

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 9, 2017, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair, Robert LaMarr, Vice Chair; Bill Cannon; Andy Barber; Bruce Moia; Rochelle Lawandales; Ron McLellan; Ron Bartcher; Susan Hammerling; Scott Langston; and Jeff Holleran.

Staff members present were: Cristina Berrios, Assistant County Attorney; Cindy Fox, Planning and Zoning Manager; Conroy Jacobs, Planner I; and Jennifer Jones, Special Projects Coordinator II.

The 10 regular members present voted throughout the meeting.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 2nd, at 5:00 p.m.

APPROVAL OF NOVEMBER 7, 2016, MINUTES

Motion by Rob LaMarr, seconded by Bruce Moia, to approve the minutes of November 7, 2016. The vote passed unanimously.

CHAIR AND VICE CHAIR NOMINATIONS

Motion by Ron McLellan, seconded by Rochelle Lawandales, to nominate Henry Minneboo as Chairman of the Planning and Zoning Board for 2017. The vote passed unanimously.

Motion by Ron McLellan, seconded by Bill Cannon, to nominate Rob LaMarr as Vice Chairman of the Planning and Zoning Board for 2017. The Vote passed unanimously.

IV.B.2. (16PZ00098) DAVID & MICHELLE MURPHY – request a change of classification from RU-1-9 to RU-1-11 on 0.94 acres, located on the southeast corner of Irwin Ave., and Old Dixie Hwy. (3485 Old Dixie Hwy., Mims)

David Murphy, 3650 Grantline Road, Mims, stated he would like to change the zoning to RU-1-11 to be able to build a home for his daughter.

Motion by Rochelle Lawandales, seconded by Ron McLellan, to approve the change of classification. The vote passed unanimously.

IV.B.3. (16PZ00103) JAMIE & HOLLY K. BUNNELL – request a change of classification from AU to RR-1 on 1 acre, located on the north side of S.R. 524, approx. 0.21 mile northeast of S.R. 520. (6300 Hwy 524, Cocoa)

Holly Bunnell, 5105 Cabbage Palm Street, Cocoa, stated she is requesting the zoning change in order to establish a residence.

Motion by Rob LaMarr, seconded by Bill Cannon, to approve the change of classification. The vote passed unanimously.

IV.B.4. (16PZ00106) GARY R. SMITH – (Robert E. Smith) – requests a Small Scale Plan Amendment (16S.10) to change the Future Land Use designation from Agriculture to Residential 1; and a change of

classification from GU to RR-1 on 2.06 acres, located on the south side of Gandy Rd., approx. 0.38 mile east of Hog Valley Rd. (No assigned address. In the Mims area.)

Bob Smith, 305 Seminole Trail, Orlando, stated he would like to establish a residence on the property.

Andy Barber asked if Mr. Smith would consider a binding development plan that would limit him to only one residence. Mr. Smith stated he only wants one residence. Cindy Fox pointed out if Mr. Smith wanted to divide the property into two lots he would have to do an easement lot configuration, so there's no way to divide it in half on the road.

Motion by Bruce Moia, seconded by Rochelle Lawandales, to approve the Small Scale Plan Amendment. The vote passed unanimously.

Motion by Bruce Moia, seconded by Rochelle Lawandales to approve the requested change of classification. The vote passed unanimously.

IV.B.5. (16PZ00108) MOBILE WORLD OF BREVARD – (John Hoskin) – requests a change of classification from BU-1 and BU-2 to all BU-2, on 3.18 acres, located on the southwest corner of U.S. Highway 1 and Louis Drive. (3737 N. Hwy 1, Cocoa)

John Hoskin, 3737 N. U.S. 1, Cocoa, said he is selling the property and the buyer wants to use it for cruise ship parking, so he is requesting that the zoning be BU-2 on the entire lot. He has a mobile home dealership there now and he believes the zoning he's asking for is not much of a difference for storage and parking. He stated staff mentioned buffering and a masonry wall, but there is a natural buffer around the property that just needs to be maintained, so he does not see a need for a masonry wall or buffer, as what it there already is adequate.

Rochelle Lawandales asked if the owner will have to go through all the standard procedures with the County, if the zoning is approved. Cindy Fox replied, yes. Henry Minneboo pointed out that the board doesn't have the authority to say there won't need to be any buffers. He said the problem with BU-2 is that there are many uses that are allowed.

Cindy Fox stated it will not be just a parking lot, it would be considered a long-term storage area because it could be four or more days, and staff believes it constitutes storage, and therefore it needs to be a storage yard and at least a BU-2 zoning. Bruce Moia asked what some of the other uses are in BU-2. Ms. Fox replied warehousing, big box retailers, manufacturing and assembling, and processing can be done in BU-2. Mr. Moia asked if the board should consider a BDP (Binding Development Plan). Ms. Fox replied the site plan process will take care of most of the issues, and stated there have been waivers given to the requirement for a wall when there's been substantial buffers.

