

**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 February 5, 2015 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
Robin Fisher	Chairman/Commissioner District 1	Present	
Jim Barfield	Vice Chairman/Commissioner District 2	Present	
Trudie Infantini	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Present	
Andy Anderson	Commissioner District 5	Present	

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

The invocation was given by Pastor Ron Myer, Faith Viera Lutheran Church, Melbourne.

PLEDGE OF ALLEGIANCE

Commissioner Anderson led the assembly in the Pledge of Allegiance.

PUBLIC HEARINGS

Chairman Fisher called for a public to consider tabled items, Planning and Zoning recommendations of January 5, 2015, and North Merritt Island recommendations of January 8, 2015.

ITEM III.A.1., (14PZ-00055) - MORTGAGE INVESTMENT FUND I, LLC - REQUEST AN AMENDMENT TO AN EXISTING CUP FOR COMMERCIAL, ENTERTAINMENT, AND AMUSEMENT ENTERPRISES, TO INCLUDE RACING, SWAP MEETS, AND VEHICLE SHOWS FOR CARS, AIR BOATS, TRACTORS, TRUCKS, RIDING LAWN MOWERS, GO CARTS, AND ATV'S WITH SPECTATOR SEATING, CONCESSIONS, AND AWARDS AND LIVE MUSIC, WITH A WAIVER OF 50 FT. FROM THE REQUIRED 75 FT. SETBACK FOR BUILDING, MOBILE HOME, TRAILER, VEHICLE, OR MAINTENANCE EQUIPMENT.

Cynthia Fox, Planning and Zoning Manager, stated this is an amendment to a Conditional Use Permit (CUP); they were granted a CUP for entertainment and amusement enterprises; they want to add some uses to that like racing, swap meet, and vehicle shows for cars, air boats, tractors, trucks, riding lawn mowers, go carts, and ATV's; their improvements to the property will include spectator seating, concessions, and grandstand for awards with live music; and they had previously needed a waiver to the permit as part of the CUP. She pointed out she understands from the applicant they have deleted the waiver part of the request; and this request would go forward without the request for that waiver.

Tim Williams stated he is present to discuss the access to the property; he does not think anyone on Paw Prints Avenue has any opposition to the track itself; but they do not think he should be coming through a private easement to do it. He went on to say he is requesting access to the property by Paw Prints Avenue; that is a 25-foot wide private easement; it was granted to the owners lots that were abutting the easements when they bought the lots; and there were five of those lots. He pointed out no such easement rights were granted to the parcels not abutting the properties. He provided the Board a handout showing the zoning. He stated Parcel 753 has legal access across Paw Prints Road; that was one of the five parcels that was granted that easement; and Parcels 751 and 766 do not have access. He advised by looking at the applicant's chain of title, the certificate of title, which is the second document in the Board's packet, there are three parcels referenced when he bought the property; Parcel A referred to on the certificate of title is Parcel 751; Parcel B is Parcel 753; and Parcel C is Parcel 766. He noted he highlighted the middle Parcel B as access to that easement; that includes access by way of Paw Prints Avenue; the other two parcels are not; and that is understandable because those two are direct access on Eau Gallie Boulevard. He pointed out that is the same situation that existed when the applicants predecessor in title bought the property. He inquired if someone who has an easement simply add additional properties away from the easement, or piggyback them, and allow them all to have access through that one easement. He stated the easement holder cannot expand the easement beyond what was contemplated at the time it was granted; when the easement was granted, it was granted for the use of five parcels; those five parcels are in an area of just under 16 acres; and the applicant wants to tack on an additional 17.5 acres for access, and to expand the use of these parcels back here to pretty much industrial. He stated there was a gate at one point across Paw Prints Avenue and every property owner had a key. He advised the Board this proposed use is clearly beyond the scope of what was originally intended.

Commissioner Smith inquired under what circumstances was the gate stopped being used. Mr. Williams responded he does not know, but he is sure Chuck Griffin does as it was on his property; and he is the owner of Parcel 751.

