

**NORTH MERRITT ISLAND  
DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The North Merritt Island Dependent Special District Board met in regular session on Thursday, November 12, 2015, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, Merritt Island.

**Board members present were:** Tom McFarland, Chairman; Mary Hillberg; Chris Cook; Jack Ratterman; Ted Balke; and Catherine Testa.

**Staff members present were:** Cindy Fox, Planning and Zoning Manager.

The meeting was called to order by the Chairman, Tom McFarland, at 6:00 p.m.

Tom McFarland – We have minutes from the meeting of April 15<sup>th</sup>. That's a long time ago.

Mary Hillberg – I'd like to say I didn't realized I talked so much and I'll try to tone it down. Otherwise, I see nothing in here that's contradicting and I move to approve.

Jack Ratterman – Second.

Tom McFarland called for a vote on the motion as stated, and it passed unanimously.

**III.B.1. (15PZ00058) – BAHAMAS FAMILY INVESTMENT PROPERTIES, LLC** – (Kellyann Iversen) – requests a change of classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on 0.97 acres, located on the west side of N. Courtenay Pkwy., approx. 0.19 mile south of N. Tropical Trail. (6141 N. Courtenay Pkwy., Merritt Island)

**NMI Recommendation: Ratterman/Cook – Approved. Vote was 4:2, with Hillberg and Testa voting nay.**

Tom McFarland - Do we have anyone representing the person who is requesting this change? Please come forward.

Kimberly Spurlock - My name is Kimberly Spurlock, 6141 North Courtenay Parkway, Merritt Island, 32953. The suite we're talking about is suite C. First, I have some handouts. I have a map that shows the corridor from the bridge to the Space Center, and then some pictures of the building.

Tom McFarland - Is this on the east side of North Courtenay?

Mary Hillberg - It's on the west side.

Tom McFarland - Ok, I see. Go ahead.

Kimberly Spurlock - My request is to have that property rezoned from BU-1 to BU-2. I'm a small business owner in Merritt Island and I've been at that location five years. I have history there; I had another company there called Qual-Tech. I also live in North Merritt Island. So, I'm trying to grow my business and my need right now is for that zoning to be BU-2. I feel my request is not inconsistent with what has already been done in the corridor. As you can see, the green is the BU-2. Up and down the corridor on North Merritt Island that zoning has happened.

Tom McFarland - So, what makes you think you need BU-2 instead of BU-1?

Kimberly Spurlock - Because I am a wine distributor and I need to store wine, and I cannot do that with a BU-1 zoning.

Tom McFarland - Anybody have any questions for the applicant?

Mary Hillberg - How much wine do you suspect that you might be doing?

Kimberly Spurlock - I'm looking at being a boutique-type distributor, bringing in from Germany and Croatia. We've already met with local businesses in Merritt Island; we're not looking at large volume; I have dual businesses, so one, I don't have the resources to do that nor do I intend to, so we're looking at being able to kind of combine that with the olive oil and the things that we're already doing there. So, it's not a large-scale operation, nor would that property allow that. As you look at the pictures you can see that where the storage is in the back of the building it is not even visible above the roof or to the side. There is large growth of vegetation, trees, and woods that are.....and I put the titles of the locations that would be to the south of the building, and then behind would be to the west, so the property is completely surrounded by woods and vegetation.

Mary Hillberg - Where would you put all of your storage?

Kimberly Spurlock - There's two bays in the back.

Tom McFarland - You're not talking about a new building.

Kimberly Spurlock - No, no, this is existing. I have pictures I can show you of the two bays in the back.

Jack Ratterman - We have them. Does anybody want to look at them?

Ted Balke - And you're store C of A and B? You're only one of the three stores that exist on that property?

Kimberly Spurlock - The olive oil store is in C. I rent all three in the front of the building, and we're looking into being able to use the back. I already have semi-trucks that come into that property for the olive oil successfully and go to the back and unload the olive oil. So, it's not anything that's not already being done there on a small scale.

Tom McFarland - About how many trucks per day would you expect to come in?

