesign of the site they will not be accessing Balfern Street at all. He continued the request for the Land Use is Community Commercial (CC) and as noted in the staff report, the reason they are asking for CC and not Neighborhood Commercial (NC) is due to the fact that the BU-1A Zoning classification prohibits the use of a metal building, while the BU-1 classification does not; the BU-1 Zoning is allowed under the CC while BU-1A is under the Neighborhood Commercial; the reason they are requesting this Land Use and Zoning is specifically due to the fact that they would like to construct a metal building and that is not because of the aesthetic features of the metal building, the uses of this facility requires a clear span and cannot for safety reasons have interior columns in their facility; and meeting those requirements with traditional wood frame construction is very cost prohibitive, so any concern with the materiality of the building is strictly on the function of it and not the aesthetic of how it is presented to the community. He advised he wants to highlight a few conditions of the BDP that has been proposed; the primary ingress and egress is off of Fay Boulevard and not off of Balfern Street, a secondary access point via easement to Stillwater Avenue is on the BDP, but will not be used for truck deliveries; they are installing opaque fencing along the south property boundary and on the south eastern property boundary to shield from the elementary school and residential uses to the east; and they are going to make an effort to preserve as many of the trees within the property along Balfern Street as possible. He advised there is a comment in the Land Use portion of the staff report about traffic; they have gone back and forth with staff and had a traffic engineer analyze this property; the trip generation for the commercial retail store at peak hours is only 50 additional trips from

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which there are now, due to the high level of passerby capture; the current level of service on Fay Boulevard is 10,690 trips; the capacity per the TPO is 17,700, so the 50 peak hour trip addition is nominal; the staff report mentions the maximum allowable trips in the CC Land Use district which is significant given the size of the property, with the BDP they are restricting the maximum trips generation to the 9,300 square foot building that is proposed; the traffic analysis concluded based on the current traffic estimates there is no adverse conditions resulting from the addition of those 50 trips; and it is unlikely the peak hour traffic on Fay Boulevard will have significant demand change to create vehicle conflicts at the proposed driveway, that requires the addition of a right hand turn or a left hand turn lane. He stated the BDP will limit trips and should satisfy the concern over the traffic with the underlying zoning; and staff pointed out of him that the existing zoning of IN(L) if developed to the full density and intensity under the law would be significantly higher than the trip counts that we are proposing under their BDP.

Ann Bard stated she has concern for the children; back in the 1990s there were two children who were killed on Fay Boulevard across the street from the Circle K; they had put a light in there so the children could run back and forth to the gas station to buy their goodies; they had gone across the street and since there was no light they had been hit on the Boulevard when it was two lanes on both sides; she does not want that to happen again; she sees a lot of children passing her house, she lives at the corner of Fay and Stillwater; they try to cross the Street, but the school tells them to go down to the light; and the kids do not listen, they try to go across that street. She continued with another store there that sells, beer, cigarettes, candy, and soda, these kids are going to stop there on their way home from school and they are not going to go two blocks down to the light; she believes they will cross where the church is and that someone is going to get hit; if there was a smaller business there, not something that is an access to all the kids in the neighborhood, a beauty shop, or whatever it would not be the same thing; and that is her main concern. She went on to say she represents the community voluntarily, she has gone to change.org and has over 1,200 households in the community that do not want that Dollar General there, since there is another Dollar store in that community only a couple feet away; and she provided the signatures to the Board. She stated she has an analysis by Cindy Jarvis who is in industrial, she was a property contractor lead for NASA; she went through to determine what dollar stores there are in the area; there is one on Fay, the Family Dollar, and to put in another in that area there will be two; on Highway 1, right around the corner, there is a Publix and another Family Dollar; down the road by Winn Dixie there is another Dollar General, and a couple miles down another Family Dollar; and there is another by Frontenac Flea Market. She went on to provide the analysis of how close they are and why this is a good reason not to add another; and she provided the reports to the Board.

Cliff Bard stated his concern is increased traffic congestion in the area; in the 15 years he has lived there, it has gone up two or three times; obviously before they got there in 2003, it was one lane on each side back in 1989 or the early 1990s; it has turned into a beautiful boulevard but there has been three accidents where people have gone onto his property off of Fay; there has been almost 10 that have been investigated by the State and local police of accidents there at the corner of Fay and Stillwater; and that is because of all the traffic. He continued the traffic is backed up so far, when it is rush hour, morning or evening, what happens is people come down Fay going west and try to make a left-hand turn onto Grissom, and the cars are backed up as far as or beyond Stillwater; this is a scenario talking about trucks, on the Dollar General Website their delivery is usually by 18-wheelers; he cannot believe there are going to be 18-wheeler deliveries at any of the hours, which is 8:00 am to 10:00 pm, coming down Fay Boulevard, not only due to congestion but the safety; and he advised those are some major concerns he has. He explained if someone is looking at having a store like this it is perfect to have on Grissom, south of the City or on Port St. John Boulevard which is wide open with lots of space; and he thinks people should stop trying to change Fay Boulevard into Wickham Road which has a tremendous number of commercial establishments. He noted it is not the Zoning, it is having the wrong type of establishment, retail, high traffic, and them moving in; and even though the

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entrance is into Fay he cannot imagine bringing in a box truck or an 18-wheeler any time between 8:00 am and 10:00 pm., seven days per week. He stated there is a lot of competition out there; the Dollar Tree is a competitor of the Family Dollar, and the Family Dollar is not doing well throughout the country so he does not know why it would do well in Port St. John; they have closed about 232 Family Dollar stores in 2017 most of which are being bought up by Dollar General; but the Dollar Generals he has visited in the area are the most filthy, congested, horrible looking stores he has ever seen; they compare very favorably to the ghetto stores where he has lived like Philadelphia, Washington D.C., Cleveland, and etc.; he does not know why anyone would want that kind of facility in this particular neighborhood; it was a bedroom community 15 years ago, it still mostly is; and one little Family Dollar is not a big deal but two stores right along Fay with the traffic congestion and the safety issues is a major issue.