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Commissioner Infantini inquired who maintains the easement. Mr. Williams replied the property owners are maintaining it, along with the drainage system; and if it needs repair, the property owners pass the hat. Commissioner Infantini inquired if the applicant by rules of contiguousness automatically has access to Paw Prints Avenue. Mr. Williams responded he has access for Parcel 753; and he stated he does not have the right to add Parcels 751 and 766. Commissioner Infantini noted the applicant is making one small piece one large piece, and he is not subdividing it; she would see the point if he was going to subdivide; and it does not appear that case actually applies to this piece. Mr. Williams pointed out the question is not how many lots does the easement serve, the issue is what the burden is on the easement.

Chairman Fisher stated it looks like Parcel 765, which is below Parcel 766, it looks like that parcel would have access; and he inquired if that parcel does not have the right to come through Parcel 754. Mr. Williams replied Parcel 765 does not have legal access to Paw Prints Avenue. Chairman Fisher inquired how the owners of those parcels have access. Mr. Williams replied they have access through permission. Chairman Fisher inquired if that is a legal road. Ms. Fox replied it is a private easement; the history she has seen, the first building permit was approved off of this easement in the late 1970's; and it is a private easement, private road that appears as part of their deed to ownership. Chairman Fisher inquired from a width standpoint, is it legal that way. Christine Lepore, Assistant County Attorney, inquired what the minimum road width is. Ms. Fox stated typically they do not do commercial or industrial uses off of easements; for residential it would be 25 feet; subdivisions are 60 feet; and it is probably a 50-foot roadway or more with right-of-way preserved on each side for industrial.

Chuck Griffin stated his property is just west of the two parcels that do not have access through the ingress/egress; the egress is property owned underneath it by some of the particular land owners; and it is not County owned in any way. He stated the property owners put a gate up there because they were having theft; later on in the years, they paved the road at their own expense; everyone knew each other and there were people living on the site; and they were able to take the gate down because there were only private people coming in. He stated it is not just what the applicant is doing with egress/ingress, but he has literally been caught several times by St. Johns River Water Management District (SJRWMD), Brevard County, and other property owners draining all of the water off of his property through a retention pond that was well below overflow, onto the other properties for his water to flow. He went on to say they are having a lot of problems and they would like to get it straightened out; the County keeps granting him the right to cross over the other properties.

Patrick Barker stated Paw Prints Avenue is on his property taxes form; the requested Conditional Use Permit (CUP) should be denied because of the continued long-term intently long non-compliance along with the unlawful access that they are providing for their additional property; the continued inaccurate clarification and responses that have been provided in the Agenda Packet for today; they state the easements are on all of the parcels, and they are not; they have not gotten the certificate of occupancy after buying the property like they were required to do on their property; and they spent thousands of dollars making sure they were compliant before starting any operations, got any occupational licenses, or had anything going on the property. He advised the Board of all the things he had to do before getting anything going on the property. He noted the applicant moved one of their drainage ditches east of their trailer that has been documented by Natural Resources Management; and the drain field for their septic tank is now within 15-feet of an open ditch. He stated the existing CUP is non-compliant from the beginning of 2012 because of the outfall ditch not asked for approved stormwater permit on their west side, and it was never straightened out; the original CUP site plan had this manmade ditch entirely on their property both sides of that ditch; and this has been pointed out numerous times. He stated this clearly shows the intent in history of blatantly not complying with the requirement that is documented on the original site plan as having being done; and both side of that ditch is supposed to be on their property. He pointed out the aerial

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provided to the Board by the applicant, the ditch is going off their property right on to their properties with large trees showing it was never moved after three years; that was the condition of the original permit and it was never done; and they ask for their permit to be revoked. He stated they purchased this land with no mortgages and over \$600,000; there are over 200 acres there now, yet they are unable to comply; they had a Sheriff there recently, the day before their event, where they dug the ditch out on their side, put the spoils on their property, and they referred to this as a civil proceeding; and because of all these issues and criminal complaints being involved, they wish for the amendment not to be approved and their permit to be revoked until they become compliant.

Rick Kern, representing Mortgage Investment Fund, stated as far as the legal access goes, the County several years ago approved a site plan over the entire property; that County site plan basically ties the three parcels together from the viewpoint of the County; and that site plan has been fully-constructed for the approved site plan. He went on to say subsequent to that, there has been a dispute about the outfall of the drainage; that is an ongoing dispute, which causes problems; the County a couple of years ago approved a CUP over the entire project; and it allows for the racing events. He stated the applicant can better address the issues of the site.