Kimberly Spurlock - We're talking about probably a truck per quarter. Again, the volume we're looking at.....we're not a high-end distributor, even with the olive oil we do maybe an order a quarter. We try to get everything we can just from the economics.....when importing wine into Florida, just with all the taxes and all the State laws with wine distribution.....I'm a small business owner, it's not a large-scale thing, and that property wouldn't even allow for that. There's not a lot you can do with the property; you cannot expand it to the side to the back.

Mary Hillberg - In this picture here you have another area with a yellow (inaudible) What is that?

Ted Balke - That's not theirs. That's owned by the same people. It belongs to the same people that own your property. They also own the lot next door.

Kimberly Spurlock - There's a retention pond next to us, it's not a lot.

Mary Hillberg - They own this whole section of property after that?

Ted Balke - They own those two pieces there.

Kimberly Spurlock - I'm not aware of that, I don't know.

Mary Hillberg - There's BU-1 on each side of that.

Ted Balke - 'K' is the opposite side.

Catherine Testa - The Department of Transportation ditch right-of-way, and they own the property on the north side and the south side of it?

Ted Balke - South side.

Kimberly Spurlock - On the north side is the Kangaroo, so I don't know what property you would be talking about.

Catherine Testa - The property that you're on, that's north of the ditch.

Kimberly Spurlock - Okay, you're talking about the ditch.

Mary Hillberg - Would this rezoning, Cindy, be for all of this property that this 801 is on?

Cindy Fox - Yes, ma'am, the whole .97 acres, because she has to use the same driveway and the area in the back for deliveries.

Kimberly Spurlock - But we're not talking about the other side of the drainage ditch, we're only talking about 6141 North Courtenay.

Tom McFarland - Any other questions from the board?

Jack Ratterman - The only thing that was brought up at the homeowners meeting was that they would like.....we were interested in a binding development plan, because BU-2 opens it up for many other things than just BU-1. That was what was discussed there. Kim? So, that is what I would like to see.

Tom McFarland - Is there someone else from the public who would like to speak? Karen, do you have something to add?

Karen Andreas - I've just been helping Kimberly, but I'd certainly be glad to put in my two cents worth based on a little bit of experience with zoning and land use.

Cindy Fox - Can you state your name and address?

Karen Andreas - Karen Andreas, 617 5th Street, Merritt Island. I would say based on the pattern of development on North Courtenay and the fact that BU-1 and BU-2 has been liberally mixed in over the years, that this is not unprecedented zoning request and it is actually consistent with the zoning patterns that have already developed there. You can see there's BU-2 behind BU-1 into neighborhoods. I mean, it's a very interesting map, so I would ask you to consider, favorably consider, this request as being consistent with the precedent that has already been set for development along this corridor. A binding development plan is another layer of burden to offer for Ms. Spurlock, including public hearing, it's another application, and it's burdensome to a small business owner. So, here you have a North Merritt Island resident who is attempting to grow a business on North Merritt Island on a low impact, low key, situation, requesting a zoning configuration that already exists up and down this corridor. So, it is totally consistent with what is there today. Thank you.

Tom McFarland - Is there anyone else?

Kim Smith - Kim Smith with the North Merritt Island Homeowners Association, and I'm the co-zoning rep there. Do you need my address also?

Tom McFarland - I think so.

Kim Smith - 5390 Judson Road, on Merritt Island. At the meeting that Mr. Ratterman was speaking of the discussion about this request came up there. The HOA likes this business and they would wish them the best with their business. Their concern was going from a zoning of BU-1 to BU-2, unlimited BU-2. To be unrestricted like that would really open up a lot of other types of businesses around there that they are uncomfortable with, especially that far north on Courtenay. You see a lot of the BU-2 zonings on the south side closer to the barge canal, but not so many up there. What they finally ended up agreeing on is they would ask this board to consider.....well, their dream was BU-1 zoning with some sort of variance to allow this business to warehouse the alcohol, the product they were going to bring in for redistribution. I don't know if that is permissible in the County's eyes, and if not that what they are asking for here would be very restricted to their business and what they want to do, to warehouse use only, limited to alcohol delivery and storage, and something that would run with the property, if the zoning was required to change to allow this.

