

**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 April 4, 2019 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

**ITEM I.A., CALL TO ORDER**

| <b>Attendee Name</b> | <b>Title</b>                       | <b>Status</b> | <b>Arrived</b> |
|----------------------|------------------------------------|---------------|----------------|
| Rita Pritchett       | Commissioner District 1            | Present       |                |
| Bryan Lober          | Vice Chair Commissioner District 2 | Present       |                |
| John Tobia           | Commissioner District 3            | Present       |                |
| Curt Smith           | Commissioner District 4            | Present       |                |
| Kristine Isnardi     | Chair Commissioner District 4      | Present       |                |

**ITEM B., MOMENT OF SILENCE**

Chair Isnardi called for a moment of silence.

**ITEM C., PLEDGE OF ALLEGIANCE**

Commissioner Pritchett led the assembly in the Pledge of Allegiance.

**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.

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**DISCUSSION, RE: COMMISSIONER SMITH APPEARING BY TELEPHONE**

Commissioner Lober inquired if he could make a motion, even if it is a little redundant, just in an abundance of caution, to permit Commissioner Smith to appear telephonically.

Chair Isnardi inquired of Commissioner Smith could hear the Board over the phone. Commissioner Smith responded affirmatively.

Eden Bentley, County Attorney, inquired if she could ask a few questions before the meeting gets underway.

Chair Isnardi responded affirmatively.

The Board permitted Commissioner Smith to appear telephonically.

Attorney Bentley inquired if Commissioner Smith could see the Board sitting in the Commission Chambers.

Commissioner Smith responded he could not, he clicked on the thing that he is supposed to click on, and it says 'up next on SCGTV, the Brevard County Board of County Commissioners Meeting', and there is a little circle going around in circles in the middle of the screen, but he has no picture.

Chair Isnardi recommended that he reload the webpage.

Attorney Bentley stated she agreed that he should reload the page; the Board can continue until there is a new document that has not previously been presented to the Board; and hopefully it will resolve itself.

Commissioner Smith stated he has it.

Attorney Bentley stated for the members of the Public, hopefully this will resolve itself, if they have any new documentation that has not been sent to the Zoning Office, or to the Commission Offices before this meeting, it can be presented tonight, and Commissioner Smith, if his computer issue is resolved, will be able to see it if one puts the documents on the gray projector next to the podium, and it will show up in the screen behind the dais; and asked the Public to please use that projector if there are any new documents to present tonight.

Commissioner Smith stated he has the screen, he sees Attorney Bentley.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1         |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

**ITEM G., PUBLIC COMMENTS**

Chair Isnardi stated there is one card for Public Comment; and she called Ron Bartcher up to the podium.

Commissioner Pritchett asked if Mr. Bartcher was speaking on the Scottsmeer Item.

Mr. Bartcher responded no, this is a Zoning issue.

Chair Isnardi asked if someone could give Mr. Bartcher a hand with the projector.

Mr. Bartcher stated last week he attended a meeting of the Scottsmeer Community Association; they were discussing Land Use issues, and the Future Land Use Map; and one of the people at the meeting asked if that map had ever been updated in 30 years. He explained that he thought it had, but he would check; he found out there is a requirement to do it every seven years, and that has been done; the last time was back in 2017. He went on to say what was interesting was there was an article in *Brevard Deliverance* that said that they did this; almost every County Department and multiple State Agencies had input into the document; and what he found most interesting was there was no reference to residents having an input into that document. He went on to say that seemed kind of strange; there is a process called a Small Area Study that he would like to propose that the Board undertake for the Scottsmeer area, since that has never been studied; as far as Scottsmeer is concerned, it has been relatively quiet; and over the last few years it has accumulated a cemetery, a Dollar Store, and there is a potential new subdivision being considered. He explained in addition to all of that, there is some property up there for sale; it says the Future Land Use is an ideal location for State Lot Home Size, and development is coming to Scottsmeer, so he thinks it is time for a study. He noted researching the Comprehensive Plan and Land Use, he found what he thinks are inconsistencies; the National Cemetery is classified as Res. 1, which is one unit per acre, and he is not sure that is really right for a cemetery; many houses in Scottsmeer are zoned in RU-1-7, and yet the Future Land Use says it should be Res. 1; there are lots around the Environmentally Endangered Lands (EEL) property that are land locked and classified as Res. 1, there is a conservation easement property that is Res. 1, there is an auto salvage yard that has BU-2, BU-1, and AU zoning as a Res. 1 classification; and there are numerous discrepancies. He went on to say there are several lots that have two separate land use plans; he was trying to figure out why that would be, so he looked at how the line was drawn between the Res. 1 on the west side of the line and the 2.5 that is on the east side, and he found that that line parallels U.S. Highway 1; he thought that was kind of interesting because the purpose of this property over on the side is to protect the Lagoon; and he does not know why the line is not drawn parallel to the Lagoon to help protect the Lagoon. He added it looked to him that that line was drawn with the intent to increase the residential area, the high density; and he would like for the Board to consider a study of the Scottsmeer area.

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**ITEM H.2., CHATEAU MADELEINE, LLC (ROBERT CASEY/DENISE MORRILL) REQUEST A CUP FOR ALCOHOLIC BEVERAGES (FULL LIQUOR) FOR ON-PREMESIS CONSUMPTION IN CONJUNCTION WITH AN ASSISTED LIVING FACILITY, IN A PIP ZONING CLASSIFICATION**

Chair Isnardi called for a public hearing for Chateau Madeleine, LLC to request a CUP for Alcoholic Beverages (full liquor) for on-premises consumption in conjunction with an Assisted Living Facility in a PIP Zoning Classification; for a property that is 3.76 acres in size, and is located on the east side of N. Wickham Road, approximately 390 feet south of Pineda Court.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Chateau Madelein, LLC, represented by Robert Casey and Dennis Morrill, requesting a Conditional Use Permit (CUP), for alcoholic beverage for full liquor for on-premises consumption in conjunction with an Assisted Living Facility in a PIP Zoning Classification; this property in 3.76 acres in size and located on the east side of North Wickham Road, in District 4.

Chair Isnardi asked if Commissioner Smith had any questions or comments on the Item.

Commissioner Smith stated he is perfectly fine with the Item.

There being no further comments or objections, the Board approved the request for a CUP for Alcoholic Beverages (full liquor) for on-premises consumption in conjunction with an Assisted Living Facility in a PIP Zoning Classification; for a property that is 3.76 acres in size, and is located on the east side of N. Wickham Road, approximately 390 feet south of Pineda Court.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1         |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

**ITEM H.5., JOSEPH BRANDON AND NIKKI THOMAS REQUEST A SMALL SCALE COMPREHENSIVE PLAN AMENDMENT FROM RES 1:25 TO RES 1. (18PZ00153)**

Commissioner Isnardi stated there are several cards for Items H.5. and H.6., and the Board is going to hear them together.

Erin Sterk, Planning and Zoning Manager, stated Item five is a proposal by Joseph Brandon and Nikki Thomas requesting a Small Scale Comprehensive Plan amendment from Res. 1:25 to Res. 1 on a property that is 3.15 acres in size, located on the southeast corner of County Line Road and Dixie Way; the associated re-zoning request is a proposal by the same applicants, but it is on the entire property which is 19.75 acres in size, located at the southeast corner of County Line Road and Dixie Way.

Commissioner Lober stated he has some disclosures, actually quite a few disclosures; he is going to try to fly through them quickly, pertaining to both numbers five and six; all of them, unless he notes otherwise, are in opposition to the proposal. He verified he had an email from Rose McGinnis on March 11, an email from Melanie Lorenti, on March 13, he had emails from Ron Bartcher dated March 14 and March 17; also on March 14, an email from David Laney, on the March 16 an email from David Botto; on March 18 an email from Rachel Burke, also on March 18, an email from Maureen Rupe, on March 19 an email from Marielle Marne and Steven Moore; and on March 27 he has an email from Mary Sphar, on March 27 he had a phone

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consultation and meeting with some area residents, David Laney, Rose McGinnis, and Jerrad Atkins. He went on to say March 30 he has an email from Leesa Souto; March 31 an email from Maxine Ziemann; on April 1, he received a letter from Scottsmoor Community Association; on April 2, he received an email from Kathy Ceballos, also on April 2, another email, this one from Jerrad Atkins; on April 3 he received an email from Philip and Lori MacIntyre; and on the following day, April 4, an email from Morgan MacIntyre, all in opposition.

Commissioner Pritchett stated she has submitted her disclosures to the Clerk already and they are in a packet, and she thinks she had pretty much the same ones as Commissioner Lober, they are numerous, and they are all out there for public record if anyone would like to review them.

Chair Isnardi stated she was going to disclose the same, she also had a meeting in her office with David Laney, Rose McGinnis, and Jarrod Atkins on March 27, and the discussion was their opposition to the re-zoning of this, to their area; they had concerns about whether or not it was consistent and it was about 45 minutes, maybe an hour.