Larry Finkelstein stated Parcel 765 belongs to Parcel 764; Parcel 764 belongs to Parcel 502; there is a huge construction storage yard; and they all access Paw Prints Avenue. He stated they are not requesting access, they have access; they are licensed and permitted; the septic is inspected; the fire department has inspected; and they have had all departments out there and did everything the correct way. He noted they just had their second annual biological testing, which passed again; the ditch was not moved, a reliever ditch was put along the side of the approved ditch; and SJRWMD is well aware of it. He stated their property takes on the drainage from Mr. Griffin and Barker; and it is the stoppage on the south end that is flooding their property and the neighbors to the south. He pointed out they have only owned the property for about a year or so. He stated they know nothing about the Sheriff being called and there are no outstanding actions.

Commissioner Anderson advised the Board he has met with Mr. Finkelstein in the past. He inquired why he cannot use the other access to the east of the property. Mr. Finkelstein responded the County on the original site plan had Todd Williams removed the Eau Gallie entrance; there is a huge disparity in elevations between Eau Gallie Boulevard and the property; and he guesses it did not work. He stated it is the same situation of the elevation of using the property he owns next door; it would require a whole new site plan and engineering; and there is already an approved track there. Commissioner Anderson stated years ago there was a proposed speedway that was done around 2006 or 2007 was begun, and there was opposition, so it got shut down. He inquired if that was still in existence. Mr. Finkelstein replied it is pretty rough.

Commissioner Barfield advised the Board he received a letter near November 19, 2014 to Ernie Brown, Natural Resources Management Director, from Mr. Kern; there was a lot of promises made that were going to be done; and he read the letter aloud. "After many site visits and discussions with other engineers, surveyors, and contractors, my client Mortgage Investment Fund, the owner of the above referenced site, has come to the conclusion that the most expedient way to obtain legal, positive outfall for this site was to redirect the runoff east and then south the flow to the lake with a pump, which already ownership interest in. This graft was shown map was Option 3. In order to do this legally and properly the following is my estimate of the schedule: The design surveying, two months; design and engineering, one month; agency review and permitting, two months; construction, two months; as built survey and final certifications, one month; and the total time, eight months." He inquired if all of this has been done. Mr. Finkelstein replied no, there is another letter that supersedes that; they have been dealing with Mr. Brown, and lately, they have not been able to get hold of him; and there is a

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second engineer working on the project. He went on to say they have met with Mr. Brown once on that; they have met with SJRWMD twice, as recently as last Friday; and they have now given the basic go ahead. He pointed out it is a little more involved than they thought in the beginning to get all of that done because of all of the various government agencies involved; and he stated they are moving forward to separate their drainage. He noted they had a couple of questions for Mr. Brown, and they have not heard back from him as to whether or not this is going to have to go through a site plan, if this is a letter amendment, because they all have different time frames and different costs.

Robin Sobrino, Planning and Development Director, stated there is someone from Natural Resources Management present for verification.

Darcy, Natural Resources Management, stated Mr. Brown was serving Coast Guard duty. She stated the latest correspondence she found from Mr. Brown and Mr. Finkelstein's engineer was January 22, 2015 when the engineer said they were working on that first survey, which was the first task on there; that was to be submitted January 19, 2015; it looks like it was going to be a little late; they indicated it might come in last week; and staff still has not received it. Mr. Finkelstein advised the Board they had several calls into Mr. Brown and they did not realize he was out; someone said he was on vacation until he is leaving; and they have been waiting for a response. Ms. Darcy stated the engineer indicated they would be receiving the survey and they have not received that. Mr. Finkelstein stated they were waiting to get clarifications from Mr. Brown before they turned that in. Darcy stated she can check on those messages with Mr. Brown's assistant tomorrow.