Chris Cook - I think you mean with the owner, not the property.

Kim Smith - If it ran with the property, then if the property sold it would still stay with the property.

Cindy Fox - You can't tie it to a property owner anyway.

Catherine Testa - It stays with the property no matter who owns it.

Ted Balke - She's the tenant at this point, not the property owner.

Kim Smith - I think they're not concerned with this business and these people, they were concerned with what could happen in the future if this were changed to an unrestricted BU-2 zoning.

Catherine Testa - Because if the business closed or moved, then we're left with BU-2.

Kim Smith - Or the property sold, or what-have-you, in the distant future. So, that's all I have to present to you tonight, to request this type of restriction.

Tom McFarland - Thank you. Anyone else want to speak to this issue? Back to the board. So, I presume that we could request a binding development plan for a property to be rezoned.

Cindy Fox - You can make the recommendation and put that forward with a binding development plan as part of your recommendation for approval.

Tom McFarland - Are there other ways to limit the scope of a BU-2 zoning request?

Cindy Fox - The only way to do that is through a binding development plan. For example, your request could be all BU-1 uses and limit the BU-2 use solely to warehousing and distribution of whatever product she has. It doesn't have to be alcohol, you can call it anything, but it's the actual use of the property, the warehouse and distribution that she needs the BU-2 zoning for.

Catherine Testa - Can the binding development plan be changed after it's agreed upon? Can't they change it, and change it, and change it? Until it actually really negates.....

Cindy Fox - They can, except it has to come back to you every single time. You have to go through the same process every single time. So, if she goes out of business and the next person that comes in wants to do a different BU-2 use that doesn't include warehousing and distribution, they would have to start all over again

and say if they want to remove it or amend the BDP and go back through the whole process, so you would see it again.

Catherine Testa - Can you limit it to a particular product as well?

Cindy Fox - You can....

Catherine Testa - Only because the next person could come in and store toxic, volatile chemicals.

Cindy Fox - The County would not allow that.

Catherine Testa - You don't know that.

Cindy Fox - Well, it wouldn't be in a hazardous condition to where we would put people at risk.

Tom McFarland - That would be an industrial use.

Catherine Testa - But it would be warehousing of the product, maybe not making the product....I'm just saying warehousing.

Chris Cook - If it was allowed in BU-2 then we can do it.

Mary Hillberg - To the north of this property - I'm looking at this map that we have - to the north of this property is BU-1; to the west of this property is RR-1, more than an acre; to the south of the property is BU-1; to the east of the property is BU-1; it's surrounded by BU-1. I do recognize that farther down, number 798, 751.1, is BU-2. Does everybody see what I'm talking about? I do recognize that's BU-2 and then there's some across the street from that. Those are the only two sections here that are anything other than BU-1; I think BU-1 is appropriate along the Courtenay corridor; this is considered a business corridor, and I think that's appropriate along there. After you go past Porcher and Church Streets you get into a lot of residential areas, and this isn't a BU-2 kind of an area. Down farther where I live, which is Sunset Lakes, which is way down off of this map, then you see all the BU-2 and that is where the heavier industrial....just after you get over the bridge a lot of industrial stuff is....but this far north is just not BU-2 kind of an area. It's not that there's none there, there are a couple of pieces there, but the vast majority to the west, north, south and east around this property are all either BU-1 or RR-1, and we have Administrative Policy 4 that says that it doesn't meet the.....not the administrative policy, but in the notes, in the zoning notes under 'environmental constraints and other conditions', on page 12, it says, "the property does not meet the transitional requirements of this policy" It does not serve as a transitional use between higher and lower densities. It's kind of by itself here, on page 11, it says, "The BU-2 permits...." This is not to say that I don't like this business. I really like this business and they have fantastic, fantastic, olive oil, I mean, it tastes like heaven. They were at the picnic and if you didn't have it you missed something great. It's nothing about the business, it's just looking at the zoning itself, it says, "BU-2 zoning classification permits regional wholesale, warehouse, and commercial land uses on a minimum of 7,500 square feet lots". How do we get by that when the lot is 6,900 square feet?

Cindy Fox - That's the building size.