Carmine Ferraro stated he is the property owner adjacent to the Family Dollar on Fay Boulevard, so they are three parcels from the proposed Dollar General; he is in attendance because he would like the Board's support of this Dollar General; he was part of the process in bringing the Family Dollar to Port St. John, even though there was a lot of opposition, they were voted 5:0 at the Advisory Level to come before the Board of County Commissioners two and a half years ago, the Board agreed unanimously, 5:0, in favor of the Family Dollar because it made good sense; this is Fay Boulevard and there is a commercial area along Fay Boulevard; it is unfortunate that Fay started out as a very quiet residential neighborhood back in the 1970s and then it grew beyond Grissom; and it is going to continue to grow because it is part of the evolution of a community, and there has to be commercial areas, it is part of the necessity of communities. He informed the Board they have a very good relationship with the local Family Dollar developer and they say they love Port St. John; they may not be too crazy about a Dollar General being three parcels down from them, but that is part of economy and business; as a businessman he would love to see the Dollar General there because he believes it would be very competitive to have two of these types of stores competing against each other which would hopefully drive prices down and benefit the community; and he would also like people to consider what would go there, between there is an established shopping center that has been there for many, many years, and a church. He went on to say with a parcel sandwiched between the two parcels that is zoned residential right now, he does not know if anyone would want to build a house there where there would be a view of the back of shopping center where there is petroleum gas tanks that provide service to the restaurants; something has to go there; he was encouraged to support this because he saw a developer who was coming in being very responsible by the way they have designed the site, they pushed the retention towards the back near the residential and the commercial is going to be right up against another commercial building; the church on the other side might have an objection but these are the people who are selling the parcel to the Dollar General developer; and to him it seems this is the responsible thing to look at with the parcels that are in Port St. John and he feels this is good use for this parcel. He added he thinks this has minimal impact to the community and it has benefit to the community that outweighs the impact of a commercial building there. He mentioned he hopes the Board will support this.

Maureen Rupe stated she is on the Planning and Zoning Board of Port St. John and they unanimously denied the request mostly on the traffic, the children, the school, and the proximity to another Dollar Store; something certainly has to go there like Mr. Ferraro said, but it could be a doctor's office or something that is not going to be of concern to the neighbors; and she reminded the Board in 1994, the Port St. John Homeowners Association brought this to the Board that there should be a Local Planning and Zoning like the LPA. She continued that was done because in the HOA they were forever running down the County Commission and fighting for people's peace of mind and everything else because Fay Boulevard was spot zoned by general development; it was only two laned then, to four lanes like it is now; of course it was residential and then people were coming in to put commercial; they had asked the Board at that time if it would allow a Planning Zoning Advisory Board for the County, which it agreed to do;

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and at that time the LPA was not really listening to the people in Port St. John, and that is why the community wanted its own advisory board. She stated the Board can see by the amount of support Ms. Bard has with 1,200 people in the neighborhood signing, they are all concerned about the children; children come out of school and they mess around, everyone with children and grandchildren knows this; and she asked the Board to please deny this request.

Rick Kern stated he wants to speak to the Future Land Use change; it is proposed to be changed from Res 4 to CC; there is no CC Land Use anywhere on Faye Boulevard west of the tracks; this type of Land Use is not compatible to this area; in addition to that the BU-1 Zoning is not compatible either, there is no BU-1 Zoning west of the tracks on Fay Boulevard; and he noted Faye Boulevard is still primarily a residential street with 80 to 90 percent of the parcels are still single-family homes. He went on to say the Board would be setting the precedent necessary to allow CC Future Land Use and to allow BU-1 Zoning; those types of Future Land Use and Zoning are appropriate for places like U.S. 1 or Grissom Parkway, they are not appropriate for Fay Boulevard; and he asked the Board to consider that. He added they can develop this property with this type of building on BU-1A Zoning and NC, which is the type of Land Use and Zoning that is appropriate if the Board wanted to grant that; and he advised the BDP by itself is not an adequate defense.

Chair Pritchett inquired what the Zoning is on this property right now.

Ms. Sterk advised the Zoning today is Institutional because it is part of the greater parent parcel which is the church.

Chair Pritchett asked if the parcel on the other side of this is already BU-1A.

Ms. Sterk replied affirmatively.

Commissioner Barfield asked what could there with the IN(L).

Ms. Sterk responded she will pull up the Code and read the Uses.

Eden Bentley, County Attorney, advised the Board will need to motion on each of the Items, the Future Land Use and the rezoning.

Ms. Sterk stated it includes Assisted Living Facility, Group Homes, a Hospital, and Independent Living Facility, a Medical Clinic, a Nursing Home, Treatment and Recovery Facility, education, Dormitories, College, School, Religious Facility, Athletic Complexes, Cultural Facilities, Cemeteries, Fraternal Organizations, and Community Centers; she noted even though it is IN(L) there are some kind of high intense uses that are allowed; and she added a place of worship.

Commissioner Isnardi stated it is currently zoned for just as high or even higher type of business or industry so as much as people would like to tell others what they can bring in and develop, the Board cannot tell the developer to put a hair salon or a doctor's office there; she has worked in some doctor's offices with multiple practitioners who have generated an equal amount of traffic because of the number of patients that come in and out; and she does not think Family Dollar stores are ghetto and she thinks that is unfair to the business and the community where they go. She added often times businesses become a reflection of the community and she does not believe this community is that way; she is not opposed to this; if she could find things wrong with it then she would definitely be questioning it, but the traffic supports it. She mentioned no one wants development in their back yard and that is what the Board has to deal with; what she heard was a lot of people's opinions on what could happen, and while no one can control the actions of children, the parents need to be responsible for them, and things do happen even with responsible parents, so unless she hears something different from the Commissioner

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where this resides, she will be in support of it; and she feels they have done what they can through the BDP. She added she thinks they are being responsible developers by doing the wall and trying to handle the ingoing and outgoing traffic by keeping it on Fay.

Chair Pritchett stated the road exiting out of this was on the same road as the school so she would not have been able to vote it through at that time; there were changes made and both exits are out near Fay Boulevard; there probably needs to be an area study because Fay Boulevard is almost like a U.S. 1; it has significant traffic and businesses; her guess is after a while it is going to be like Garden Street in the north end where it is almost an all business road; and she wished the Board had the power to pick businesses that came because she would have a Chik-fil-A or a Panera Bread, but this Board does not have that ability. She noted people should not want government choosing what businesses can open and not open; her only struggle is maybe the traffic with the children; her question is the hours of operation and when the schools have the children coming and going; and she inquired if there was going to be a conflict with school hours and the business' hours.