Ms. Sterk stated she would also like to clarify; she received some comments after the Planning and Zoning Board meeting that the public was not sure they were talking about both Items, so when the public comes up for comment, if they will address both the Comprehensive Plan Amendment and the rezoning, then the Board will be sure that everybody has a chance to be heard.

Chair Isnardi stated some of the cards that she has as well have five and six, some have just five or just six, but she is going to call them ahead in order, unless one does not want to speak, that is okay, too, but after the applicant the Board will go through the cards.

Commissioner Lober stated he has just a brief question, and hopefully this helps, but if not, he apologized; he was hoping the Board could kind of get a feel for where it was inclined to go before public comment, because if it can save a couple of hours of people speaking, he thinks it might be appreciated by some people; and he is happy to let everyone know where he is and maybe it can go that way, and perhaps it may not be necessary to have everyone come up and say what they have been telling the Board by email, letter, and by visit.

Eden Bentley, County Attorney, stated she thinks the Board needs to take the public comment; the Board can discuss it some, but it must not pre-judge before it hears the public comment.

Stuart Buchanan, representative for the applicant, stated he knows there are a lot of speakers, so he will be very short on his introduction and presentation, so the Board can hear from the public and he can do the applicant's rebuttal after the end. He explained he may need some help, because he understands that Commissioner Smith is not here, and he does have a handout for the Board that he wants to present; he has already given a copy to the Clerk; and he will provide one to the Board. He went on to say he is going to be very short, because he understands the Board has a number of members of the public who wish to speak, and then of course, he would appreciate the opportunity to come up afterwards for rebuttal; this is one of the most straight-forward requests for re-zoning the Board will possibly see; the property currently has 16 acres, which has a Future Land Use of Res. 1 the zoning assigned to it is Agricultural Use; and these are both the original Future Land Use Category and Zoning District that was assigned after the Growth Management Act was passed. He explained the reason that it was given Agricultural Use with AU zoning was because at the time the Comprehensive Plan being adopted, and the zoning districts being assigned, it had an Agricultural use; it was a citrus grove with a bona fide Agricultural exemption; and it has not been a citrus grove for many, many years. He noted this is why that it is acceptable to come before the Board and request re-zoning; if the Board looks at the aerial, he would encourage it to note that this is not a property

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that is in its natural state, it was clear cut decades ago, it was planted as a citrus grove, the citrus grove is now defunct, and therefore it reverts back; and they looked at the Future Land Use of Residential 1 on the 16 acres. He discussed the Small Scale Comprehensive Plan Amendment is for approximately 3.15 acres, that request was simply to provide consistency for the parcel as a whole; the applicant has already agreed to enter into a binding development plan to limit the total development to 14 lots; he would like to stress again, that under the Future Land Use Category, that 16 acres is already Res. 1, which would be 16 dwelling units; and he reiterated the applicant is willing to, with or without the Small Scale Plan Amendment being approved, the applicant is simply asking for the RR-1 zoning designation to be assigned to this property. He continued they are willing to enter into a binding development plan to limit it to 14 lots; he would encourage the Board, at some point, to seek input from the County Attorney that is present, so that it can find what the process would be should the request be denied; and what the next two steps would be for the applicant, after the administrative relief has been exhausted. He noted he knows the Board has a number of members of the public, so he will going to go ahead and step down, and he is happy to answer any questions that the Board has.

Chair Isnardi stated she will call a couple names at once, so the speakers will know who is next.

Nancy Stephenson stated this is a rural area; she is on County Line Ditch Road; she is about 1,200 to 1,500 feet away from the adjacent property; and her family also manages a property that is less than 800 feet away from said property. She presented the Board with a handout with some aerial maps; she noted there would be, one shows the Brevard side, showing roads in the rural area; and the second one is showing more on the Volusia side showing conservation, or protected areas. She added this project greatly impacts not only the neighbors, but the community; along with the concerns of water quality and availability, the environment, neighboring agricultural lands and the future conservation areas, and the Indian River Lagoon; this property is very close to her family's property, which is Agricultural; and the area is considered rural, rural Agricultural, with the smallest tract close by is 2.5 acres, but that is only because it is a family unit. She continued it is a total of 10 acres, where a family, mother/child, split up a 10-acre block, so the child has a two and one-half acres block on the same property; people relocate to this area in search of large acreage space, a quiet way of life; and they want the room for their livestock and their families. She pointed out they do not want to open the kitchen window and talk to the neighbor; many that have had to settle for a two and one-half acre piece of property wish that their property was bigger so that they could have more animals, crops, and freedom; they painted these maps so they could give the Board the idea of the layout of the property in question; the main roads in and out of this area are County Line Ditch Road and Dixie Way; and County Line Ditch Road runs east and west, it is not a paved road, and it is covered with millings. She went on to say Dixie Way, traveling north and south is dirt; both of these roads, if two cars were coming in opposite directions and wanted to pass, one vehicle has to yield to the side so the other can get by, and they kind of make a joke about it that one may have to yield to livestock or wildlife and let them finish before one can go on about their day; and she wanted everybody to keep in mind those are the two roads that would have to support this extra traffic, meaning construction trucks, deliveries, garbage, power, emergency vehicles, and everything above. She talked about factoring in two to two and one-half vehicles per house, with these additional homes, that is an impact on the roads; on the north side of this is all conservation area; on the Volusia side, it is a one house per 10 acres; and along with the conservation areas, the County Line Ditch itself, flows east. She discussed it is the main ditch for that area; it starts at U.S. Highway 1, goes completely through the conservation areas and unloads into the Lagoon, straight into the Lagoon; and it is mainly a rural and Agricultural area. She advised Agricultural businesses are the major part of the Florida economy; in the 2012 Census of Agriculture for Brevard County, along with the State, the majority of farming operations are produced on 48, 49, or less acreage, with the second major income coming from cattle, and the third from citrus and fruits; there are many property owners up there with agricultural practices whether it is cattle, citrus, other fruits and vegetables, or even horse

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operations; along with that, many of these families have young children, their future generations; their comments and concerns one of the concerns that was brought up was that this is this family's investment for their retirement; and that is the same with everybody up there. She continued on that is their lives, that is their future, and they want to respect it and take care of it. She added they bought these large tracts of land for privacy, conservation, agricultural practices, and agriculture keeps everybody fed; that is just the way it is; if they do not take care of the land, it will not take care of anyone; conservation and preservation are the key aspects of everyone's future; and everyone that has property in the north area could profit from development, but they choose not to out of respect for the Future Land Use ideas and future generations that follow them. She noted their concerns are the over density of the land, water retention, water flow, run-offs, flooding, the natural flows of the ditches, the infrastructures, the roads, she knows everybody is going to be getting into some of this for the Board; she would also like to bring up there is a Florida State Statute, 163.316, that talks about dealing with future development and existing land use; and it has to do with future development that is attached or close by agricultural lands, and it is Florida Legislation's way to try to preserve Agriculture, and protect it. She advised there are formalities and forms that have to be filled out, looked at, and she is sorry, she meant to bring that paper, and she did not bring it up here with her, because she wanted to talk about the Small Area Study.

Ron Bartcher stated the map she just handed out shows the property in question and also shows the septic tank overlay on this property; the blue line that is shown on the map shows the division between the Res. 1 and the Res. 2.5; he added that all of that residential property is Res 2.5, and that is all in a property that is in the septic tank overlay, meaning they need to have high performance septic tanks; and his concern with the Board changing the land use on this, is changing the land use on this property to allow three residence per acre. He went on to say this is essentially a three acre property, so the Board would essentially be allowing three residences in there, and that is three septic tanks. He went on to say if the Board leaves it at 1.25, that is one septic tank; what that means is, if the Board approves this, it is increasing the pollution to the river by a factor of three, and it has been stated that pollution goes straight to the river; and there is another important consideration that he wanted to bring up, and that is density. He explained like beauty, it is in the eye of the beholder; if one lives in a city, one acre of property, or one house on one acre, that is tremendous density, but if one lives out where they do, that is a very high density, one house per acre and what they have, and what a lot of their property is, is one with 2.5 or one on five, one on ten, one on 20, that is what they consider low density. He continued this difference in perspective is very important, because when one makes a Future Land Use change, it should not have a negative impact on the residents that live there; the residents that live in this rural area, they desire to have what they perceive as low density, not what someone else perceives as low density. He added they rightly expect that the land use will continue to be compatible with their community values, so he would request that the Board please deny the land use change. He inquired if he could also speak on the zoning issue, because he submitted two cards.

Ms. Bentley replied if the Board is requesting additional time, that is up to the Board, she would recommend giving additional time.

Chair Isnardi inquired if someone submitted two cards, it is probably easier if they speak all at once.