Mary Hillberg - It's not the lot?

Cindy Fox - No, the lot is .97 of an acre.

Mary Hillberg - "Possible incompatibilities are due to the intensive nature of commercial activities permitted in BU-2". Like Kim said, it's not the business here, it's looking into the future. Our job is to look into the future of the community, too, and to help it grow in a healthy way. This is kind of the less heavy area. Down here we

expect to have heavier zoning, it seems to me. There was one other item here.....Administrative Policy IV talks about types of intensity of traffic, the types of vehicles, commercial activity, industrial activity, and those kinds of things are allowed in BU-2 that aren't allowed in BU-1, and not that this particular business will bring in semis full of wine, it allows a business to bring in semis for something. That's my contribution at the moment. I'm hesitant to agree with that.

Tom McFarland - Any other comments from the board?

Catherine Testa - I have a question for them.

Tom McFarland - Would the applicant come back forward, please?

Catherine Testa - Have you considered using other warehouse space that is already available?

Kimberly Spurlock - I have looked into that and the problem is that this is tax office, and I would have to separate my companies and split them into two, and therefore I'd be running three companies, and if any of you guys have your own business it makes it really difficult. So, the wine, if it's not coming in there, it's not doable.

Karen Andreas - Plus, there's the issue of having to transport it to a warehouse and then transport it up to the store. So, there's an extra additional transportation issue and cost involved.

Catherine Testa - Why would you have to transport it to the store? I thought it was distribution to go out, I thought that's what you were bringing the line in for.

Kimberly Spurlock - If we needed to package it for the different places. Right now I have a separate warehouse that I had to do for my licensing and I have not started importing because we're trying to resolve this, because the business tax people said you can't have two separate addresses. They won't even let you say that, you know, 6141 is my headquarters, and the warehouse is at a different location, the alcohol people and the State of Florida don't care about that. Wherever you say the alcohol coming into, that is your business; therefore, it would have to be two separate companies. I can't do that.

Mary Hillberg - And I would imagine that anytime you're building your business or making it larger, sometimes that kind of thing is necessary.

Kimberly Spurlock - No, I think the whole premise of being able to do this is I was co-located. I live in North Merritt Island, I grew up in Merritt Island. So, being able to run both businesses, the luxury is my other successful business I've had 10 years is there and I'm able to run my businesses from there, being co-located and sharing resources. So, that is why I'm trying to, as a small business owner, do this endeavor in North Merritt Island. I think it's something that we need; we don't have a lot services on North Merritt Island.

Mary Hillberg - What does your other business do?

Kimberly Spurlock - We have a consulting and training company for aviation and space and defense. So, we've been servicing the Space Center, the Space Coast, all the laid off workers with the space program we do training and consulting.

Karen Andreas - I'd like to respond to Ms. Hillberg's comments, which I certainly recognized in reading staff comments, and they are not invalid. I agree, except that here's the subject property and there's BU-2 here already. The nature of the corridor is that every piece of commercial property already abuts residential behind it. You also have another piece of BU-2 up here, so you've already exceeded the northernmost range from here by having an existing BU-2 up here. If you look at the other patterns, everyone of them - just about

every one of them - is touching commercial property, but I really fail to see how this little tiny square here is going to have any more impact than what exists on either side of the road directly south of that. So, we are talking about existing conditions that already open the door to the concerns of BU-2. It's already there whether this one small space, which is not expandable by nature of the size and the way the building is run inside.

Kimberly Spurlock - The only other thing I'd like to point out is that for BU-1 I can warehouse already, but I can only warehouse when I'm selling out of the store. I'm already warehousing olive oil.

Catherine Testa - Aren't you selling.....

Karen Andreas - She's not selling to the public.

Kimberly Spurlock - The olive oil.....I'm warehousing olive oil already and semis are coming in off of S.R. 3 doing all the things that wine coming in would be doing, going to the back of the building. It's limited space and only so much that you can bring in there. The thing with the State of Florida is you cannot warehouse on a BU-1 anything that you cannot sell out of your store. And wine is one of them. As a distributor I cannot sell to the retail public, I have to sell to small businesses.