Mr. Ferraro stated he is not sure of the hours of the school; a typical store is operational from 8:00 am to 10:00 pm; it does vary based on community; to address a comment from the public, the tractor trailer deliveries are approximately once a week and they are done after hours so they are not done during the 8:00 am to 10:00 pm hours; however, there are other deliveries that are not of the 18-wheeler variety like the local bread truck, or local Coco-Cola truck.

Chair Pritchett inquired if the main entrance into the facility will be off of Fay Boulevard.

Mr. Ferraro replied affirmatively.

Commissioner Isnardi asked how many 18-wheeler once a week deliveries there will be.

Mr. Ferraro responded typically just one.

Commissioner Barfield stated when looking at moving this to BU-1 it is immediately adjacent to BU-1-A and adjacent to that is BU-1-A, so what the Board needs to look at is if it is compatible; strictly from a Zoning standpoint and the rules the Board is given, it is compatible; he knows the way a lot of Port St. John was originally laid out and how it is now; Chair Pritchett stated there needs to be a study; and he suggested if there is not one currently, that a small area study be done, because he feels that would be appropriate for the area. He advised there is one being done in Merritt Island and he feels it really pays off to get the community involved, where everything is being looked at, and the community does the small area study, not the Board or staff; it brings a lot out; and he thinks that needs to happen. He continued he cannot say that he has a reason, by law, to say no to this.

There being no further comments or objections, the Board adopted Ordinance No. 18-21, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth Small Scale Plan amendment of 2018,18S.05, 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 Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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

**ITEM H.5., PUBLIC HEARING, RE: CHRISTIAN MISSIONARY ALLIANCE S.E. DISTRICT (MATT CASON) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM IN(L) TO BU-1 (18PZ00074)**

Chair Pritchett called for public hearing on a request by Christian Missionary Alliance S.E. District for a change of Zoning classification from IN(L) to BU-1.

There being no comments or objections, the Board approved the request by Christian Missionary Alliance S. E. District, to change the Zoning classification from IN(L) to BU-1.

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

Chair Pritchett requested an Area study for Port St. John with the Board's support.

Ms. Sterk stated there are many Land Use designations that are not consistent with the Zoning classifications so there could be a good clean up to come out of that; and she requested Board action on that.

Commissioner Tobia asked for direction from staff on how long the study takes and the number of staff hours that go into it because he is not familiar with what goes into that.

Ms. Sterk responded a Small Area Study specifically is aimed at looking at density and development, as the planning goal behind it; they look at everything there is to study so specific portions of the County have different elements that need to be examined; in Mims, they are looking at limiting development and maintaining a rural atmosphere; in North Merritt Island it was more focused on stormwater and drainage because those are the factors at play there; and in PSJ some of the things that have risen to her attention are multimodal connectivity and access, there is a lot of request for sidewalks because it was developed before certain portions of the County Code existed, and inconsistent zoning classifications with the Future Land Use due to being developed before the Comprehensive Plan even existed; some of those things can be cleaned up depending on the level of detail; and she noted she does not know all the specifics of the drainage components of PSJ, but depending on the complexity of the scope of the citizens committee that is appointed by the Board, and what they choose to want to evaluate, that would affect the outcome. She advised the County does have a full comprehensive planning staff that should be able to move this forward.

Commissioner Tobia asked for a timeline of how long and the amount of staff time that would go into a project similar to this one.

Tad Calkins, Planning and Development Director, stated he does not know if there is a good mechanism to estimate, staff can come back with that; they do have one that they have currently taken on in Merritt Island, but that one is larger than this one would be looking at; and

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he asked if staff would be looking at PSJ as development or PSJ as a Special District, what is the boundary the Board would be considering for this study. He advised staff can bring back those numbers because of the one they are currently doing and that will be brought back to the November 1, 2018, meeting for the Board consideration; it does take some time; and they have been working on that one for about a year and half.

Commissioner Tobia stated he is going to be voting against this; he thinks with the lack of ability by staff to say how many hours would go into this and the potential cost, it would be remiss of the Board to say go forth with a study without knowing what this could potentially cost taxpayers; and he noted it is not that he is belittling the concerns of the District, it is more of a concern for the taxpayer's dollars.

Commissioner Barfield stated he is sure there are regulations that go into a Small Area Study; and he asked for staff to explain those regulations and why the County has Small Area Studies.

Ms. Sterk explained they do not necessarily have Code that defines what a Small Area Study is; they take direction of the Board to tell them what to evaluate; the Citizen Committee could make recommendations only on those specific portions of things that could be assessed; if connectivity and Land Use were the focus then that is what staff could limit the study to; and that could drastically reduce some of the other parts of the evaluation that would involve other Departments, other Agencies, and a lot of staff time. She noted there are mechanisms to limit the scope because the focus of the study is not already defined by Code; just the process that staff is to follow is defined.

Mr. Calkins explained he believes the study really helps enable staff to make better decisions when it comes to implementing regulations, Land Use, and Comprehensive Plan Policies; it is really a planning tool staff utilizes when looking at those elements of the Comprehensive Plan, and other physical characteristics of the area, and they are looked at with very in depth analysis of how that affects the development patterns; and it gives staff a better tool for recommendations.

Commissioner Isnardi stated by doing a Small Scale Area Study, aside from the current Zoning versus Future Land Use, it would ultimately save staff time, money, and resources in the future when looking at the small areas, current storm water, and all those other things.

Mr. Calkins responded he believes there is a benefit for the community in doing those and a benefit for staff because it gives them a better idea, and a more up-to-date, real time analysis; Ms. Sterk has done a lot of work in the Small Area Study that she will be bringing forward; and with the data being current, it show what was accomplished in the last year.

Commissioner Isnardi to take the proactive approach, it makes sure the current Land Use is consistent with the Future Land Use and it saves time for staff to get things on the Agenda and get everyone to the Board Meetings; and to her it makes fiscal sense to do this.

Ms. Sterk stated it also has a benefit to the private sector because when staff cleans up some of those inconsistencies between Land Use and Zoning it reduces the burden on the public to have to come before the Board on an individual basis to be able to develop their sites; therefore, administratively this could affect those things and make some higher level changes that could reduce cost for the public while also saving staff time in bringing those forward individually.