Commissioner Infantini stated she does not think the easement holds a great deal of weight; what does hold a great deal of weight is the fact that the applicant is asking for a CUP, and asking for a waiver of 50 feet from the required 75 feet. Mr. Finkelstein stated the waiver was withdrawn some time ago. Commissioner Infantini stated she is concerned the easement does not have the capacity; it is not whether or not they have the right to use it, they do have the right to use it; she does not think the easement has the capacity to handle that type of traffic; and because of that she is personally not comfortable moving forward with the CUP. She pointed out the Board makes people jump through hoops to get their projects up to Code; and she will not be voting in favor. Mr. Finkelstein stated they have a CUP; the cars have been racing on the property for the last several years; their events are nights and weekends; and the traffic that is there has been going on for years. He noted they have an agreement with the flea market to use their facility for overflow parking.

Ms. Fox stated the agreement with the flea market was not submitted amendment to a site plan or engineering revision or any of those things; and it has not been reviewed against those standards that would come up during site plan or engineering review. He stated the offsite parking with the flea market at this point, the County has not approved that; and she is not sure going forward it will be a feasible option for them. Mr. Finkelstein stated they have not needed additional parking, but they did it as a precaution.

Chairman Fisher inquired if they have been illegally racing cars. Mr. Finkelstein replied no, they have a special permit.

Commissioner Barfield stated he has a major concern about this; they have a CUP now and they can operate no matter what; his concern is there could be hundreds of people there, stands, and all the safety requirements they have to put in place; he is not comfortable it has all been done; and before he would ever approve any of this he would want to see a site safety plan. He advised the Board he will be voting nay on this Item. Mr. Finkelstein noted he would agree with Commissioner Barfield if they had that volume; they do have an emergency site plan

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that has been approved by the fire department; they inspected the race; and there was no problem. He advised they have withdrawn the request for the new track.

Chairman Fisher inquired if all of the traffic coming out of the road has been approved through the County's site plans. Ms. Fox replied the access to the property for the spectator event has not been brought up to County standards and has not been required of the applicant up to this point. Chairman Fisher inquired what the County standard is on that. Ms. Fox responded she believes they would have to put in a road at least 60 foot wide; it would have to go through the engineering; it would have to also provide access to the other businesses in the location; and there would have to be a cooperation agreement for them to go forward to actually have a roadway that would meet County standards. Chairman Fisher inquired if one of the other property owners would have to give the applicant a right-of-way to get to that 60 foot. Ms. Fox noted there would have to be a lot of work done.

Commissioner Anderson inquired if Mr. Barker's operation is 24/7 with tractor trailers coming in and out. Mr. Barker responded affirmatively; and he stated the increase on that industrial area between Doug Connor's operation and their operations is significant compared to when Mr. Willems initially attempted to do his mud bog, which was what it was originally permitted for. He went on to say they are an over-the-road carrier; they have a tanker operation with fuel tankers, which was what they were extremely concerned with because of all of the people coming and going; the Sheriff's Department closed their entrance on the exit of their event; and they technically had exclusive use of his private property. He pointed out it was only for about one-half hour; they had beer cans thrown at them and people were flipping them off.

Commissioner Smith inquired if the Board does nothing can Mr. Finkelstein continue to do what he has been doing as all he is asking for now is permission to race cars in addition to what he already has. Ms. Fox replied that is true except for the fact of the issues of drainage and the outfall have not been resolved for the current uses.

Chairman Fisher inquired if Mr. Finkelstein is not totally legal now with what he has done. Ms. Fox responded no, they are trying to work through the process; they had agreed to about an eight month time frame to bring those things into compliance; staff has set the deadline for the first design survey to be given to them within two months; they do not have that yet; and it has been beyond two months.

Commissioner Smith recommended to the Board that it accepts Mr. Finkelstein's Conditional Use pending compliance of the Board's requirements; and he stated all that is being talked about is having cars as opposed to racing the other things.

Chairman Fisher inquired if the letter was written in November 2014. Ms. Fox replied affirmatively; she stated staff gave them a deadline of January 19, 2015, for them to provide the first element of this; and there have been issues that any other special events, Natural Resources Management would be uncomfortable approving under this situation with these things not resolved. Chairman Fisher stated he is a big property rights guy; and he inquired if the County is stopping him from exiting on Eau Gallie Boulevard. Ms. Fox replied she believes engineering has looked at that and they would have to go through private businesses to be able to do the ingress/egress off of Eau Gallie Boulevard. Chairman Fisher stated that seems the most natural ingress/egress if he wants to do commercial business.