Commissioner Lober stated he could just make a motion that if someone has indicated both items, or if they submitted two cards, that when they come up for either, that the Board go ahead and double the time, if that is what the speakers want to do.

Chair Isnardi stated that is fine, and the Board will give them the option.

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Mr. Bartcher stated he wanted to address Item H.6. which talks about the zoning; the Board has heard a little bit about rural lifestyle, and he is sure as other speakers come up, it is going to hear about rural lifestyle; and he would like to explain that a little bit more. He inquired if the Board has ever looked out its window and seen a gopher turtle laying eggs, because he has; he inquired if the Board had ever seen a bobcat stick his head out from a palmetto in its backyard, and watched it look around and say, 'oh you're not a threat', so he just calmly walks off over to the palmetto on the other side of its yard, because he has. He inquired if anyone has ever walked around their house, the corner of their house, and were surprised by a wild flock of turkeys that are flying off all of a sudden off into the palmetto, because he has; he further inquired if anyone has ever seen a wild hog peer his head out look very closely at someone and think they are a threat and then take off crashing through the palmetto, because he has. He went on to say these are the kinds of things he has seen; he stated he likes to read his morning paper on the patio, where he frequently hears a rooster crowing, or a cow mooing; he enjoys these sounds and other sounds of wildlife; a blue jay squawking, a squirrel scolding, a hawk screeching to scare up dinner, an owl hooting; and city folk think these sounds are irritating, he finds them very pleasing and relaxing. He went on to say most people who live in this rural area in Mims and Scottsmeer do precisely because they enjoy the rural lifestyle; his nearest neighbor is hundreds of feet away; and life in rural neighborhood is much less stressful than a crowded city and everyone knows the studies about increased crowding increases stress. He advised they live out here because they enjoy the relaxing, peaceful atmosphere; they do not have to have a car drive by their house every few minutes; and even the traffic on the Federal Highway that runs through the area is far quieter and safer than when that same highway runs anyplace south of them. He explained the activities they have out there are very interesting; he asked the Board to imagine taking its kids to a library program about miniature horses, only to have at the end of the program, to ride in a buggy driven by that miniature horse; kids just love that; and they have the annual July picnic in Scottsmeer, as well as the annual Mullet Festival in Mims; and both of these have loads of activities for kids and adults. He discussed there is more freedom in their rural area, they can do what they want without having to tell somebody to stop; if he wants to put up an eagle in his front yard, he does have to go to a homeowners association and have them tell him to stop, that he cannot do that; and he can spend his time in his workshop sawing, drilling, routing plywood, turning this into furniture for either his house or the library; his neighbor who he can barely hear, is out sanding on his car, converting his antique car into something much nicer and having a nice paint job on it; and one of the more popular stores in the area has a motto that fits the area, it's "for life out here". He continued there are several large stores in this rural area that serve their needs, Tractor Supply, Family Dollar, B&E hardware, Walgreens, Dollar General, however the convenience of having these stores, is not why they moved there, it is just an added benefit; when he moved there, there were none of these stores there; he did not care if he had to go 14 miles down to a Walmart, Publix, or Home Depot; and he just wanted the nice rural atmosphere, so he is requesting the Board to please deny this zoning so they can continue with their rural lifestyle.

David Laney stated he has cards for both Items five and Item six cards in.

Chair Isnardi asked if he would like to put his time together.

Mr. Laney responded affirmatively.

Chair Isnardi stated she would increase his time; and she would give the applicant more time as well.

Mr. Laney stated since he is familiar with a number of the topical areas that a number of the speakers will be addressing, he will be very pointed, and he thinks it will not be replicated by other people; and he will speak fast. He explained he prepared for two that he thought were three minutes, so he thinks he will be done in six; with that being said, he would like to talk



about the Future Land Use Map change first. He inquired who has standing in the discussion regarding the future Small Scale Plan change as requested with this property; he read by Florida State Statutes 361.318(4) Subparagraph A-1: "The effective persons of those that own property in the boundary of the local government who's plan is the subject of the review"; he added that means every resident of Brevard County has standing; additionally, those owners of real property, abutting real property, that is subject to proposal change to that Future Land Use Map; that includes those of that area who were notified by the Planning and Zoning for the rezoning location, but he would note that it also includes Volusia County, because Florida State Statutes 361.318(4)(a)(2) states local governments that have areas designated for protection to special treatment within their jurisdiction that abut this said project; and that is Volusia County. He went on to say the property immediately on the north side of this property, that is requesting the Small Area plan change is a conservation area, and is designated a conservation corridor; that is just establishing standing here on who is talking and why they are talking about it; the Future Land Use Maps cannot be further than something cast in stone, they are not intended to be something that is cast in stone; and when they were established, come in after the 1988 Robert T. Stafford Act, and as amended in 2002, Future Land Use Maps are required to be viewed on an ongoing basis. He continued the most recent requirement from that comes from the guidance to the States is from FEMA; he added the probability to the future hazard events FEMA State Mitigation Plan Review, effective March 6, 2016, Title 44, Code Federal Regulations Part 201, and it dictates what has to be taken into account in a Risk Assessment associated with Future Land Use Maps associated with that; and what has to be taken into account is the probability of future hazard events that must include considerations of changing future conditions including the effects of long-term changes in weather patterns, climate, and identified hazards. He explained the reason he is bringing that up is right now, the Board is in the process of considering increasing the density utilization of components of the Future Land Use Maps; he would like to take a look at the area they are actually talking about, which is that intersection of County Line Ditch Road and Dixie Way, and what lies east of it, to the Lagoon; and the first consideration from the risk and hazard associated with future climate changes is that associated with storm surge. He advised the new National Oceanographic and Atmospheric Administration (NOAA) have combined their projections with the Army Corps of Engineers, and the Board will find when it goes to those most recent projections, which have now been published, if a category three hurricane comes in on that section of the east coast of Florida, there will be up to three feet of water at Dixie Way; a category four hurricane coming directly in at that point of the east coast of Florida will have up to five feet of water standing in Dixie Way; this is definitely a flood surge, or hurricane surge, area. He went on to say compounding that, if one takes into account the future sea level rise projections due to whatever one wishes to attribute them to, the fact is, it is happening, sea level around Florida is up to eight inches higher than it was in 1950 and is projected to rise another six inches in the next 15 years; that next 15 years is based on the projection that was done in 2017 by NOAA; and there are two points that are identifiable and one can pull data specifically from the east coast of Florida. He went on to say the southernmost is Miami Beach, the northernmost is Daytona Shores, and these projections hold consistent from Miami Beach to Daytona Shores, and this is the most probable; this is not the most drastic projection; there is consensus that this is the most probable on sea level rise; by 2050, it is projected to rise 15 inches; and by that time, the Mosquito Lagoon is no longer the Lagoon, it is the ocean. He noted after that the Mosquito Lagoon will very probably become the ocean the next time a significant hurricane impacts that section and the dunes are gone; he knows there are other people that are going to talk about the small area plan change; during the Planning and Zoning meetings, Mr. Buchanan brought up as a representative for the Thomas', the fact that they do not need more property taken off the tax rolls, they need to increase the tax rolls; and what those properties are and what the economic contributions are to Brevard County and Central Florida, those properties which are not on the tax rolls. He added Patrick Air Force Base created 9,464 jobs on base, and 4,310 indirect jobs in the community, from the latest economic impact information; over \$1 billion per year economic impact to Brevard County and Central Florida from Patrick Air Force Base; Kennedy Space Center added