Chair Pritchett stated she thinks it is very necessary; she is over there quite often and she thinks it is one of the fastest growing areas of the County; they are starting to put in a lot more affordable housing; it is really starting to grow with a lot of families moving in; it is

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unincorporated, so it is all Brevard County tax base; and she believes this really needs to be done to provide protections to these families.

There being no further comments or objections, the Board directed staff to do a Small Area Study of Port St. John.

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Kristine Isnardi, Vice Chair/Commissioner District 5
<b>SECONDER:</b>	Jim Barfield, Commissioner District 2
<b>AYES:</b>	Rita Pritchett, Jim Barfield, Curt Smith, Kristine Isnardi
<b>NAYS:</b>	John Tobia

**ITEM H.6., PUBLIC HEARING, RE: ANTHONY LOPES AND EUGENE R. LOMANDO (SCOTT KNOX) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN (18S.06) AMENDMENT FROM RES 2 AND NC TO CC (18PZ00076)**

Chair Pritchett called for public hearing on a request by Anthony Lopes and Eugene Lomando for a Small Scale Comprehensive Plan amendment from Res 2 and NC to CC on 1.22 acres, located on the West side of U.S. Highway 1, approximately 655 feet south of Garrets Road, at 8480 and 8490 U.S. 1, Micco.

Erin Sterk, Interim Planning and Zoning Manager, stated Items H.6 and H.7 are companion applications; Item H.6., is a proposal by Antony Lopes and Eugene Lomando, represented by Scott Knox, requesting a Small Scale Comprehensive Plan amendment from Res 2 and NC to CC; that property is 1.22 acres in size on the west side of U.S. 1 just south of Garretts Road; the companion rezoning application is a requesting a change of Zoning classification from BU-1 and TR-3 to all BU-1.

Scott Knox, attorney for the applicants, provided a handout that he will be talking about. He stated there is a request for an official notice which really asks for the Board to take notice of the fact that it received the ordinances; those ordinances are referred to in the staff recommendation as well; and he has also attached a sworn statement from Mr. Lopes which reiterates what he said at the meeting for the ordinance change. He went on to say the first page of the exhibits that he provided is an aerial photo; the property is outlined in yellow and is 1.96 acres; the property to the south is a commercial strip center; this property is vacant, a very significant piece of property, and it lines up nearly three-fifths of the way back at almost 200 feet back from the right-of-way on U.S. 1; this is U.S. 1 and this property has two driveways on U.S. 1, which is unusual but very appropriate in this particular case; and on the east side across from U.S. 1 is the very large marina. He added to the north is another vacant piece of property that is a commercially designated property on the Land Use Plan, as is this area down here. He continued to the west is the Homeowners Association common area with a tennis court and a pool; and this is the Summit Cove Condominium Complex; notice the setback is approximately 200-plus feet from U.S. 1 before hitting any residences. He stated the problem is his clients own two one-acre parcels which he is combining in this zoning application to form to two parcels; they have owned the property for over 38 years and have been involved with the property for over 35 years, basically sat on it and watched it grow; there is an existing restaurant on this side here at approximately 1,944 square feet, and there is a duplex which has been there for many, many years; and what they are looking to do is change the zoning. He mentioned this property of two acres is divided into three Zoning classifications and three separate Land Use designations; the TR-3 Zoning applies to the center part, there is Residential Zoning in the back part, and there is BU-1 in the front; there is CC Land Use in the front, NC in the middle, and Res

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2 in the rear, therefore, the property is a mismatch of Zoning and Land Use; what they want to do is consolidate both properties and create a piece of property that is CC in its totality 1.96 acres with a BU-1 Zoning; and that is what they are seeking today. He continued it is their belief that the applicable Comprehensive Plan Policy, which is determinative in this case is the one dealing with strict Commercial Development, Policy 2.15 is referred to in the staff report; what they are looking to do is in-fill; Section 2.15, although it discourages a strict commercial Land Use, does allow in-fill, and that is what is being sought; the property they have is very similar to what is shown in the exhibit in the Zoning Regulations giving an example of the in-fill and what it looks like when there is Commercial on one side and Commercial on the other side and filling in the piece in between, is what the County Ordinance considers to be in-fill as opposed to an extension which means the Zoning classification for Commercial has been extended out away from the existing Business Zoning; and he showed an example of the in-fill with the clients property. He explained the existing Land Use is a huge strip that goes from almost a mile south to more than a half mile north, so it is more than a mile and a half of commercial property designated on both sides of U.S. 1 with a few exceptions in between; and they are trying to follow the example by filling in between to existing commercial properties that surrounds this piece of property, also to get rid of the three different Zoning classifications, and the three different Land Use designations. He reiterated these property owners have owned this property for a very long time; they have had the experience of dealing with the fellow across the street who owns the marina, they talk to him quite a bit; in talking with him they have discovered there is a large growing market for Commercial Use in this area, primarily for a hotel; there are no hotels in this area that have any kind of banner or flag flying on them; there are some mom and pop hotels some of which are old and not in great shape; and there is basically nothing between this property and Sebastian that can serve the area; as the Board knows St. John's River Parkway is scheduled to connect into Micco Road so when that happens the whole transportation system is going to change and U.S. 1 will get a lot more traffic going by this area; and the marina across the street draws people from Orlando and as far south as South Florida because people from South Florida are looking to get away from South Florida so they come north to spend some time away from the hectic world down there and the same goes for Orlando; and he believes Mr. Hillman is supposed to be in attendance today, but if he is not he did testify on the ordinance and verified that. He pointed out, although there is no water from the County being provided to this property, there is water on site; it has been certified by the State Health Department and is being served in the restaurant that is there now; and he thinks Mr. Lomando can confirm that.

Eugene Lomando stated he and his partner were kids when they bought the property; they do have a public water system, certified for 20 years; and it is checked every single day for chemicals because of the restaurant.