Ms. Lawandales said she shares the concern that if it is zoned BU-2 today he might lose the buyer and someone who wants to do something that might be onerous to the neighborhood could come in and there wouldn't be a way for the County to adequately control it. Ms. Fox said if the applicant is willing to enter into a BDP it is a voluntary agreement and he can limit himself to cruise ship parking. She stated overall, the use might be less intense considering the size of vehicles there now, and his hours of operation might be a little different.

Mr. Minneboo asked Mr. Hoskin if he would be willing to enter into a BDP. Mr. Hoskin replied yes. Ms. Fox suggested the BDP be limited to storage.

Motion by Andy Barber, seconded by Ron McLellan, to approve the change of classification with a BDP limiting the use to storage. The vote passed unanimously.

IV.B.6. (16PZ00109) ALL SPACE STORAGE – (Vaheed Teimouri) – requests a change of classification from PIP to BU-2 on 6.27 acres, located on the west side of N. U.S. Hwy 1, approx. 0.34 miles south of Canaveral Groves Blvd. (Tax Parcel 30 = No assigned address. In the Cocoa area; Tax Parcel 39 = 3855 N. U.S. Hwy 1, Cocoa)

Homayoon Bozorg, with Teimouri & Associates, 32 E. New Haven Ave., Melbourne, stated the purpose of the rezoning is to have a smaller setback for mini-storage.

Rochelle Lawandales asked if the board should have the same consideration for this item as the previous one, and stated the board may want to consider a BDP for this item as well. Bruce Moia noted it is down the street from the previous item and they are asking for the same zoning.

Cindy Fox advised the board the applicant can do mini-storage in PIP, but he wants BU-2 in order to have smaller setbacks.

Motion by Ron McLellan, seconded by Bruce Moia, to approve the change of classification. The vote passed unanimously.

IV.B.7. (16PZ00104) C&L BAYTREE, LLC – (Jim Bartoe) – requests a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with Restaurant Use, in a BU-1 zoning classification, on 7.53 acres, located on the north side of Wickham Rd., approx. 220 ft. east of Baytree Dr. (No assigned address. In the Melbourne area)

Frank Cannon, 1431 Orange Camp Rd., Deland, Florida, stated he is the representative and owner of the project, which is a 24,200 square-foot unanchored shopping center, and when they laid out the plan one of the things they took into consideration was a mixture of casual dining. He noted he doesn't know who the tenants are yet, but he has to plan ahead and put the parking together because parking for a restaurant use is different than retail use, and in this case they have set aside 9,000 square feet of the 24,200 square feet to be used for restaurants, most of which will require beer and wine, and liquor in some instances.

Motion by Ron McLellan, seconded by Bruce Moia, to approve the Conditional Use Permit. The vote passed unanimously.

IV.B.8. (16PZ00094) – G.T. MOTORS – (Phil Nohrr) – requests a Small Scale Plan Amendment (16S.09) to change the Future Land Use designation from NC to CC, and a change of classification from RU-1-9 to BU-1, on 1.4 acres, located on the east side of Valencia Rd., approx. 400 ft. north of W. New Haven Ave. (108 Valencia Rd., Melbourne)

Attorney Phil Nohrr, 1795 W. Nasa Boulevard, Melbourne, stated the reason for the request is to park inventory. The owner is aware of the code violations on the property and has started to get back into compliance, but in order to do that, FPL has to turn off the power and get rid of the lines, and when that is completed the two structures on the property will be removed. If the time schedule to get all that done happens by the end of the month, by the time this request goes to the Commission most of the violations he is aware of will be taken care of. He stated staff uses key fobs to find cars on the lot, which brings a noise violation, but that practice will be terminated, as it has not been well received by the neighbors. He doesn't think there will be a negative impact on the neighbors, and the dealership staff collected 13 signatures in support on a petition explaining the request. He explained that the petition calls upon the owner to put in fencing on Valencia Drive so that someone coming down Valencia would only see a 6-foot high fence with vinyl

slats. He further explained there will be an ingress and egress off of Valencia into the parking area, but the only uses will be those coming in and out of the property, so there is no reason for anyone to make a right-hand turn to go further down the road, and there is not going to be any traffic associated with the dealership on Valencia Road. He noted the property is heavily wooded on the east side, so there is a natural buffer, but if the zoning is approved a wall will be installed on the north side because commercial would be abutting residential, and they want to be sealed off from the neighbors to the north. He said the owner will agree to a binding development plan to ensure the commitments being made are in writing.