Mary Hillberg - So, where would the businesses get the wine from? How would they get it from you?

Kimberly Spurlock - We would deliver it to them.

Mary Hillberg - And you couldn't deliver it from another place.....

Kimberly Spurlock - I would have to split my companies.

Karen Andreas - It's a State requirement for the address.

Kimberly Spurlock - The alcohol people will not let me have a separate business tax receipt if that address is not at 6141. So, if I go to a different location to warehouse the wine, then I have to split off the company and have wine distribution company and an olive oil company. So, now I'm trying to, as a small business owner, trying to manage three businesses. I feel like I'm not asking for anything that's inconsistent with what's already being done there. I mean, I could open a wine store. If I didn't want to be a distributor and try to bring wine in from Germany and Croatia, and some of those things that are so hard to get around here, I could just open a wine store; that's already allowed in BU-1. Florida has some very difficult laws with alcohol, so I'm trying to meet those, but we ran into a lot of obstacles with the addresses and things like that, which we weren't even aware of when we started down this endeavor.

Mary Hillberg - What was the purpose of requiring a different address?

Cindy Fox - It's State licensing and it has to do with alcohol and how they handle alcohol. There's special inventories.....

Kimberly Spurlock - It's related to audit, because when you get approved for the alcohol license as a distributor they physically come from Orlando and they want to see where the wine is going to be stored. They don't even care about anything else that they recognize. When we first started applying we had to get a sign-off from Viera, from George, and he's like, "You can't, you're BU-1". We didn't even know any of that. Not a lot of these laws are really.....you don't find them until too late, but it's about the audit and about where they're physically going to go look at where your wine is being stored. They don't care if you don't have office space and you have to work out of your home or a different location, that address where the wine is stored is considered the business address and that's all the State of Florida cares about. That's why I've had my license since August, but I haven't done anything with it, trying to figure out all the laws and what I've got to do.

Karen Andreas - And as a small business owner, Ms. Spurlock has got everything located on this site so that she is able to run her office with the current staff and then work the store, because it's all physically located in one place. If she has to go to do the warehouse, that means the business can't be at the store, someone's got to be at the warehouse, and she's just not there.

Kimberly Spurlock - We've spent tens of thousands of dollars in this property, I'm not going anywhere. I know people asked me about the lease at the North Merritt Island meeting, but I've been there five years; I have history there; I've built out that place and spent thousands upon thousands of dollars trying to make a nice establishment down there for North Merritt Island.

Chris Cook - I'm confused. It says here the current square footage is 6,600 square feet, correct?

Cindy Fox - Yes.

Chris Cook - If you look under the BU-2 it says the BU-2 zoning has a minimum of 7,500 square foot lot.

Cindy Fox - We just answered that question. The lot is almost an acre, the 6,600 square feet is the building.

Chris Cook - Thank you. I must have missed that part. Would you be amenable to doing a BDP?

Kimberly Spurlock - To be honest, I don't really know what is involved with a BDP. When I called Viera it did not sound like that was something that I could do. I can't even really speak to it because I don't even understand what is involved in a BDP. I know that it involves more money, more expense, and I just don't know the legality of it and that's why when it came up at the board meeting I said I would take it on advisement, but no one - and I have been down to Viera I don't know how many times - no one even brought up a BDP to me. I'm not familiar with it at all.

Chris Cook - Can you speak to that, Cindy?

Cindy Fox - Yes, a binding development plan is a voluntary agreement between the applicant, or the developer or the property owner, and the County. It basically just lays out things that both parties have agreed on to move forward with the zoning action.

Chris Cook - The one's I've seen are just one-pagers.

Cindy Fox - Well, generally, it does cost money because you have to record it with the courts, so it can be.....depending on how long it is, it can be a \$30 to \$50 charge. There is one additional board meeting that it has to go through on consent, so the Board gets a second bite at it if they want it - the Board of County Commissioners - but it is an agreement. It's like a contract, and it gets reviewed by our County Attorney's Office. If she has a mortgage or other investors in the property they also have to be part of it. So, it's not real easy paperwork.

Kimberly Spurlock - Yes, and I think that's what George described.