Mr. Knox stated the area in the back is heavily buffered with vegetation right now as it exists; looking at the pictures that were taken of the road leading into Summit Cove there is a lot of vegetation; their talking about either a restaurant or a hotel on the site; if it is a hotel they are talking about, the development is going to have to be compatible with the residences, so they will probably have to do something with the front, similar to what is seen when driving by Lake Andrews Drive with the hotel, as it has been placed near the front of Lake Andrews Drive; it can be located sideways to keep it away from anything else and reduce the lighting impact that it would otherwise have; the parking could be in the back of the property so it can be buffered from all the residences; and that is what they are looking to do because they do not want to impact anybody. He noted they do want to be able to use their property, but right now they cannot use it the way it is; and unlike residences or residential property that has homestead exemptions and diminish the revenue the County receives, this is something that will generate a lot of income versus what is being made off the property now; right now they are paying roughly \$4,000 per year in taxes; and he expects that to go up to about \$300,000 if they get the hotel

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they looking at. He added they have talked to the hoteliers who are interested in seeing this kind of use on the property.

Gail Daberko stated she is the president of the association and she is in attendance on behalf of the residents; she pointed out there are some errors in the presentation, in the block box of the open field Mr. Knox talked about, it is Summit Cove's field and some of their green space, so it is not just an empty field that is not maintained; there are no tennis courts so she is not sure where that came from; this is a very small community of 84 condominiums there and even though this is not a 55+ community, over 90 percent of the residents are over 55; and he is accurate in saying they have their own water, but they do not have accessibility to wastewater, sewer, or septic. She noted they have one but it will not expand what they have; she understands the Save Our Indian River Lagoon is coming down with sewers through this area; and when their development was made, the residents were billed with the intention that they could hook up to sewers, they have their own wastewater treatment plant in the back; and the residents are not even being considered for this because the capacity is so low. She mentioned this was built so that eventually the residents would hook up to sewer. She went on to say this community was never approached by the County about this; they have approached the County once they heard the SOIRLPP was planning to put the septic down all through U.S. 1 and were told there was no capacity and that with any existing properties there is no capacity for them to expand, which leaves no facilities for that; they have approached Summit Cove and would like to hook onto its wastewater treatment plant and for that very reason the residents are solely opposed to this and the stress that it would put on Summit Cove's facilities; and the residents are also very concerned about the traffic. She pointed out, on the map there shows a median so people already have to make U-turns to even come and go out of the property; they are concerned about the impact this will have in their residential area; Mr. Knox talked about this heavily buffered area, there are some plantings, however, it is not heavily buffered; along that yellow line on the south side is Summit Cove's private driveway into the community, it is set back so it would not be on U.S. 1; and going to the back there is nothing there. She went on to say the residents are concerned about the noise level and what it is going to do to them, they are in bed by 8:00 pm; the cute little restaurant that many of the residents support, if there are 10 vehicles there at one time, that is a lot; this talk about putting a motel or a resort in and the difference it would make to the area with the traffic is very concerning; and she noted less than five miles down the road there is the Best Western and Captain Hiram's, so Mr. Knox is portraying there is no motels around, but there are, they just are not in Brevard County. She stated the meeting has been posted for three different dates; some of the residents have tried to come to some of the other ones; they did take up a petition which she was under the impression it was mailed to the Board; and she reiterated they are all very concerned about the project.

Mr. Lomando stated they are concerned also; these are lovely neighbors and all their concerns will be addressed once the plans start going through with the buffers, walls, and so forth; as for the sewers, it is a wonderful thing that is happening to South Brevard County; it is finally seeing life with the sewers coming in and getting the septs off the Lagoon; they were the first ones to sign up; and they are not only looking for development but also satisfying the environment. He mentioned there are 88,000 septic systems from the Sebastian River up to the top of Brevard County; they are trying to do their little part; it is going to be wonderful when all those houses and the marina are off it; the reason why the condominium cannot hook up right now is because it does not have the capacity to have more sewer on it that already has their own system; fortunately they have a certified system which is very nice; when Barefoot Bay does expand the new water system and gets more capacity, then everybody is going to be tied up on to the system; and as for Sebastian, think about Brevard County and keeping the money here. He went on to say they want to be good neighbors; he has been there since before the place was developed; they are going to be good neighbors; and they will be responding to Planning and Zoning when it is there.

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Commissioner Tobia stated while a comprehensive plan is not required at this point, there is very little information other than what they just received of what this project will look like; while normally this would not raise any red flags, clearly a lot of the neighbors have some concerns; Mr. Lomando has stated he is interested in dealing with these concerns; and he feels if there was a little more information maybe they could all find a middle ground; and he inquired with the property being less than two acres, how they plan to fit 100 rooms on that piece of property. He mentioned even though density would pass they are still under height restrictions, and he asked how that 100 rooms would look on that piece of property.

Mr. Knox advised it would look a lot like the one across the street.

Commissioner Tobia inquired how many parking spaces there would be on that piece of property.

Mr. Knox stated that would all depend on the square footage and how many rooms, which cannot be determined right now without going through the site plan process, which is what they would have to do; and that also depends on getting sewer in the area, so this project may not happen for a while.

Commissioner Tobia stated he understands that but his concern and the residents' concerns are they will not have the opportunity to see that again, this is their one opportunity; his office contacted Mr. Knox's office who has received very little opposition, just noise; however the neighbors clearly have shown up in opposition. He thinks the applicants would not need to do this, but in good faith he believes putting forth what that project would look like would certainly clear up a lot of concerns; and he asked where a stormwater reservoir would be placed on that property.

Mr. Knox stated there are two acres with a lot of vacant property near the rear and he would suspect that is where it would go; and he advised he is not the engineer so he is not sure. He mentioned it would serve as part of the buffer they are looking at.

Commissioner Tobia asked how much of that would be stormwater retention. He stated he is looking at what would be the footprint of the units; he understands the size of the hotel rooms was lowered, but he is trying to figure out how they will fit, assuming 100 percent occupancy, one car per room plus 20 percent of occupancy is staff, so there is a minimum of 120 parking spaces, plus the stormwater retention, plus the rooms, and assuming there will be ancillary facilities.

Mr. Lomando stated they do not know right now, but all those will be answered when the plans are submitted to Planning and Develop, because it is all black and white; they may only have room for 70 parking spaces, but they will not know until they get the zoning and can put it in; when they come to the Board and the Zoning with a plan, the plan will have everything in it; they cannot make up spaces and they cannot make up retention, however they will absolutely put the retention close to the neighbors so it will create a buffer and help with the noise; and he noted all this will have to be addressed before they can even get a permit or a second look. He assured Commissioner Tobia all of this will be settled.