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10,194 spaceport jobs currently, and that includes private sector spaceport jobs; total between jobs on the spaceport and jobs which are created and supported by spaceport and NASA are 23,753 jobs, with a total economic impact to Brevard and Central Florida of \$3.9 billion annually; and the next big one is Playalinda Beach where Canaveral National Seashore is. He went on to say Canaveral National Seashore has a total of 1,000 direct jobs that are supported by an economic impact back to the community of over \$111 million annually; those are just indications that perhaps some of the properties that may not be paying property taxes, they are certainly providing positive economic impact back into Central Florida and Brevard County. He noted these are some things they are not here to talk about tonight, since this is focusing on zoning, they are not here to talk about the new National Cemetery and the impact that the cemetery may have had on the water quality of some of the residences immediately adjacent to the cemetery; that is not a subject they are here to talk about tonight; they are here to talk about zoning; and they are also not here to talk about BDPs. He stated BDPs do not occur if the zoning is not approved, they are here to talk about zoning; Brandon and Nikki Thomas have requested a change in zoning of the 19.75 acres in Scottsmoor, Florida; and their request is to change the zoning from AU, which is one house per two and one-half acres, to RR, one house per acre; and by Brevard County Comprehensive Plan and Policy requirements for this request are the areas adjacent to the existing Res. 1, but current land use designations are inconsistent on that, yes there is Res. 1 on the 107 acres at the immediate southern border, component of that 107 acres is Res. 1, but there has already been discussions from Mr. Bartcher regarding whether or not Future Land use Mapping establishing classification of Res. 1 was appropriate to begin with, they feel it is not. He went on to say another consideration or requirement by Administrative Policies of Brevard County, is if they are classifying the property as RR-1, the areas must serve as a transition between land uses of land use designations with density greater than one unit in areas of lesser density. He continued they have all seen maps of this area, this land does not meet that criteria; unincorporated areas which are adjacent to incorporated areas who may be considered a logical transition to Res. 1; the Board has seen the maps, and this property does not meet that requirement; some other considerations, associated with approving this zoning change, also from Brevard County Comprehensive Administrative Plan Policies, the proposal must not materially and adversely impact an established neighborhood by introducing types of intensity to traffic that is not already within the defined boundaries of the neighborhood; within Administrative Policies and Procedures of Brevard County, that a neighborhood must have clearly defined boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features; and there is not a population density requirement associated with the definition of a neighborhood. He noted it is not in the glossary, not in the Brevard County Comprehensive Plan anywhere; the residents feel that they absolutely exist as a neighborhood in this portion of North Brevard; they share common values, they share common social interaction, they are dedicated to the same qualities of life; and the boundaries that he proposed are County Line Ditch Road. He explained that is the north end of Brevard County, obviously the eastern side of the proposed neighborhood is the Indian River Lagoon, the west side is obviously U.S. Highway 1, and the southern border, one could say that is probably Huntington; that is where this consistency of social values, rural values, is concentrated in any area on houses that are built on not less than two and one-half acres; there are additional considerations also, like the Brevard County Comprehensive Plan regarding where the surrounding road system is within construction and quality are sufficient to serve the proposed use without the need for substantial public improvements; and it has already been described to the Board. He thanked the Board for its time and if it has any questions throughout the procedure, they are certainly available to answer questions.

Andy Root stated he would like the Board to know that they welcome the Thomas'; they were told at a town meeting that they moved here to escape the Palm Beach lifestyle, and that the rural residential lifestyle is what they wanted; the residents welcomed that; and the fact that they liked it so much that they wanted to change it is what they objected to. He added to grant this zoning to one home per acre would destroy the rural residential lifestyle and hasten the

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destruction of the Indian River Lagoon, and amplify the demands of our fresh water, all of which are in jeopardy; he stated he personally knows of two land owners that hold 40 acres and 50 acres plus that are waiting for the Board's decision; and if it changes the zoning to one home per acre, then their attorneys will be next in line, and that line will grow. He continued on by saying hundreds of new wells will irrigate the new laws creating runoff of herbicide, pesticides, and fertilizers which will run directly to the Lagoon, while depleting the fresh water supply and increasing the salt water intrusion which is already occurring; and none of these things are good. He noted the major land to be developed is east of Dixie Way, it is in the closest proximity to the Lagoon, with deep ditches running directly to it; he added the loss of birds, fish, shellfish, and aquatic plant life can directly be attributed to this pollution and with every new home built on small lots will increase and hasten the death of the Lagoon, while salt water intrusion has already started because of the freshwater depletion, and they cannot reverse that, it will only get worse. He went on to say the County needs to be aware of the direct cost to the County; 90 to 100 new homes on these sites will greatly increase the demands for fire, police, and schools; the County is in the process of upgrading Coral Avenue, none of the other roads in Scottsmeer can handle this kind of traffic and they will all have to have major upgrades; the roadways with a three to five foot shoulder that have no berm, no signage, or any kind of warning are an accident waiting to happen; and the cars and trucks running into the ditch are a lawsuit waiting to happen. He advised with the upgraded roadways, Coral Avenue, the cars are now traveling three to four times faster than when it was dirt; the handout he gave the Board was to show that one of the wells that had just been drilled, or sampled, was 2,510 parts per billion, which on State level or municipal level, only 450 parts per million are permissible; and the University of Florida just published a survey for a recent visit where it said upon visiting the Scottsmeer area on March 6, "I became familiarized with the rezoning request in the area. I am able to place such a request in context of natural and human related pressures in the Indian River Lagoon region. I think that any new infrastructure development in coastal areas around the Indian River Lagoon in particular, needs to be examined carefully, and sensibly. This is because the sea levels in Florida which has risen at rates more than six times, mean global rates, between 2011 and 2016, the sea level rose at a rate of three quarters of an inch per year. Evidence of these rapid sea level increments on the increase in the sunny day flooding areas in this State. Compound to this problem the ever increasing use of human use of fresh water from the aquifer. Moreover an inconclusive trend that Florida rain value since 1985 indicates that the aquifer recharge is not changed over the decades." He added that means they are using more than is being replenished; it is evident any new zoning that allows increases in settlement density will represent amplified demands of the water aquifer, and because the sea level is expected to rise, the area will likely be drastically effected and the detriment to the water and soil quality; he respectfully asks the Board to deny this application so that others will not follow; and the Lagoon, fresh water, dirt roads, and the rural residential way of life can be saved.

Attorney Bentley asked Mr. Root to place the documents he had for the Board on the projector so Commissioner Smith could see them.

Mr. Root advised the letter from the University of Florida shows the most important thing here is not just this sub development that is being proposed, it is what will happen after; and if this is approved there will be many to follow.

Stephen Chalmers thanked the Board for its time; he added he respects and appreciates the service of the Board and the responsibility it takes on making decisions such as this one in particular this evening. He advised he has some reservations, though, as it appears one of the Board members may be a pirate. He explained he is representing the MRC, and he thinks their letter to each of the Board Members speaks for itself; he just wants to emphasize the last paragraph, as did his predecessor's speaker; this is an important event or decision that is before the Board because of its future ramifications; the MRC sees that enabling this kind of development in the face of change, which is not only ongoing arrival of more people in Florida

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and the County, but the threats of climate and sea level rise is not a wise consideration; and they should step back, zoom out from the locality of Scottsmeer and look at the whole County, and look at the whole coast a little bit more, and consider an overall plan which is yet to be really formulated about how the Board is handling the land.

Diamond Scharfenstine stated her and her mom and live at 6350 Dixie Way; they live approximately one-half mile, maybe more, from the developer; she knows the Lagoon and roads have been the primary subject of challenge on the subject, but she would like to touch base on her personal side of this issue. She advised her mom is a native of Brevard, born in Rockledge, grew up in Merritt Island, her father, who they lost in 2016, was military and a Federal contractor; her parents, after moving from Port St. John to Titusville, where she was born, moved to Mims, where they settled in Scottsmeer, about 20 years ago; because of the rural area, this is where they wanted to raise her; and her mom has had horses most of her life and they wanted the same experience for her. She added her parents chose Scottsmeer because of the land, the space, and the privacy, and they respected that Scottsmeer wanted to keep their community rural; most of the people in this room from the great community of Scottsmeer love their lifestyle in the country living; and if the Brevard County residents and Commissioners allow the developer to come in and re-zone their rural areas, they will end up with areas like Viera and Port St. John; there is nothing wrong with those areas by any means, but they moved to this area for a reason; they all understand that Brevard is growing, but she would like to know why they cannot keep the north part of Brevard in a rural habitat; and she inquired where it will stop. She asked if the Board continues to let this re-zoning and development move forward why can Brevard County not stick to its own requirements that it has already put in place; she noted it put these in place for a reason; she thanked the Board for its time; and she hoped the Board seriously considers keeping Scottsmeer a rural area.

Clara Mutter stated she moved to Scottsmeer, her husband was a homicide investigator, they moved to Scottsmeer to get away from town, to get away from people, to get away from traffic; and one of the first nights that they spent in their home after moving out there they used to sit on their front porch, and say, "wow, we'll watch the traffic". She noted they might see one car, it was an exciting night if they saw two; they would just sit there and watch the traffic; and told the Board one night they saw a hawk, and he landed on the fence out front, and they thought, "boy what's he doing there?"; and this time a cow came trotting down the middle of the road, it is a dirt road, he can go there if he wants to, and he was headed east, going toward Dixie Way. She went on to explain he turned north; behind the cow was a guy with a stick driving the cow that way, but he was about 50 feet behind; then after the guy with the stick, was a pickup truck, full of kids, following the guy following the cow; and there was a parade in Scottsmeer. She advised one does not get that in town; their first Christmas, the Scottsmeer Volunteer Fire Department came by with Santa Clause on the back of the fire truck with the sirens going and everything; their son was maybe 10 at the time, he ran out there so excited; and he had never seen anything like that. She pointed out the point of all of this, she did not come as prepared and as knowledgeable as all of these people, it is because she lives there, it is what they wanted; and they built their house with their own hands. She noted they out up their own fences, now they can afford to pay to get it done; they understand the owner of the property wanting to chop it up and sell it for as much money as possible; she added after all, her family is in real estate, she can understand that; she cannot understand destroying a neighborhood for one person, for one party; and that is what would happen, the Board would destroy a neighborhood. She went on to say the Board would destroy a group of people for one person to make more profit; he can still make profit on his property, at 2.75 acres; and he can still make profit, everyone can. She noted they just have to judge how much they want to do to the other guy to get their own; she would ask the Board to think about that when it considers it, because all of these people that came here are here because they value what little they may have, that they built themselves, like her and her husband did. She pointed out it is more than having 10 neighbors right next door, having 10 cars, or having a BMW; they just want their privacy; they want their lifestyle, they

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want their kids to grow up with horses; and they have cows in the backyard now. She announced they have been the horse, cow, sheep route, they have done all of that on their property; she is down to one rooster; when he is gone, he is gone; and he got her yesterday morning, he is gone, but he was too old to stew. She explained she told the Board she was not as prepared as these people; she asks the Board to consider this is what their life is like; this is what they treasure most; and there should be a place for them.