Commissioner Smith stated he thinks the County closed down the one road he did have before he owned it.

Commissioner Infantini stated she is just not comfortable that he has been a moving in a forward motion to correct the issues that he had outstanding with what he has before she starts

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giving him more things; and it does not look like he has done that thus far. She noted maybe he can get with the neighbors and work out some discussions on the easement; but for right now, she is not excited to add this Conditional Use until he shows that he is doing well by whatever he already has.

Commissioner Smith stated that was his point; he wants to see this completed; he does not want him to drag his feet anymore; the County has already stipulated what it wants; and before it can go forward, staff and the County needs to be satisfied.

Commissioner Barfield pointed out if the Board denies it, he still has a CUP.

Commissioner Smith stated the motion should include the fact that he must comply with the County on his current condition before going forward.

Ms. Lepore stated the applicant is in violation of his stormwater permit and site plans, and there would be some enforcement action if he did not comply.

Ms. Sobrino stated if the applicant is denied, he has the ability to come in and apply for special event permits to do a one-time event for the uses he is requesting here; up until now staff has been turning down those because of the lack of compliance with the stormwater issues; and staff needs Board direction if staff should continue to not approve those until the stormwater is resolved.

Chairman Fisher stated that would be his position.

There being no further comments, the Board denied request of Mortgage Investment Fund I, LLC to amend an existing CUP for Commercial, Entertainment, and Amusement Enterprises, to include racing, swap meets, and vehicle shows for cars, air boats, tractors, trucks riding lawn mowers, go carts, and ATV's, with spectator seating, concessions, and a grandstand for awards and live music, with a waiver of 50 feet from the required 75 feet setback for a building, mobile home, trailer, vehicle, or maintenance equipment, in an IU zoning classification on 21.84 acres, located on the south side of Eau Gallie Boulevard, west of Jones Road; and no special events permits allowed until becoming compliant with the letter received from Natural Resources Management Office.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Jim Barfield, Vice Chairman/Commissioner District 2
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM III.B.1., (14PZ-00111) - DEE SMITH - (POLLY HALL) - REQUESTS A CHANGE OF CLASSIFICATION FROM AU TO RU-2-4 ON 1.73 ACRES +/-, LOCATED ON THE SOUTH SIDE OF LAGRANGE ROAD, APPROXIMATELY 260 FT. WEST OF U.S.1 (2425 LAGRANGE ROAD, TITUSVILLE)

Cynthia Fox, Planning and Zoning Manager, stated this is a remnant piece of some agricultural property in the Titusville area; they have three single-family homes; this action is really to legalize the existing structures on the property; and the Planning and Zoning recommended approval with a Binding Development Plan limiting the overall use to four units.

Polly Hall stated she is the spokesperson for her sister Dee Smith, the owner of the property.

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There being no further comments, the Board approved the request of Dee Smith for a change of classification from AU to RU-2-4 on 1.73 acres ±, located on the south side of LaGrange Road, west of U.S. Highway 1, with a Binding Development Plan limiting to four units.

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

ITEM III.B.2., (14PZ-00112) - SHANTI GOTAMI AND XEM THI NGUYEN - REQUESTS A CHANGE OF CLASSIFICATION FROM GU TO IN(L), ON 3.48 ACRES, LOCATED ON THE NORTH SIDE OF S.R. 524, APPROXIMATELY 390 FT. NORTHEAST OF FRIDAY ROAD (4840 S.R. 524, COCOA)

Cynthia Fox, Planning and Zoning Manager, stated this Item is a GU lot that is undersized; and the applicant is applying for the Institutional Zoning Classification, because they wish to redevelop the property as a Montessori and place of worship.