Commissioner Tobia asked for clarification that Mr. Lomando would not have a problem coming back to the Board.

Mr. Lomando stated he would have a problem coming back to the Board. He corrected himself stating when he comes back for planning and permitting purposes; he is a general contractor; he understands he has to always fit in the box; and whether it is 80, 70, or 90 it will all be predicated upon what he can do under the zoning and building requirements.

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Commissioner Tobia asked if the impact of the ordinance the Board just switched in doing away with density would have any impact on the box that Mr. Lomando was talking about.

Mr. Knox advised it could impact the density depending upon the room size.

Commissioner Tobia interjected which now, or very soon, will have no minimum: and he asked if that is correct.

Mr. Knox replied affirmatively. He stated that is the way it is structured and he thinks the idea was to let the market sort of determine how that would happen.

Commissioner Tobia asked where the sound wall would be, and how high it would be for the concerns of the residents.

Mr. Lomando stated they are all neighbors, they talk all the time; there are no problems, they go to each other; that will always all be presented to them first; and he noted they even had a meeting with the neighbors with this idea, there are no secrets. He reiterated all that will be addressed; he stated if the neighbors want a six foot wall, they will entertain a six foot wall and if they want trees that will also be entertained; and it will all come into play when they submit for permitting; and the neighbors will have their opportunity to say what they think. He continued that is how they come to terms with each other; and how they work together because he intends to be there a few more years.

Commissioner Tobia stated he would like to bounce this off staff, as he feels he is getting Policy from someone who does not have a strong handle on the way this works; there was talk on this coming back to the Board which is patently incorrect; and he asked if the Board should go ahead and approve this right now what the recourse would be of the residence to levy any type of concerns they would like to see.

Ms. Sterk stated the Land Development process is administrative and does not come back before the Board unless they are seeking a waiver to any criteria like a landscape buffer or parking requirements; there would really not be an opportunity built into the County's traditional mechanisms of site development for the community to provide input; they would have to meet the minimum Code criteria and if they were to do something above and beyond that, the only way for staff to implement that would be if the criteria was defined in a Binding Development Plan; and then staff could incorporate those above and beyond Code improvements into the site development later; and that is the mechanism the County has. She explained she does not know if the County has enough information to apply specific criteria at this time.

Commissioner Tobia asked to clarify that the residents would have no recourse whatsoever after tonight's meeting as it is all administrative.

Ms. Sterk responded that is a true statement.

Mr. Knox stated if it would help Commissioner Tobia out, his client has agreed to a condition requiring him to present the site plan to the community group and try to work it out with them before they file for site plan approval.

Commissioner Tobia stated that is very generous, but that is all it is because it will only be coming before an administrative body. He noted he would like to table this until there is some sort of comprehensive plan to be discussed more clearly; the Board is dealing with an ordinance that is a complete paradigm shift not only that, he may have learned that way, but at the beginning of this meeting there was some carving out of some areas in Brevard County; County Commission, District 3, is truly unique, they have a very rural community with traffic and

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environmental issues; they are different in Merritt Island and special, so short of all the facts he does not think he can support this; however, he would like to discuss thins in front of everyone with the microphones on, to give people the ability to speak their peace one way or another.

Chair Pritchett inquired with County Attorney, Eden Bentley, if there is a motion to table if that would shut down the conversation, or if Commissioner Barfield would still be allowed to speak after the motion.

Attorney Bentley advised she believes that is up to the Board; it has rules that allow it to waive the typical Robert's Rules.

Commissioner Barfield stated from what he is hearing, the best route to go would be for Mr. Lomando and Mr. Knox to meet with the residents and come up with an agreement and bring a BDP because that is what the County uses; he has his issues with BDPs, but that lets everybody put things in writing and it becomes a part of the zoning; that way there is no question down the road; and he thinks that is the route to go if the applicants would be amicable to do that.

Mr. Lomando asked why he cannot have an approval and make it contingent with a line item that they must have a meeting with the neighbors to have a co active input on the buffer walls and so on; he stated obviously the neighbors cannot tell him he cannot do anything; they do want to be neighbors and they do want to have buffers and walls; he has been through many meetings in permitting and people have talked to inspectors, plans and process, and have voiced their approvals and dis-approvals, so they have been heard; he thinks they can cooperate and he would like to have a vote just placing a line item; and he would be more than happy to cooperate with the neighbors as it relates to the perimeter, not necessarily the Use.

Commissioner Barfield asked the County Attorney if any of that is binding.

Attorney Bentley responded no.

Chair Pritchett stated she is hearing Commissioner Tobia's concerns and she thinks it would probably be best to table it.

Commissioner Tobia stated he would like to add the idea of Commissioner Barfield for a BDP.

Mr. Knox asked if the Board would compromise and make it a condition upon approval of the Zoning and the Land Use change that his client has to come back with a BDP that has to be approved by the Board.

Attorney Bentley explained the way the Code works is the Zoning does not go into effect until the BDP is finalized, but the Board approves the rezoning request with the BDP language with the intent and then all of that is worked out; if the Board just approves it and they subsequently come back with terms it would have already been approved; and she noted she thinks the Board would want the terms before approval or it will have trouble with enforcement. She went on to say the terms are voluntary and it is only an opportunity for them to explore the option.

There being no further comments, the Board continued the request by Anthony Lopes and Eugene Lomando for a Small Scale Comprehensive Plan Amendment from Res 4 and NC to CC, to the December 6, 2018, Zoning meeting.

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

**ITEM H.7., PUBLIC HEARING, RE: ANTHONY LOPES AND EUGENE R. LOMANDO (SCOTT KNOX) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM BU-1 AND TR-3, TO ALL BU-1 (18PZ00077)**

Chair Pritchett called for public hearing on a request by Anthony Lopes and Eugene Lomando for a change in Zoning classification from BU-1 and TR-3, to all BU-1 on 1.96 acres, located on the West side of U.S. Highway 1, approximately 655 feet south of Garrets Road, at 8480 and 8490 U.S. 1, Micco.