R.C. Kirk stated he is kind of on the cuff there of Mims and Scottsmoor; he has a daughter that lives on Carter Road, she just moved into her home July 4th, and then he has a step-son, Ray Merchant, who is on two and one-half acres by County Line Road; and he is having a new home built right now. He added he has been in Titusville 57 years, he was born there in 1961; he used to do a lot of work for Mr. Parrish and Mims Citrus; he was also in the equipment business, and he still is; and he used to do a lot of pushing in the groves when they would hedge and top them, and tear out old groves when canker would come along, and where they could replant, and he worked that area. He went on to say he has seen it under water so bad that they could not even work in there, they had to move on to a different area, because the equipment could not even move; that is how bad it is. He talked about what Mrs. Stephenson brought up about the liability of the roads; he went in that ditch one time with a machine; and he knows what it is like, and there is a real liability there. He stated Mr. Bartcher and Mrs. Stephenson pretty much covered a lot of the things that he wanted to talk about, but the other thing, too, and it is just for the common knowledge of the Board, the Volusia County side, just a week ago today, there is a piece of property a little over 200 acres that belonged to Truett Cathy. He explained he is the founder of Chick-fil-A, they called it the land of milk and honey if one looks up the legal description; when he passed away, the corporation sold it, and the people that purchased it sold it again last week and it is being fenced for cattle. He went on to say the Bernard/Parrish Grove on the Volusia County side, because Mr. Parrish had property everywhere, Edgewater, all the way down to he believed in West Palm as well; and basically there are people spending money, and that family that bought that property, paid really good money for that property. He noted they are also looking at 326 more acres to buy in that same area, and it is right over the line, everything they are doing, see Volusia County, not much was happening in their south part, not much was happening in the north part of Brevard, and everybody was like minded; and he kind of agrees with them, if the Board lets this go through, then it will be setting a new precedence and then here comes everybody else. He reiterated his daughter lives on Carter; he has five acres on Lionel, that 2.75 acres, the property so low, that they could come in and put a small pond in there and have the State stock it; he did that; and at his place, he has Tilapia, Bass, all kinds of nice fish, and he enjoys fishing. He advised fill dirt is not cheap, it is \$200 a load now; and some of the places out there when someone goes to build, they are going to have a \$30,000 to \$40,000 fill dirt bill. He explained he does not think they are really thinking it through; there is a man on 10 acres right there that put up a 3,000 square foot home; he spent his hard-earned money, the place is beautiful, he just had an appraisal done; and it is worth over \$700,000. He stressed if the Board approves this, it will drive down his value; it is the same thing for the ones that have two and one-half acres; that man worked hard for what he has, he rolled out of his old house, and he is rolling into a new one; he reiterated the Board is going to drive down the value of his place; and he would just like the Board to think about it. He reported there are water issues, if another storm hits, and there are people in this room right now, that are coming up here to tell the Board, they have seen the water in that area; it is very deep, so, it is just a matter of time; and and it will happen again. He concluded that liability problem of coming down that road, he does not know if any of the Board Members have been up there to see it, but one basically has to get off the side of the road, and let the other person come through.

Louis Sanders stated he would like to take his hat off to all these folks that spoke so eloquently tonight; it makes him proud to be a neighbor of theirs; he came to Scottsmoor in 1956, rode the little short bus from Mims to Titusville, because there was not many people up that way then. He

added he is not against growth, he is pro-growth 100 percent; he is a member of the Brevard Economic Development Zone; he is a disabled veteran, but he does not want to see the community change to the degree that they are asking for them to do it; and he is kind of unsure. He advised he heard someone state it can be one acre, one house per acre, and that is news to him; he was on a committee back in the 1990s with Truman Scarborough and Peggy Busacca; they came up with this plan, to make the land area size two and one half acres, because at that time, orange groves were viable, people were still prospering, the packing houses were still open; and everyone knows what happened to that. He went on to say it would open the flood gates of setting a house at one-acre a piece, especially east of Dixie Way; he added East of Dixie Way has always been where the water starts getting salty, quick; and somebody downhill of a one-acre lot, with a sewer and a well, somewhere down that line someone will not going to be drinking that great of water. He stated the road impact, like some of these folks has mentioned, would be serious; it would be a big expense; the good news is that they can still develop their property with two and one-half acres; and he does not think there is a person to resist that. He went on to say that is why everyone is on two and one-half acres; and he had 10 acres and he wanted to cut his son's out for just two and one-half acres. He advised he went through hell to get it done because his lot required them to have an easement, staff put him through the hoops, and this was not that long ago; and the development across from I-95, the Miami Corporation, the future of that area is fine for development. He added they are going to make a huge impact on that area, they have planned their water, they have planned their easements, their conservation areas, and they are going to have tons and tons of places for people to buy homes and live; he asked the Board to let Scottsmeer stay the way it is; and his mother's place is on five lots, but that was what it was at the time they came here in 1956. He noted seeing that and living there, and knowing how that is; then over the last few years some people have snuck in there, and pressured the powers that be to let them build a house on one-acre; that is a lot size of 50 feet wide, 135 feet long; and that would be three septic tanks and three wells. He advised they have no city water or sewer at all up that way; he thinks to make it down to one-acre would drastically affect a lot of people; not just that, he would like to see neighbors, relatives, and other things coming to Scottsmeer; and he would like to leave it as rural as possible. He concluded by saying the Board needs to realize that it is just not a good thing for everybody to have one-acre lots; it has been a pleasure coming before the Board; but he hopes the Board will consider that it is just too much of a bad influence on Scottsmeer to re-zone this.

Barbara Campbell stated she is not a next door neighbor, but she is in the same District; she has two points; the first one is elevation, she presented a topography map to the Board; one looks close it can see the five and the 10 foot line; this property is between five and 10 feet, some of it less than five feet, that is pretty low; the other point is the proximity to the Lagoon; and the edge is about 3,700 feet and it has been pointed out before, that blue line across the top there, is called Ditch Road. She went on to say she thinks it really is a ditch, that is why it is blue; this is not the place to build additional houses; and she has lived in Brevard most of her life, she has loved the Indian River all of her life, and it breaks her heart what the Board and herself have let happen to it.

Chair Isnardi asked Linden Campbell if he could wait to speak, because she would like to make sure the applicant has had the chance to see the emails that have been sent to the Board about this Item. She added the applicant may have been copied on some of the emails, she would like to make sure that the Board makes them available to the applicant, and he could always ask if they need more time.

Linden Campbell stated he agrees with what someone previously said that it is a tough job the Board is doing and he appreciates the efforts; people before him said a great deal of what he had in mind bringing up; and some of them did it better than he probably could, but he will try and cover a couple things. He added most people are probably familiar with a saying that is

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attributed to Albert Einstein, "The definition of insanity is doing the same thing over and over again and expecting a different result."; he has lived in Florida since 1955; he has been fishing in the Lagoon since the early 1970s; and the changes have been very disturbing. He went on to say development just keeps going; some have said they are not against development; he is a little perplexed about that; and if someone does not somehow get a handle on this, the accountants among the audience will say it is obvious. He advised development builds the tax base and increases revenue, he agreed, because that is obvious, it does; but there is another expression in economics, and it is called externalities. He explained those are the things that cannot be readily measured. He went on to say some of them were addressed, like the quality of life of the individuals in the neighborhood; but the damage to the Lagoon is directly related to the loads, and that was considered by the Board all a couple weeks ago; someone pointed at big sugar, MacArthur Dairies, the Military, and a variety of sources; many try to pass it off on septic tanks; there is some validity to that; and there has been rules for years on keeping them away from sensitive areas. He noted his wife pointed out this is backing up to a ditch and the Board is going to put a whole bunch of new septic tanks relatively close, even if the Board goes to advanced septic tanks; people have the problem of the golf course mentality, people move here, and they want a palm tree and a golf course; he added that dumps a whole lot of nutrients, herbicides, and pesticides, and it will go directly into the Lagoon; and they got a half cent sales tax imposed, that will be generating tens maybe hundreds of millions of dollars with the target of fixing that problem, he implored the Board to stop the pollution going into the Lagoon; it needs to develop a plan, educate the community, get away from the golf course mentality, go to micro agriculture; and he hopes people learn how to grow things that will stop the nutrients from going in and trashing the Lagoon, and to take an action to fix it, to actually long term fix it. He mentioned developers put a lot of pressure on the Board, the money is hard to resist, and he learned in researching this about Farmton. He went on to say, three miles away, that 59,000 acres are going to be developed, and his knees nearly buckled; he lived in the Keys for a period; he saw the Keys 40 years ago, and then 10 years ago, and the changes in the canals from when he was a kid, it was horrible. He revealed he could see to the bottom in 30 feet of water when he was a kid, now he can hide his hand by putting it two feet under the water in the same canal; they put a moratorium in because they realized that they were losing control; it was running away from them; and he does not know if that has to be. He informed the Board they stopped building until they could get a handle on it; in Titusville, from what he understood last year, dumped several hundred thousand, the year before, over a million gallons of sewage, and they were not the only ones. He concluded by saying somehow this has got to be stopped; the Native Americans used to say, "When the last tree is cut, the last river poisoned, the last fish dead, we will discover that we can't eat money."