Rochelle Lawandales asked if the dealership will use the existing access to enter the property, or if they are going to have an additional access off of Valencia. Mr. Nohrr replied it would be an additional access.

David Turkette, 236 NW Valencia Road, said there is already a problem with the ditches in that when it rains the ditches in front of his home floods, and the additional runoff will make the flooding worse if the lot is paved. He stated he has complained about the property because the existing wall has not been maintained in seven years; the staff at the dealership has told him they would do something about it, but they have not; and the lot in question has been used as a junkyard for old motorhomes and boats. He said he was also told there would be an 8-foot concrete block wall and there would be no access off of Valencia Road, and that there would not be any test driving on Valencia, but it still happens. He mentioned the notification sign that was on the property, but was placed so low that no one can see it, and one of the dealership's employees ran over it, so it was down for many days; and also mentioned the car alarms constantly going off. He stated he is also concerned about oil that leaks from cars and can get into the ground water, the ingress/egress on and off of Valencia, the blocking of Valencia when cars are loaded and unloaded, and the fact that it is a narrow residential street with kids.

Jeff Holleran asked where kids catch the school bus, and if they have to walk past the dealership. Mr. Turkette replied yes, they do have to walk past it because buses cannot drive down Valencia as it is a dead-end street with no place to turn around. Mr. Holleran asked how many kids live on the street. Mr. Turkette answered, approximately 8-10 kids, and they have to walk to the end of the street and go east to the entrance of the apartment complex, which is next to the dealership.

Phil Nohrr advised the new area will not be paved, but they are looking into doing something underground so that the drainage won't be an issue, and the drainage will have to be addressed before they can get a permit. He stated they don't want to do anything to harm the children going to the bus, but whether there is an exit there or not, there's other accesses coming into the property to the south, on Valencia, so either way they will pass it. He pointed out there is a Code Enforcement action on the property and they will have to come into compliance, and if they fall out of compliance again there are mechanisms to take to make sure that everything they commit to in the binding development plan is enforceable. He said as far as a junkyard, once granted approval the area will be cleaned up.

Mr. Minneboo asked about the height of the fence. Mr. Nohrr replied the height of the fence is 6 feet, and he can't go above that without a variance. Mr. Minneboo asked how long his client has owned the property. Mr. Nohrr replied since 1992.

Robert LaMarr stated as far as the noise goes, if the guys don't hit the panic feature, and just press the unlock button it won't make noise; the lights will flash and they can still find the cars. He asked if there is any way the new-car inventory can be brought through from the back of the dealership to the new lot, and asked if there is access to the rear of the dealership, where they wouldn't have to go onto Valencia at all. Mr. Nohrr answered he is 99% sure there is, but he is also 99% sure that trucks cannot get in there. Mr. LaMarr said if there is a way to fill the lot from the center of the dealership that would keep the traffic on Valencia down to a minimum.

Susan Hammerling asked who owns the 8-foot concrete wall and who would maintain it. Mr. Nohrr replied there was an old fence that had been on the property, but fell down, and it is immaterial going forward because there will be a new 6-foot opaque fence. He said he can't say what his client promised in the petition that was circulated, but the fence can't be higher than 6 feet.

Rochelle Lawandales asked if they will be allowed to not pave it if they're going to park and store cars on it. Ms. Fox replied that will all be decided in the site planning process, and staff can work with developers and still stay within the Code. Ms. Lawandales asked if they will have to provide some type of onsite retention to not only accommodate the new piece, but the older piece as well. Ms. Fox replied yes, it will be addressed in site planning. Ms. Lawandales asked if the retention area could be placed on the north side of the property as a buffer. Ms. Fox answered yes, if it would function that way on that side.

Rochelle Lawandales suggested the applicant use a couple of things to create some better compatibility with the neighborhood. She's also concerned about putting in any additional drives further north. She encouraged the applicant to use the existing looping system they have, with the two access points on Valencia and the access on W. New Haven, to come into the site and to out without putting another driveway on Valencia, and suggested they use the retention as part of the buffer and limit access to those places they already have. Mr. Nohrr said when they get to the design stage they will look at ways of doing that and what makes the most sense as far as protecting the neighbors as much as they can.

Andy Barber said he thinks the dealership would have the ability, and enough room, to put an area there where they can actually back their trucks up and do a three-point turn and unload on the property as opposed to being out on the road, and that would also help with the school kids.

Ron McLellan stated the trucks are coming off of I-95 and the first thing the driver sees is Valencia, so he's going to go into the first entrance and unload. He said the board should make it mandatory that the truck drivers pull down to the last entrance and turn right into the rectangular area and unload there, then he can come around the building and exit on the westbound side of W. New Haven.