There being no further comments or objections, the Board continued the request by Anthony Lopes and Eugene Lomando for a change in Zoning classification from BU-1 and TR-3, to all BU-1, on 1.96 acres located on the west side of U.S. Highway 1, approximately 655 feet south of Garrets Road, for 8480 and 8490 U.S. 1, Micco, to the December 6, 2018, Zoning Meeting for Binding Development Plan approval.

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** John Tobia, Commissioner District 3  
**SECONDER:** Kristine Isnardi, Vice Chair/Commissioner District 5  
**AYES:** Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM H.8., PUBLIC HEARING, RE: VININGS PALM BAY INVESTMENT, LLC (TOM CABRERIZO/BRUCE MOIA) REQUESTS A SMALL SCALE COMPREHENSIVE PLAN (18S.04) AMENDMENT FROM RES 15 TO CC (18PZ00060)**

Chair Pritchett called for public hearing on a request by Vinings Palm Bay Investment, LLC for a Small Scale Comprehensive Plan amendment from Res 15 to CC on 3.43 acres +/- acres, located on the east side of North Wickham Road., approximately 340 feet south of Jordan Blass Drive.

Rebecca Ragain, Assistant Planning and Development Director, stated this is for the Vining Palm Bay Investment Company, LLC, on a request for a Small Scale Comprehensive Plan amendment from Res 15 to CC; it is located on 3.43 acres on the east side of North Wickham Road, approximately 340 feet south of Jordan Blass Dr.; the companion Item is a Zoning reclassification from RU-2-15 to BU-1; Bruce Moia is in attendance to represent the Item; and if the Board recalls, the Items were tabled while a traffic study was done. She noted staff has received the traffic study.

Bruce Moia stated they met with the traffic engineer, coordinated with staff, and met with the applicant to come up with some things they think will be palatable to address the traffic concerns; they changed the Binding Development Plan (BDP) significantly to restrict gas stations, and or convenience stores which was one of the bigger traffic generators; they will limit the amount of square footage they could have for fast food to 10,000 square feet over the entire property; they are going to reduce the overall floor area from one to .3, which is a 70 percent reduction on the prior proposal; and in order to hammer this home, to address the signal

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warrant, they would do a directional median modification for the full median opening, so there would not be full access and a signal would not be warranted there. He noted the improvements would be provided when the review process warrants it. He went on to say they also removed the condition that this would be null and void upon annexation, so if for some reason this is annexed into a city this agreement would be in full effect; they are funding the County road regardless of where they develop so it would not be null and void like a lot of BDPs would automatically do; he thinks this is a very reasonable settlement to make this palatable rezoning request; he hopes they have satisfied the Board; and he is requesting Board approval on this.

Commissioner Smith stated he likes what was done compared to what was before the prior to; the only other thing he would like to see is some pedestrian access because there are apartments going up in that area; and it would be nice for those people to have access as opposed to having to walk out on Wickham Road to do business with any of the other new businesses that may come there.

Commissioner Tobia stated he is trying to be as positive as possible, however on October 1, the Board received an email that incorrectly claimed that Mr. Moia made the following concessions in order to address staff concerns; that proved to be incorrect the first time he was there when asking staff; and this time when asking staff, they again pointed out that Mr. Moia had not done that; staff tried to communicate multiple times with Mr. Moia this past week to get this resolved as soon as possible, yet they heard nothing for quite some time; and just yesterday a new BDP was submitted at 5:15 p.m. finally addressing some concerns. He added and finally just this morning staff amended an amendment to the traffic study that was submitted. He continued this did not land in the Board's e-mail boxes until 10:34 a.m. today, mere hours before this meeting; this is an Item that has been tabled twice before; he commended staff for their tireless work going above and beyond on this, and he greatly appreciates it; there should be folks on the other side, and business here should run like government, the way this was run; and he is going to need more time with this. He noted he is not saying the work has not been done, but there was not enough time for the Board to review it; and for staff to get this to the Board from 5:15 p.m. to 10:30 a.m.; and he did not have the opportunity to go over all of the changes that were made between 10:34 a.m. when it landed in his box and today's meeting at 5:00 p.m. He went on to say he did spend a lot of time but he did not do his own due diligence; he does not know how anyone else on this Board could have done it either; he still wants to give this another opportunity; and he would like to table this so the Board can verify the changes that were made.

Chair Pritchett stated she loves the pedestrian access Commissioner Smith talked about; in there it states gas stations with convenience stores, and she has a high concern with gas stations so having them merged together still does not help her; and the fast food restaurants with the drive-thru is still a concern. She continued she was able to talk with staff and they are not sure of the methodology used; she asked how that would work with what was given to the Board and they were unsure because of the methodology; she wants Mr. Moia to go to staff and find out what to run the numbers on so they can get an idea of the traffic; it is not that the Board does not want him to build, it is just concerned about the traffic on that road and the area; and she mentioned she has not received any phone calls from him on this so she does not know. She suggested he reach out to all the Board members and let them know how he is fixing their concerns; she stated she thinks it is very generous of the Board to table this instead of denying it; she does not know that her concerns about the traffic have been addressed; and this could be a real mess if he is successful.

Commissioner Smith stated he is very happy that his fellow Commissioners sure his concern about the traffic on this parcel; it is quickly reaching a dangerous limit there; and he does not want to exceed capacity on that road.

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Mr. Moia explained they were told to submit for this deadline was last Wednesday; they made the submittal and staff got back with them on Wednesday, yesterday; they made the corrections and that is what was added to the package; he thought they had addressed it, so when they did not receive the comments from staff that there were still some concerns until yesterday, they hurried and made those changes; and with that being said, it probably was his fault for not getting this to staff before last Wednesday, but the methodology that was done by the traffic engineer was not any different than what was submitted at the last two Zoning meetings. He went on to say he does not know that any of this will change because they did make the changes; and as for the gas stations, it does say "and/or" convenience store so there will be neither of those.

Chair Pritchett commented she does not have that.

Mr. Moia responded it is in the corrected version of the BDP and she may not have received it in time for the meeting; he noted they had fixed everything staff asked them to fix; he is not sure the outcome will change at the next meeting, this just makes them wait one more time for the next meeting; he advised they had made all the changes staff asked for; and he mentioned he is fine coming back one more time, but reiterated he did exactly as staff requested. He went on to say they are actually designing a pedestrian access to this property as part of the apartment complex; if the Board wants him to add that to the BDP he would be more than happy to do that.