Cindy Fox - Right, it's not really easy, but we do get through them. I mean, if for some reason she changes her mind or doesn't, or can't, execute it because of a signature that she can't get or something like that we've got to start all over again and come back. We would probably bring it back to you if the Board told us to bring it back; otherwise, we'd probably deal with it at the Commission level.

Jack Ratterman - What kind of timeframe are you looking at, your guesstimate, from start to finish?

Cindy Fox - For a binding development plan we have a set timetable. They have 60 days to get it back to us; we have 60 days to get it on an agenda; and it's got to be recorded within 120 days.

Mary Hillberg - We do these quite a bit, and the reason that we do them is because we know there are some things, similar to yours, that really aren't terribly desirable to start, you know, but at the same time we hate to say no because we like your business.

Tom McFarland - We want to encourage business.

Mary Hillberg - And we want to encourage your business. What it is, in effect, is kind of an agreement that you will abide by these (inaudible). Some businesses may be a lounge or something, or a restaurant, and their BDP would say they aren't open after 11:00 p.m. because around them would be homes and the people don't want to be up until 2:00 in the morning hearing loud music. So, there will be different things for different types of businesses, and this way it isn't turned down, but it has requirements on it that says that you're not going to turn this into a wild.....I don't know what. What could this turn into, Cindy?

Cindy Fox - Well, to be honest with you, the only difference between BU-1 and BU-2 is warehousing distribution, and then some of your heavier uses like automobile repair and things like that. I'm not really sure what other types of heavy stuff would happen up here on North Merritt Island.

Karen Andreas - It already exists in the corridor.

(Several speakers at once. Inaudible)

Cindy Fox - The way that a binding development plan could go on this property is you could say, if the applicant voluntarily agrees - again, it's a voluntary agreement - you could say the BDP would just limit the BU-2 use to warehousing and distribution. Then, if anybody wanted to come back, if you sell the property and they want to come back and do.....

Kimberly Spurlock - I don't own the property.

Cindy Fox - But if another leasee comes in.....because you're not the owner, the owner would have to be part of the BDP.

Mary Hillberg - Who does own the property?

Kimberly Spurlock - Ralph Eckler, Bahamas Family.

Catherine Testa - Do you have any relationship with him?

Kimberly Spurlock - I met with the property manager today, and I don't know that they're going to agree to a BDP. I think they feel there's other legalities with it and fines that can be associated with different things, so I'd have to talk to him. They talked about that today and I am just not familiar with it. So, I don't know if they would be in agreement with it.

Cindy Fox - Sometimes when you have a lease and an owner, and then perhaps there's a mortgage aspect to it, or an investor.

Kimberly Spurlock - There is.

Cindy Fox - All of those people have to agree to the BDP, so that can be a tedious process.

Kimberly Spurlock - I know they are supportive of what I'm trying to do. I've been a long-term tenant; otherwise, it could have been empty in some of those bays, but I don't know.

Mary Hillberg - So, you own the building?

Kimberly Spurlock - No.

Mary Hillberg - You're renting?

Ted Balke - She's a tenant.

Kimberly Spurlock - I'm a tenant.

Mary Hillberg - Who else is in the building?

Kimberly Spurlock - There's only one other company called M.M. Medic, which has got merged with IMSF out at the Kennedy Space Center; and they are on the very end.

Mary Hillberg - This whole building, if we would make it BU-2, the whole building would be BU-2 and the whole property.

Kimberly Spurlock - But there's only four suites in the front, as you see. They are a little under 1,000 square-foot; and then there's the two bays in the back; it's not a large building; there's not a lot that can be done with it. The building is 6,600 square feet.

Tom McFarland -It's not a huge building.

Catherine Testa - So, about 4,000 of it appears to be warehouse.

Tom McFarland - About half of it, maybe.

Kimberly Spurlock - Because there are four bays at 1,000 each, and there's a little office behind and then you have hallways; and there's just two bays, that's it.

Tom McFarland - Can I ask how many employees you have?

Kimberly Spurlock - I have three.

Tom McFarland - That's idle curiosity.