Chair Isnardi inquired if Commissioner Smith received the document that Mr. Buchanan handed out.

Mr. Buchanan stated he would be more than happy to give it to staff and have it scanned and emailed right now.

Commissioner Smith stated he has it.

Susan Minch stated she lives in the community of Scottsmeer her son and his family live on the next five acres, so they have three generations affected by this possible re-zoning; they live near the Lagoon, east of Dixie Way; and they are less than two miles from the Thomas' property. She commended Dane Theodore, the School Board representative on the Planning Board; she noted he voted to deny the request for a higher density on the Thomas' property; as he so wisely stated, more homes exacerbate the problems of school overcrowding; and his reference was to Pinewood Elementary, the only school they have in the extreme northern end of the County. She added she met with the principal of Pinewood last week, who confirmed the school is already at 90 percent capacity; the majority of the youngest Scottsmeer children attend



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this school; and some changes have been made recently, such as adding portables, and restricting out of zoning enrollment. She went on to say the principal said five years ago the school had only 350 students, while currently, it has 530; everyone knows that large, two story homes will attract families with children, not retirees; she added David Lindaman's report states, Pinewood Elementary is not projected to have enough capacity for the total of projected students from the Thomas Property Development; and David Lindaman is manager for facilities, and he stated this in his December 2018 report. She went on to say students would have to be sent to a quote, "concurrency service area", such as Mims Elementary or further south, this is unacceptable; and parents have told her they do not want to send their children further south. She advised parents do not want to send their children north, either, into Volusia County, as Mr. Minneboo, Planning and Zoning member, seemed to suggest; home schooling or private schools are just not possible alternatives for many of Brevard's young, working parents; and she would like the Board to note the Scottsmoor Association donates \$1,000 each year to Pinewood Elementary to help them achieve success. She expressed it is a gem, as her daughter-in-law says; as a farmer, St. Lucie County School Board Member, she, too, cautions the Board about the change in house density; the overcrowding of a school leads to a number of problems, such as excessive bussing, unhappy parents, and anxious students; and the result is a lack of support from the community. She added St. Lucie County did not plan well for its growth and the school system suffered; she advised the Board it can avoid these happenings; new schools cannot be built overnight, and even though Pinewood is 50 years old, it is Scottsmoor's beloved and only elementary school; and as she closes, she will add that one of her sons earned his Master's Degree in urban and regional planning in 2007, his thesis was titled "A Plan to Achieve Smart Growth in Scottsmoor". She concluded he researched many of the subjects mentioned by previous speakers; it is now 12 years later, and the projected growth is upon them, along with its challenges; as the Board contemplates its decision, and prepares for smart growth, listens to all the adults here; and pleaded with the Board to listen to its very youngest constituents, too.

Roy Roberts stated his family moved there in 1962, they have been there a long time; they run the citrus grove there that is on Coral Avenue; it has seen a lot of change, and the grove, and pastures is about 300 acres; and he can tell the Board there is probably nobody that really believes in land rights any more than he does. He added as citrus has gone downhill, he knows he may have to sell; he hopes he does not have to, he is going to try not to, but it is a possibility that it may very well happen; they have already had to sell some land years ago; and his dad was pretty good at trying to make sure they did what was compatible with the community. He went on to say the land he sold, he sold in lots of five acre lots, which pretty well fits the community; he would hope that he does not have to do that; and he can tell the Board he has farmed that area, he knows that area, and east of Dixie Way has a lot of rock. He advised the Board needs to think about that because if they really get started in all this, that rock does not percolate water, it will go right into the Lagoon; there is no way to stop it; the applicant can put all the retention ponds in they want, and it is not going to change it; and it is almost all of that land along that area is like that. He noted when one goes west of Old Dixie, or Dixie Way; and there is a lot of sand, and the footprint that Scottsmoor kind of puts on the earth is pretty mild right now. He talked about the pollution that has been put into the Lagoon is pretty mild, but if the Board approves one house per acre, there is a whole lot of people that will want to come up and do the same thing; then it is going to be massive; the pollution going into the Lagoon cannot be stopped; the only way one can stop it is hold the population down; and it runs one house per two and one-half, or five acres, but hold he would like to see that held down. He concluded by saying Scottsmoor will be putting a pretty big footprint in like everybody else; he asked how much they can take; he stated he believed the Board has heard pretty well everything else; it is pretty obvious what the people of the community want and they want to keep it like it is; and he would hope that the people of the community would have the right to dictate or decide how that community is going to be.



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Rose McGinnis thanked the Board for the job that it does here; it is not easy and she appreciates the Board spending the time it did with her and other members of the community; she is the previous president of the Scottsmeer Community Association; and she handed over this fun duty to her predecessor just a week and a half ago, so she is here representing the community, but mostly her own views. She noted in February, she was notified about a rezoning effort at 6705 Dixie Way, Scottsmeer; she can tell the Board in her four years, she has never seen such a unified decision or viewpoint with her neighbors, ever; it was swift, it was interesting to see, and evidenced by their petition, they were able to collect 1,500 signatures on their petition in opposition of the rezoning efforts on that property; and 841 of those signatures have Scottsmeer or Mims addresses, and if one speaks to anyone in Mims or Scottsmeer, there is never a consensus on where Scottsmeer ends and Mims starts. She advised it is a very blurry line, she included a Google Map so the Board can see where the cluster of homes where the signers lived; the testimony in opposition to this rezoning is not personally directed at the Thomas'; they seem like fine people to her; and she has spoken with them a handful of times. She added her impression from everyone she has talked to is that they do not have a personal issue with the Thomas', they seem like lovely people; they are just concerned citizens trying to protect their rural lifestyle that they enjoy so much; and many new homes are under construction in Scottsmeer, and currently comply with zoning regulations. She explained there is an obvious market for rural living; she is not anti-development, she welcomes new neighbors building within zoning guidelines; she welcomes the Thomas' development to their property under the current zoning; and the development proposal before the Board is just not consistent with the surrounding properties. She added she is sure it is possible to responsibly develop and market the rural lifestyle without changing and destroying it; a subdivision in that area just does not make sense; all of the information regarding salt water intrusion, drainage ditches, run-offs, wildlife, livestock, and their basic way of life, the Board is going to hear quite a bit of that today from people much more knowledgeable than she is on that subject; and she implored the Board to listen to these testimonies and oppose both Agenda Items presented by the Thomas' based on the beginning sentence of State Florida Statute Chapter 163.3161(4), which states: "It is the intent of this act that local governments have the ability to preserve and enhance present advantages, encourage the most appropriate use of land, water, and resources, consistent with the public interest." She noted those who are here in person or by signature represent the majority of public interest in Scottsmeer; she has had to take a crash course in navigating the local government in order to protect and preserve her rural lifestyle she cherishes; she is not a professional with years of experience immersed in planning and zoning, but she does, however feel the support of so many neighbors and people she lives, talks, and communes with daily; and she requested that the Board help to keep Scottsmeer rural.