There being no further comments, the Board approved request of Shanti Gotami and Xem Thi Nguyen for a change of classification from GU to IN(L), on 3.48 acres, located on the north side of State Road 524, northeast of Friday Road.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Andy Anderson, Commissioner District 5
SECONDER:	Jim Barfield, Vice Chairman/Commissioner District 2
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM III.B.3. (14PZ-00098) - BRAD A. LANGE - (MARK GARTLEY) - REQUESTS A CUP (CONDITIONAL USE PERMIT) FOR ALCOHOLIC BEVERAGES (BEER & WINE ONLY) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A BAIT AND TACKLE SHOP, IN A BU-1 (GENERAL RETAIL COMMERCIAL) ZONING CLASSIFICATION, 0.97 ACRES, LOCATED ON THE EAST SIDE OF N. COURTENAY PARKWAY, APPROXIMATELY 0.20 MILE SOUTH OF CHASE HAMMOCK ROAD.

Cynthia Fox, Planning and Zoning Manager, stated this Item is for a Conditional Use Permit (CUP) for the on-premises consumption of beer and wine only; the North Merritt Island Board recommended that the Board make the alcohol use as an accessory to a retail component; this is bait and tackle shop; and that nothing be served after 10:00 p.m. She pointed out the applicant at the North Merritt Island meeting agreed to those terms.

Mark Gartley stated some special events go after 10:00 p.m.; and he inquired if he could stay open until those events were over. Commissioner Barfield stated he feels uncomfortable changing it, and would like to keep it at 10:00 p.m.

There being no further comments, the Board approved the request of Brad A. Lange for a Conditional Use Permit (CUP) for Alcoholic Beverages (beer and wine only) for on-premises consumption in conjunction with a bait and tackle shop in a BU-1 (General Retail Commercial) zoning classification, 0.97 acre, located on the east side of North Courtenay Parkway, south of Chase Hammock Road.

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

ITEM III.B.4. (14PZ-00106) - JOHN D. HALEY - HASSAN KAMAL, P.E.) - REQUESTS A CHANGE OF CLASSIFICATION FROM RU-1-9 TO RU-1-7, WITH A BDP LIMITED TO THREE (3) LOTS, ON 1.45 ACRES, LOCATED ON THE EAST SIDE OF U.S. HIGHWAY 1, APPROXIMATELY 700 FT. NORTH OF POST ROAD (4131 N. HWY 1, MELBOURNE)

Cynthia Fox, Planning and Zoning Manager, stated this Item is a rezoning from RU-1-9 to RU-1-7 zoning classification; and a Binding Development Plan was suggested by the Planning and Zoning Board to limit the overall development to three units.

Commissioner Smith stated he looked at the property last night; aside from the opportunity to get three lots out of two, the applicant is asking for three 50-foot lots; and he inquired how deep the property is from road to river.

Hassan Kamal, representing the applicant, relatively deep, and a little less than 400 feet on one side and little over 400 feet on the other side.

Commissioner Smith stated the proposal is selling three 50-foot wide by 400-foot lots. He inquired what about sewer and water. Mr. Kamal responded it is on city water and septic; and it will be three new septic systems based on today's requirements. Commissioner Smith inquired how the applicant is going to have access to the driveways. Mr. Kamal responded there is one existing driveway there now and they will maintain that driveway; they are going to go through the process called a minor subdivision approval process; but they will have one driveway in the same location so they will not have three separate driveways onto U.S. 1; and there will be an easement that covers all three lots. Commissioner Smith inquired if there any other RU-1-7 in that area. Ms. Fox responded affirmatively; she stated on the east side of U.S. 1 there is no other RU-1-7 in this area; but there is RU-1-9. Ms. Fox stated abutting the property is RU-1-9.

Mr. Kamal stated the existing zoning will allow up to six units; they are volunteering limiting it with the Binding Development Plan; there are four single-family structures on there now; none of those are conforming to the current Code; and they are proposing limiting it to three units conforming to the RU-1-7 zoning. Ms. Fox advised the Board technically it would be six units; whether or not the applicant can subdivide this property in a configuration acceptable to get six units might be difficult.

Commissioner Infantini stated it appears to be a pattern of what that community is going towards.

Chairman Fisher inquired if the neighbors have all been notified of this zoning change; and has there been any opposition. Ms. Fox replied affirmatively; and she stated everyone within 500 feet of the property has been notified, and there are not letters of opposition.