Commissioner Isnardi stated she would like to know what Commissioner Smith thinks about that; she appreciates staff is concerned about traffic and she knows this area is high in traffic, but she can honestly say she has never seen anyone have to go through so much drama during her entire existence; and the Board just keeps pushing it off. She went on to say, if staff did not get that back to Mr. Moia until yesterday then he had to respond back, she can see why they received something from him this morning; she is fine with Commissioner Tobia needing more time to review what was received this morning, however, to her this feels like the Board is punishing Mr. Moia for being late; and it feels like the Board is saying it cannot justify a light, but it might need a light, but it still approves other things on Wickham, but it cannot approve this; she just wants to be sure the Board is not unfairly, for whatever reason, denying this or putting it off over and over again when it has made modifications in the past to BDPs and approved them the same evening; and she reiterated she is okay with tabling, she would much rather see that than see it being denied, but she want to be sure to see the same level of intense scrutiny as she is seeing on this property, because it does not appear that way.

Chair Pritchett explained she thinks what happened was staff did not receive information until Friday, so they did not have time to do a turnaround with responses; when she spoke with them last night for a briefing, they just did not have good information soon enough; and in all fairness Mr. Moia was given a month to get back with them. She stated she had not seen the update, if she had it may have made a big difference to her.

There being no further comments or objections, the Board continued the request by Vinings Palm Bay Investment, LLC, for a Small Scale Comprehensive Plan amendment from Res 15 to CC on 3.43 acres located on the east side of North Wickham Road, approximately 340 feet south of Jordan Blass Drive, to the November 1, 2018, Zoning meeting.

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

**ITEM H.9., PUBLIC HEARING, RE: VININGS PALM BAY INVESTMENT, LLC (TOM CABRERIZO/BRUCE MOIA) REQUESTS A CHANGE OF ZONING CLASSIFICATION FROM RU-2-15 TO BU-1, AND REPLACEMENT OF AN EXISTING BINDING DEVELOPMENT PLAN (BDP) (18PZ00059)**

Chair Pritchett called for public hearing on a request by Vinings Palm Bay Investment, LLC for a change in Zoning Classification from RU-2-15 to BU-1 and replacement of an existing Binding Development Plan (BDP) on 3.43 +/- acres, located on the east side of North Wickham Road., approximately 340 feet south of Jordan Blass Drive.

There being no further comments or objections, the Board continued the request by Vinings Palm Bay Investment, LLC, for a change in Zoning classification from RU-2-15 to BU-1 and replacement of an existing BDP on 3.43 +/- acres, located on the east side of North Wickham Road, approximately 340 feet south of Jordan Blass Drive, to the November 1, 2018, Zoning meeting.

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

**ITEM H.10., PUBLIC HEARING, RE: FLAMINGO LAND COMPANY, INC. (RICK KERN) REQUESTS TRANSMITTAL OF THE 2018-2.1 LARGE SCALE COMPREHENSIVE PLAN AMENDMENT TO CHANGE THE FUTURE LAND USE DESIGNATION FROM IND TO RES 4 (18PZ00071)**

Chair Pritchett called for public hearing on a request by Flamingo Land Company, Inc., for transmittal of the 2018-2.1 Large Scale Comprehensive Plan amendment to change the Future Land Use designation from IND to Res 4 on 27.99 acres located on the north side of Canaveral Groves Boulevard, 0.4 miles west of U.S. Highway 1.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by Flamingo Land Company, Inc., represented by Rick Kern, requesting a transmittal of the 2018-2.1 Large Scale Comprehensive Plan amendment to change the Future Land Use designation from IND to Res 4 on a property that is 27.99 acres, located off Canaveral Groves Boulevard.

Rick Kern stated they have reviewed all the staff comments in the report and they concur with the findings; and if there are any questions with the project he would be happy to try to address them.

Chair Pritchett stated she thinks it is wonderful that he is bringing in affordable housing, it is a perfect fit, it is helping with some pedestrian situations, and she is real appreciative that he is moving forward with this.

Commissioner Barfield stated he is fine with this and he will support it.

There being no further comments, the Board approved the request by Flamingo Land Company Inc., for transmittal of the 2018-2.1 Large Scale Comprehensive Plan amendment to change the Future Land Use designation from IND to Res 4 on 27.99 acres located on the north side of Canaveral Groves Boulevard, 0.4 miles west of U.S. Highway 1.

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<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kristine Isnardi, Vice Chair/Commissioner District 5
<b>SECONDER:</b>	John Tobia, Commissioner District 3
<b>AYES:</b>	Pritchett, Barfield, Tobia, Smith, Isnardi

**ITEM L.6., CURT SMITH, COMMISSIONER DISTRICT 4, RE: REPORT**

Commissioner Smith thanked Commissioner Barfield for helping raise the level of breast cancer awareness during the month of October; and he stated indeed real men do wear pink.

**ITEM L.7., KRISTINE ISNARDI, COMMISSIONER DISTRICT 5, VICE CHAIR, RE: REPORT**

Commissioner Isnardi stated she just wanted to express her condolences for Senator Hukill and her family; she was a lovely Senator who represented this community well; and she will be greatly missed. She added there was something about that lady, when she walked into a room, the whole vibe would change; aside from the hard work she has done in this community, she was a fine woman; and Brevard County is going to be missing something big.

Upon consensus of the Board, the meeting adjourned at 6:53 p.m.

ATTEST:



SCOTT ELLIS, CLERK



RITA PRITCHETT, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

As approved by the Board October 23, 2018

## Kimberly Powell

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**From:** Kimberly Powell  
**Sent:** Tuesday, October 16, 2018 11:27 AM  
**To:** Commissioner District 1; Commissioner District 2; Commissioner District 3; Commissioner District 4; Commissioner District 5; Eden Bentley; Sally Lewis  
**Subject:** 10-04-2018 Zoning minutes for apprpval  
**Attachments:** 10-04-2018 Zoning.doc

All,

Attached are the 10-04-2018 Zoning Minutes to be considered by the Board on October 23, 2018.

Have a great day,

Kimberly Powell  
Recording Secretary  
Clerk to the Board  
(321) 637-2001  
[Kimberly.powell@brevardclerk.us](mailto:Kimberly.powell@brevardclerk.us)