Glenda Ceballos stated she is not not going to talk about the schools, water, traffic, and sewage, the Board already knows all of those issues from all the previous speakers; she is just going to quickly touch on their lifestyle; they moved here from the West Coast, from Naples, Florida; and they had five plus acres there. She explained a developer came in, bought the surrounding area and divided it up and sold it in small parcels; most likely what they want to do here; and their little bit of paradise turned into an urban sprawl, so they moved to Scottsmeer. She added they have a small orange grove, which is a natural habitat for the wildlife; they have turkeys, sand hill cranes, rabbits, tortoises, blue birds, all kinds of birds, and even a few oranges, which they sell to the local roadside stands; the strawberries, oranges, and watermelons that grow out there cannot be grown on small lots; and that is what Florida is famous for. She went on to say they hope that they can keep the little bit of a rural atmosphere they there; they love the birds; and the National Birding Trail that goes through Scottsmeer; when there is a denser population, there will be less birds; and she feeds them every day. She noted the Scottsmeer population would like to keep more green space there; however, they do welcome growth; they have three houses growing up around them on Sunset Avenue; and these people moved here because of the country atmosphere, and they wanted to raise their family in a rural area. She inquired if the Board was going to take that away from them; she

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noted they are all on two and one-half, plus acres; they would like to keep it that way; and she implored the Board to vote to keep Scottsmeer rural.

Bud Link stated he is going to agree with the personal thing, too; the Board has a lot of people talking about important things; he moved to Brevard County, Florida from Wisconsin in 1977; they had 30 days in a row up there where it does not get above zero for the high of the day; and it is pretty cold for a long, long time. He added he did not quit traveling until he got to Merritt Island; he stayed there for two or three years; he got pushed out of there because of development; then he moved to Cocoa, and was pretty happy again for another three or four years; and he got pushed out of there because of development; and he moved to his current address 26 years ago. He went on to say he moved there because of the people there, and because the zoning, knowing that nobody was going to be able to build on less than two and one-half acres; he is totally against this guy wanting to come in there and change that; and he loves all of the people there. He added he has the most awesome respect for just about everyone in the room, and he loves them, except for the applicant; he added he could be loved, too, if he wants to leave things the way they are; and if anyone ever wants to visit a little piece of heaven in their lifetime, to come to Scottsmeer.

William Goff stated when he spoke before the Zoning Board, he had not talked to anyone at that time at the St. Johns Water Management District; he gave the Board a fact sheet that he received from a gentleman named Jason Siroy; he spoke to him a couple times over the last week about Environmental Protection Agency (EPA) standards for drinking water; the recommended standard for drinking water is 250 milligrams of chloride, or salt, per liter of water; and he added when he spoke before the P&Z Board, he thought they still had time before they would have any problems with that, but he was wrong. He explained when Titusville built their well field, west of Scottsmeer, between him and the Floridan Aquifer Water Supply, they were in the supply line before it gets to them' there were six test wells built; the only one that is really outside the well field is the sixth well that was dug; and his well is less than 300 feet from that test well. He advised his well and the test well were dug to 55-feet; he assumes there is only around 100 yards separating his well from that test well; and that his results would mirror that of the test well. He went on to say if the EPA's recommended standard for drinking water is 250 milligrams of chlorides, it is already there; that testing was started in 2013, and the test well has waffled back and forth from 124 milligrams to 317 milligrams; and there have already been excursions past the EPA's recommendations. He added this goes beyond buying bottled water for drinking and cooking; soap does not work in salt water, so they would not have a way to use their dishwasher or their clothes washer; and he took it a step further to find out how much a reverse osmosis water system would be. He advised it would cost \$3,000 just to buy a system to outfit his house; if one cannot do it themselves, they would have to hire a contractor to install it; or one can go to Culligan and get the system put in and they will charge \$34 a month, every month, for the rest of his life. He mentioned after talking to Mr. Siroy at St. Johns Water Management District asked him a simple question, if those numbers will go down, he said, "No", "if you have a normal rate of growth in the area, and you build the six, seven, eight, nine, ten new homes a year, that number is going to inexorability creep upwards, it's not going to go the other way." He stated the Board is not going to call Titusville and tell them to shut their wells off if the residents of Scottsmeer's wells turn to salt; he inquired why Titusville did not draw their wells in Titusville; he noted that it is probably because they are beyond the standard there, too; and he would implore the Board to deny this request.

Jerrad Atkins stated they moved to Scottsmeer five and one-half years ago to raise their two boys, Chase and Riley; they previously lived in Merritt Island, but they wanted more land to start a small farm, so they moved to Scottsmeer; it is one of the few remaining rural areas in Brevard County; and they chose that area, mainly because of the rural nature of the area and the two and one-half acre minimum requirement. He added to them it meant that limited and responsible development would maintain the rural nature of the area; many of the people that have spoken

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this evening chose or choose to live there for the same reason; and he presented a map of the area to the Board. He explained there are a multitude of large parcels of farm land that surround the subject property; they are like his, small, sustainable, family farms; it is what drives the community; the project in question is not compatible with the area; and the average lot size, within a 2,000-foot radius on the Brevard side, is roughly 30 acres. He went on to say if the Board accounts only for the lots between Dixie Way and the Indian River Estuary, the number is even larger; immediately to the north is Volusia County, and their minimum buildable lot is 10 acres; the closest parcel under two acres with similar proximity to the estuary is 1.1 miles away; and the same owner owns an 'L' shaped plot around the home giving him a contiguous 2.6 acres. He presented the Board with some photos of his property that were taken after Hurricane Irma in September 2017; he showed his driveway, shed, chicken coop, and the interior of his shed, one would be surprised what floats in a shed; there are already issues with flooding, resulting from storm surge and this effects all of the residents east of Dixie Way; and further development in this density would continue, even hasten, the worsening effects of this problem. He went on to say some of the things that were brought up in this zoning request distract from the real issues of the application; they are not here to discuss septic systems, Binding Development Plans (BDP), or the Veteran's Cemetery; they are here to discuss whether or not the zoning is compatible with the area. He noted it was also mentioned that agricultural land pollutes more than residential; he would like to point out these are small, sustainable, family farms; they are not feed lots or big sugar; they have best management practices in place that are County and State recognized by the Department of Agriculture to ensure sustainability; and it is their dirt, and they care about it. He advised the roads, water, and internet are terrible; they are 20 miles from a Publix; but they live there because they love the rural lifestyle; and they have built their lives there. He noted approving this rezoning will be the first step in the destruction of the lifestyle that they hold so dear; they are not against new homes, or new neighbors; he was a new neighbor a few short years ago; they are not against development, as a member of this community, he would like to help make sure development is responsible; and in keeping with a way of life that they all provide for their families and one another. He requested that the Board deny this zoning request; he added that the letter the Board received from the applicant stating he was in support and was the largest citrus grower in the area is a lie; and the largest citrus grower in the area spoke this evening in opposition.

Tom Minch stated he and his wife, Susan, live about two miles from the subject property; he feels everyone in the meeting chamber is trying to resolve an issue that was created when the Mims Small Area Study was done; at the time, Scottsmoor did not participate in that study, and the planners did not have a complete understanding of the area; and Scottsmoor is like a community within a community. He advised he has two addresses one in Mims, one in Scottsmoor, and it is very confusing; when the Mims Study was done, it overlapped into Scottsmoor; and without the input of Scottsmoor area, there is a Future Land Use Map that does not ensure compatible land use for that area. He advised there needs to be a new Small Area Study for the Scottsmoor area; to rezone the subject property, using the Future Land Use map, would make it non-conforming to the surrounding area; it could set a precedence and open the flood gates to more rezoning in the area; and as noted in the definition in the Future Land Use Map, a property designated in that Map, does not require that the rezoning has to be applied now, five years from now, or ever, if not approved by the local government. He went on to say the Board needs knowledge of the surrounding area, and any impact the change could cause must be considered before any approval is granted; they are not opposed to growth, but it is important to control it so that the environment and their quality of life is not destroyed. He explained in his former years, he was a commercial loan officer at a bank; he helped with financing for many new developments and establishments; he added when analyzing for new development, not only were financial perspectives viewed, but so were environmental aspects; water sources and sewage treatments were always major issues; and this would greatly impact

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their water supply. He advised when he and his wife built their home, their water worked okay for the first year, then there was a major drought and their water turned salty; salty showers, salty laundry stains, etcetera; and this was caused by salt water intrusion. He added after several attempts to find good fresh water to no avail, two contractors told them they only had two options; to put in a water tank, or to put in a whole house reverse osmosis system. He explained they chose the second option which was very expensive; other residents have experienced their wells drying up, others with salt water intrusion; and there have been a lot of wells that have been drilled in the area. He added the more wells drilled in the area, the more danger that is being imposed on the aquifer; salt water intrusion is a reality; this area is close to the Lagoon; and they need to work together to preserve this beautiful area for everyone.