John Haley stated there were four structures on the property, and two additional garages; the neighbors to the south are 50-foot wide lots; and they are asking to match their 50-foot wide lots. He stated they will tear out and modernize the septic systems and make sure they are all away from the river; he and his son plan on living in one of these houses; and they are looking for the change so they can build two additional houses.

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There being no further comments, the Board approved John D. Haley's request for a change of classification from RU-1-9 to RU-1-7, with a Binding Development Plan (BDP) limited to three lots on 1.45 acres, located on the east side of U.S. Highway 1, north of Post Road.

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

ITEM III.B.5. (14PZ-00107) - CHARLES F. POSESS - (PHILIP NOHRR) - REQUESTS A SMALL SCALE PLAN AMENDMENT (14S.08) TO CHANGE THE FUTURE LAND USE FROM CC, NC, AND RESIDENTIAL 4, TO ALL CC, AND A CHANGE OF CLASSIFICATION FROM RU-1-7 AND BU-1 TO ALL BU-1 ON THE NORHT 455 FT., ON 3.44 ACRES, LOCATED ON THE SOUGH SIDE OF NEW HAVEN AVENUE, APPROXIMATELY 315 FT. EAST OF COMMORDORE STREET (3535 W. NEW HAVEN AVENUE, MELBOURNE)

Cindy Fox, Planning and Zoning Manager, stated this Item is a change from RU-1-7 and BU-1 to all BU-1; they are taking the property all to commercial; they will do a Small Scale Plan Amendment to change the future land use from Community Commercial, Neighborhood Commercial, and Residential 4 to all Community Commercial; at this time the applicant has not specified what types of commercial uses; the Planning and Zoning Board recommended excluding adult entertainment uses; and the property directly to the west of this property has a BDP that has limited uses of the property.

There being no further comments, the Board approved Charles F. Possess's request for a Small Scale Plan Amendment (14S.08) to change the Future Land Use from CC, NC, and Residential 4, to all CC, and a change of classification from RU-1-7 and BU-1 to all BU-1 on the north 455 feet, on 3.44 acres located on the south side of New Haven Avenue, east of Commodore Street; and adopted Ordinance No. 15-01, amending Article III. Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the first Small Scale Plan Amendment of 2015, 14S.08, to the future land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

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

ITEM III.B.6. (14PZ-00108) - MOHAMMAD H. MALIK - (JOSE CARDOSO) - REQUESTS A CUP FOR ALCHOLIC BEVERAGES (BEER & WINE ONLY) FOR ON-PREMISES CONSUMPTION IN CONJUNCTION WITH A RESTAURANT, IN A TU-2 ZONING CLASSIFICATION, ON THE NORTH 180 FT., ON 1.1 ACRES, LOCATED ON THE SOUTH SIDE OF W. NEW HAVEN AVENUE, APPROXIMATELY .13 MILE EAST OF COASTAL LANE (4455 W. NEW HAVEN AVENUE, MELBOURNE)

Cynthia Fox, Planning and Zoning Manager, stated this Item is for a Conditional Use Permit for alcoholic beverages, beer and wine only, in conjunction with a restaurant.

There being no further comments, the Board approved the request of Mohammad H. Malik for a Conditional Use Permit (CUP) for Alcoholic Beverages (beer and wine only) for on-premises consumption in conjunction with a restaurant, in TU-2 zoning classification on the north 180 feet on 1.1 acres, located on the south side of West New Haven Avenue, east of Coastal Lane.

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

ITEM III.B.7. (14PZ-0092) - JASON A. AND STACI S. WALDEN - REQUESTS A CHANGE OF CLASSIFICATION FROM GU (GENERAL USE) TO AU (AGRICULTURAL RESIDENTIAL) ON PROPERTY DESCRIBED AS TAX PARCEL 761, AS RECORDED IN ORB 6940, PAGE 1101, PUBLIC RECORDS, BREVARD COUNTY, FLORIDA. SECTION 17, TOWNSHIP 28, RANGE 37. (8.48 ACRES) LOCATED ON THE SOUTH SIDE OF EBER BOULEVARD, APPROXIMATELY 0.23 MILE WEST OF DAIRY ROAD (NO ASSIGNED ADDRESS. IN THE W. MELBOURNE AREA)

Cynthia Fox, Planning and Zoning Manager, stated this is a rezoning from GU to AU; this parcel is approximately eight and one-half acres; they wish to subdivide the property for one additional unit; due to the fact GU requires five acres, it needs to be rezoned to AU; and they want to maintain agricultural pursuits on the property.