Phil Nohrr said he'd like to get approval today so they can move forward, but he will look into it in more depth, and between now and the commission meeting he will have an answer. Susan Hammerling said the language in the petition about the beautification of the frontage with flowers and landscaping is vague, and asked the definition of 'beautification'. Mr. Nohrr agreed the language is vague, but County staff will have guidelines for landscaping.

Darryl Sundquist, General Manager of G.T. Motors, stated he has talked about having an access from the dealership property into the lot, so they will never drive on Valencia. As far as the trucks, there are two entrances on Valencia: the first is for people to come into the dealership; the second is a service entrance, and he can force all the delivery trucks pulling in that entrance to go behind the dealership and make a right on the other side of the dealership, facing out, and they can unload their cars there and pull straight out onto W. New Haven. He said there will never be a problem with cars being unloaded on Valencia, and he has even thought about putting a bridge together so they can access the property without going onto Valencia.

Mr. Minneboo asked Mr. Sundquist if he is going to keep the fence. Mr. Sundquist replied yes.

Scott Langston asked how long the dealership has been non-compliant with the code. Ms. Fox replied Code Enforcement reacts to a complaint, but it could have been a long time before someone actually called it in.

Rob LaMarr asked if the board can stipulate that they can only ingress and egress out the back of the dealership and stay off of Valencia. Ms. Fox replied that can be put into a binding development plan, and staff will work with the applicant to make sure the board's concerns are addressed.

Motion by Andy Barber, seconded by Rochelle Lawandales, to approve the Small Scale Plan Amendment from NC to CC. The Vote passed 8:1, with Jeff Holleran and Bill Cannon voting nay.

Motion by Rochelle Lawandales, seconded by Rob LaMarr, to approve the change of classification with a binding development plan restricting deliveries to the existing service entrance for the existing dealership approximately 350 ft. north of W. New Haven Ave., and no use of Valencia Rd., including the loading and unloading of inventory. Vote was 8:1, with Holleran and Cannon voting nay.

THE APPLICANT FOR THE FOLLOWING ITEM HAS AGREED TO MODIFY REQUEST FROM RU-1-7 TO RU-1-11

IV.B.9. (16PZ00107) – ROBERT C. & MARION L. BAUMAN – (Joseph Kilmer) – request a change of classification from RR-1 and RU-1-7 to all RU-1-7, on 1.52 acres, located on the east side of Washington St., approx. 0.17 mile south of Milwaukee Ave. (Lot 12 = No assigned address. In the Melbourne area. Lot 15 = 2685 Washington St. Melbourne)

P&Z Recommendation:

Joe Kilmer – 2205 Vermont St., West Melbourne, stated he is looking to build another residence.

Motion by Rochelle Lawandales, seconded by Ron McLellan, to approve the change of classification. The vote passed unanimously.

THE FOLLOWING ITEM WAS TABLED FROM THE 11/07/16 P&Z AND 12/01/16 BCC MEETINGS

IV.B.10. (16PZ00084) – HOME DEPOT USA, INC. – (Edward J. Allen) - requests a CUP for Trailer & Truck Rental Service, in a BU-1 zoning classification, on 9.37 acres, located on the east side of N. Courtenay Pkwy., approx. 340 ft. north of S.R. 520. (200 N. Courtenay Pkwy., Merritt Island)

P&Z Recommendation:

James Rosich, representing Home Depot, addressed the board and stated there will only be trucks on the property, no trailers. He noted Penske only has box trucks in four different sizes, from 12 feet to 26 feet.

Rochelle Lawandales asked if there is a limit on the number of trucks. Bruce Moia advised MIRA approved it limited to 10 trucks, and asked if the applicant agrees with the conditions MIRA made. Mr. Rosich said Home Depot agrees with the conditions. He further clarified they agreed to 8 to 10 trucks, but typically there are 5 or 6 trucks.

Motion by Andy Barber, seconded by Bruce Moia, to approve with conditions agreed to with the MIRA board: 1.) To park all rental equipment with the rental trucks in the area designated on the approved site plan that is to be clearly marked with signage or striping; 2.) No more than ten (10) rental trucks at any given time on the property; 3.) After-hour drop-off of vehicles must be in the designated area and any outside of the area will be moved to the approved location at the start of Home Depot business. Vote was unanimous.

V. Presentation by County Attorney's Office, Re: Government in the Sunshine/Florida's Public Meetings Law

Cristina Berrios, Assistant County Attorney, provided a copy of the Government in the Sunshine/Florida's Public Meetings Law memo and explained the Sunshine Law.

VII. PUBLIC COMMENT

Upon consensus of the board, the meeting was adjourned at 4:30 p.m.