Karen Andreas - So, the BDP would also involve the property owner and any investors, mortgage holders, or anyone that has financial interest in it, it would cover all of them?

Tom McFarland - Any other questions of the board? I bring it back to the board. I'm willing to entertain a motion if you have one. Yay or nay? Yay with conditions? Nay with conditions?

Mary Hillberg - I'd like to see a BDP, but I understand all of the complexities of it. I'd like to see it stay BU-1 and not increase anymore the BU-2 this far north on North Merritt Island.

Catherine Testa - That also protects the people that live and about the property.

Mary Hillberg - And about the property. Is it residential people behind it? (inaudible)

Catherine Testa - And then once this is BU-2 then next door, then next door, then next door, and it can all change.

Mary Hillberg - With the same argument that Ms. Andreas had, that next door, next door, but here's north, south, east, west, and all of it is BU-1, or residential. At the same time I'm really torn with a resident and a small business that is nice to have here. It seems to be a nice, clean business, and it complements the area.

Tom McFarland - Need a motion, folks.

Mary Hillberg - I pass it on to.....

Jack Ratterman - I'd like to make a motion that they supply us with information about a binding development plan, and that it would come back to us at another meeting. What is that, 30 days?

Cindy Fox - To table?

Jack Ratterman - Yes.

Cindy Fox - Your motion is to table it to your next meeting?

Jack Ratterman - Well, for a binding development plan. I'd like for them to..... I'm a small business owner, too, and as a small business owner you get beat to death with all the government regulations, and I comply, but it's very burdensome, and you're trying to make a living and put food on the table, and the government and other entities are trying to take it off your table. With this business, you know, wine and olive oil, hey, I would say yes, you know. I would even say yes to the BU-2, because look at the storefront, you're not going to have an auto repair place there.

Catherine Testa - But you could because you could demolish the building and build it.

Ted Balke - You could build anything on that property afterwards.

Jack Ratterman - And an earthquake could come along and destroy us all, you know.

Tom McFarland - Was that a motion?

Jack Ratterman - I would like to make a motion, yes.

Tom McFarland - You want to table it until the next meeting, at which time they would provide a binding development plan or an alternative?

Jack Ratterman - Right, correct.

Karen Andreas - May I?

Mary Hillberg - No, you can't speak after it's closed. I'd like to second his, Jack's, motion. I think that just gives a little bit of.....just find out, since the applicant doesn't know what it involves, find out exactly what she would need to do, and something that give us some kind of.....hold on to the property a little bit and keep it in that area of business, because we like the business and it's not that at all.

Tom McFarland - Any other comments?

Cindy Fox - I do want to let you know that this would push them back until January because typically you recess at the same time as the Planning and Zoning Board and the Board of County Commissioners.

Tom McFarland - We do not meet in December.

Cindy Fox - You do not meet in December, so this would push it back until January. I'm not sure what the applicant's time table is.

Catherine Testa - If the motion that has been proposed passes, does this still go to the County?

Cindy Fox - No, it would stop right here and you would see it again in January.

Mary Hillberg - It's tabled here until they bring us back a BDP that shows that they promise to limit it to just what they say they are going to do.

Cindy Fox - A BDP is voluntary, so they could.....

Ted Balke - Can they apply for the BDP while they are waiting?

Cindy Fox - It's not an 'apply for', it's a voluntary agreement that travels and hangs with the zoning. So, it's not a contract. I will tell you, what will happen is I need a recommendation from this board, and if you choose to table it we'll talk about it again in January. If the applicant is willing to do a binding development plan, perhaps they can have a draft and they would have more information about what's included and how to do the binding development plan, and they can give you their more comprehensive feedback at that time, but again, it's voluntary and the applicant can say, "I'm not going to do a BDP". So, I still need a recommendation from the board. You may want to ask the applicant about their timeframe and willingness.

\*The remainder of the meeting did not record\*

After further discussion, a motion was made by Jack Ratterman, and seconded by Chris Cook, to approve the request as submitted. The motion passed 4:2, with Mary Hillberg and Catherine Testa voting nay.

Upon consensus, the meeting was adjourned at 6:50 p.m.