There being no further comments, the Board approved the request of Jason A. And Staci S. Walden for a change of classification from GU (General Use) to AU (Agricultural Residential) on property described as Tax Parcel 761, as recorded in Official Records Book (ORB) 6940, Page 1101, Public Records, Brevard County, Florida, Section 17, Township 28, Range 37, (8.48 acres) located on the south side of Eber Boulevard, west of Dairy Road.

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

ITEM III.B.8. (14PZ-00082) - EAGLE PROPERTIES OF VIERA, LLC - (JAKE WISE, P.E.) - REQUESTS A CHANGE OF CLASSIFICATION FROM PIP TO PUD AND REMOVAL OF EXISTING BCP'S, ON 45.37 ACRES +/-, LOCATED ON THE SOUTH SIDE OF VIERA BOULEVARD, APPROXIMATELY 0.15 MILE WEST OF U.S. HWY 1 (NO ASSIGNED ADDRESS. IN THE VIERA AREA)

Cynthia Fox, Planning and Zoning Manager, stated she would request the Board table this Item to its March 5, 2015 Board meeting.

There being no further comments, the Board tabled consideration of request of Eagle Properties of Viera, LLC for a change of classification from PIP to PUD and removal of existing BCP's, on 45.37 acres ± located on the south side of Viera Boulevard, west of U.S. Highway 1, to the March 5, 2015, Board meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Vice Chairman/Commissioner District 2
SECONDER:	Trudie Infantini, Commissioner District 3
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM III.C. PUBLIC HEARING, RE: ORDINANCE REVISING CHAPTER 62, LAND DEVELOPMENT CODE SECTIONS 62-2801, 62-2806, AND CHAPTER 22, SECTION 22-48 OF THE BREVARD COUNTY CODE OF ORDINANCES

Chairman Fisher called for a public hearing to consider an ordinance revising Chapter 62, Land Development Code Sections 62-2801, 62-2806, and 62-2891, and Chapter 22, Section 22-48 of the Brevard County Code of Ordinances.

Robin Sobrino, Planning and Development Director, stated staff is requesting the Board table this request to the March 31, 2015 Board meeting.

The Board continued consideration of ordinance revising Chapter 62, Land Development Code Sections 62-2801, 62-2806, and 62-2891, and Chapter 22, Section 22-48 of the Brevard County Code of Ordinances, to the March 31, 2015 meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Jim Barfield, Vice Chairman/Commissioner District 2
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

ITEM IV. A., BOARD CONSIDERATION, RE: TIME EXTENSION FOR CFAR TO RELOCATE CAPTIVE WILDLIFE TO FOREVER FLORIDA RESERVE IN OSCEOLA COUNTY

Robin Sobrino, Planning and Development Director, stated this Item is a request by CFAR, Inc. to receive a time extension for the relocation of the captive wildlife; currently they have been maintaining the wildlife in the Canaveral Groves area; they had promised to relocate to Osceola County; they have been working diligently to get that site ready for occupancy; at this time they are not ready to make that move; and Dr. Thomas Blue is present to address the Board to show they have made progress in getting their new site ready for occupancy.

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Chairman Fisher stated he knows Dr. Blue is making progress in getting the site ready.

Dr. Thomas Blue stated Ms. Sobrino asked him to bring photos to demonstrate; but if everything is fine he does not need to do that.

The Board granted a one-year time extension to CFAR, Inc. to relocate their captive wildlife from 5420 Date Palm Street, Canaveral Groves to Forever Florida Reserve in Osceola County; and directed staff to continue the stay of Code Enforcement proceedings.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Trudie Infantini, Commissioner District 3
SECONDER:	Jim Barfield, Vice Chairman/Commissioner District 2
AYES:	Fisher, Barfield, Infantini, Smith, Anderson

Upon consensus of the Board, the meeting adjourned at 6:17 p.m.

ATTEST:



Scott Ellis

SCOTT ELLIS, CLERK

R. Fisher

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