Bill DeBusk stated he lives in West Melbourne; he is here to represent the Turtle Coast Sierra Club of Brevard and Indian River County; he is requesting the Board deny this rezoning request, because it will infest a robust rural community with cancer-like urban sprawl; and Scottsmeer is not the appropriate place for this. He added this area is surrounded by environmentally sensitive lands, and rural agricultural landscape; Scottsmeer is actually one of the last rural agricultural areas in close proximity to the Indian River Lagoon; immediately north is Volusia County, which restricts zoning to no more than one house per 10 acres; the local road system is made up of dirt roads that are very narrow and they are very minimally paved; and this road system was not designed for an urban environment. He went on to say the way Scottsmeer is zoned now enables a habitat for wild animals; it creates a buffer to the Indian River Lagoon, and enables corridors for wild animals to travel between these native areas; and this rezoning request is urban sprawl, and in accordance with Florida Statutes 163.3162 and 163.3177, this request is not consistent with the uses and intensities of the residential area surrounding it, and requires the Future Land Use plans discourage urban sprawl to preserve rural agricultural lands and natural lands; and it also provides water recharge and storage area, it protects valuable ecosystems and open spaces, and maintains the viability of agriculture. He went on to say in contrast, urban sprawl destroys wildlife habitat, introduces invasive plants and animals, increases the risk of water pollution, increases flooding risks, reduces groundwater for wells, and increases risks to life and property from wildfires; and if this property in this rural area is rezoned to one house per acre, then more requests will follow. He added this one rezoning would likely cause an avalanche of sprawl, and the end, potentially, of Scottsmeer as it is known now; and he requested the Board deny this request.

Becky Funk stated she is opposed to this rezoning request; she moved to Scottsmeer for the rural lifestyle, wildlife, and Indian River Lagoon; she has grown up in Florida, and she lived on the south end of the Indian River Lagoon, near Jupiter, in Stuart; and she does not want Scottsmeer to turn out like that area. She added the Lagoon is the biggest asset Brevard County has; the voters voted for the ½ cent sales tax for the Lagoon, because the Lagoon is important; and there is wildlife, birds, and other mammals that depend on the Lagoon. She noted it brings a lot of money to the area; if the Board continues to irresponsibly develop the areas, it will kill the Lagoon and it will not come back; and she does not want this to be like the Everglades.

Kristi Floyd stated her and her husband recently purchased two and one-half acres from her parents where they built the home they currently reside at; both properties add up to 10 acres; she knows the applicants, and they have been great friends and neighbors, but she opposes their requests. She noted where their home sits, they face the Thomas' property; they moved to Scottsmeer for the rural lifestyle and to allow their children to grow up hunting, fishing and raising livestock; their community feels safe, everyone looks out for each other; and they have all abided by what they thought was homes to be built on two and one-half acre lots. She advised she does not want to look at a subdivision from her front yard; this will bring a lot of

traffic in and out of the area, it will cause safety concerns for their children, and overcrowding to the schools. She implored the Board to keep Scottsmoor rural; they also had to recently purchase a \$6,000 water system because of the salt water intrusion; they tried to change the filter in their new system a month after they had it put in and had to call for the company to come out because they could not get the filter out because there was so much sand. She advised when they had their water tested, they were told not to drink it or to use the ice cubes because the water is horrible; and she reiterated that they would like to keep Scottsmoor rural.

Alyssa Atkins stated she grew up in Brevard County roaming family owned orange groves, and swimming in the Lagoon on the weekends and during the summer; her and her husband grew up in the suburbs, but wanted something different for their two boys; so they looked for property and settled on Scottsmoor. She added they have been there for five years, they have worked the land there, put up fencing, made a clearing for a small, sustainable, cattle ranch; they have raised nearly every form of livestock one can think of at one time or another; and they learned a lot as they went. She advised she has home-schooled their boys full-time since pre-school, and they are now eight and 10; the agricultural way of life helps her do this because there are countless educational connections on the farm; and they wanted their boys to grow up in a slower country pace. She went on to say they wanted them to be connected with the land, the animals, the wildlife, have less screen time, have space to run, and have the safety of a small town where everyone generally looks out for one another; and she is heavily involved in the homeschool community in North Brevard. She added she opens their farm to touring for the homeschool coop whenever possible; it is very rare this day in age for children to know someone with a working family farm operation; when the families come to the farm they teach them all they can in their allotted times; and let them have as an immersive experience as possible. She explained they collect eggs, feed the chickens, milk goats, sit on the tractors, and learn about animal nutrition; most importantly, they learn the value of agriculture within a community, and the character it adds to the County; and in the Mims Small area study it states, "It is important to recall and acknowledge that the areas farming heritage is a significant aspect of community character today", and she believes that to be true. She noted they are not part of the area's heritage because they have only been there five and one-half years, but their plan is to continue the legacy for future generations right where they are; they are not alone, as there are a lot of younger families that are understanding the value of the agricultural way of life, knowing where their food comes from and growing it responsibly, so as to preserve the natural landscape and resources as much as possible. She referenced Florida Statute 163.3163(2), there are major concerns about the impact of development of residential lands neighboring agricultural lands, and that it may lead to them being urban, suburban, or have no agricultural use at all; if the proposed change is approved, it will thrust that area into a cycle of development and it will eventually lose the rural nature of the town; and inconsistent development will overshadow and dismantle a small tight nit rural community; and she asked the Board to keep Scottsmoor rural.

Cheryl Barnes stated she resides approximately 130 feet from this proposed development, which made them one of the families impacted by the zoning request; she read Section 62-1151(c)(1) of the Code of Ordinances of Brevard County states: "The character of the land uses of the property surrounding the property being considered" as the first factor for consideration of the denial or approval of an application for amendment to the official zoning map; she added there are two elements that contribute to the character of the land surrounding this proposed development that I asks the Board to consider; and she noted in her previous statements at the P&Z Board that 40 acres of their property was placed into a conservation easement with Brevard County in 2005. She advised this placed their property approximately one-tenth of a mile south of a portion of the Merritt Island National Wildlife Refuge, and three-tenths of a mile north of another portion of the refuge; they are four-tenths of a mile from land which is included

within the boundaries of the Indian River Lagoon/Blueway Florida Forever Project; and including their easement, this places conservation lands on all four sides of the proposed zoning. She added there were five properties within 500 feet of the proposed zoning; of the five properties notified, four have homes built on them and they are permanent residents of Scottsmoor who adamantly oppose this action; if the applicant's property is included, that makes the total of five homes; if the Board approves this 14 home subdivision, it quadruples the notification area; and it surely defies any logic to imply this rezoning that increases the density will not affect the character of the surrounding properties and environment. She asked the Board to consider the community of Scottsmoor as a whole when it considers the impacts it will have on the community; although Scottsmoor is dotted with conservation lands, which contribute to the rural environment, the people of Scottsmoor are the backbone of the community; they are not anti-development, they welcome new neighbors into the rural lifestyle with the residential density of two and one-half acres per home; and she is asking the Board to consider the impact this subdivision would have on the community of Scottsmoor as well as the continuity of the conservation properties and initiatives in the northeast part of Brevard County.

Laurilee Thompson stated she worked on the Mims Small Area Study; there were hundreds of people that were involved in it; they decided to keep the higher density projects near US Highway 1, because it runs along the Atlantic Coastal Ridge where it is sandy; the rainwater percolates down into the sand and it is conducive to higher density; and as one gets closer to the Lagoon, the properties got larger and larger. She advised they did not change any of the zoning, they left the existing zoning that was in place; the rest of it was changed to AU to protect the Lagoon. She added there is a little clump on Lionell Road, another clump on Aurantia Road, and more around Huntington Road and Dixie Way, and that is probably the home that is within one mile that has an RR-1 zoning, but those are the only properties from the Titusville City Limits to the County Line; and there is less than 12 properties that are zoned RR-1 east of Dixie Way and Hammock Road. She added there are problems with the river during hurricanes; the northern end of the river stops, when the wind blows at 100 miles per hour, there is nowhere else for the water to go other than on land; it wrecked the berms on the wildlife refuge and flooded into the impounds; it came through the culverts underneath the railroad tracks, and flooded the north end of the County; it will happen again the next time there is a storm; and part of the reason is because the rivers levels are rising. She went on to say the Board has heard the testimony from the people that want to preserve their rural lifestyle, and about the Mims Study; she added Scottsmoor should be able to have a study done as well; people want to have choices, there are people that want horses so they want a place that they can have that lifestyle; and that is what small area studies plan for. She advised putting a subdivision in the middle of this agricultural community is a mistake; it would set a horrible precedence; once the Board does it in one place, there will be more that follows; the Board has ammunition to deny this; and she added the Board needs to look at the Administrative Policies. She explained the Board has Administrative Policies of the Future Land Use Element as well as Administrative Policies that outline compatibility with existing and proposed land uses as well as consistent merging or existing patterns of development and historical land use; and she added there has been no development over the last three years other than one house per two and one-half acres. She mentioned there is nothing less than one house per two and one-half acres that has been approved for development; there are Administrative Policies for the character of the neighborhood that need to be considered; and Pinewood Elementary is almost at capacity, and the School Board will most likely not build a new school in the area. She went on to say it is not fair to the kids to be busses out of their area because the school is full; there are road problems; it is not a transitional area like it is closer to US Highway 1; and there are coastal management elements and conservation elements that need to be considered. She noted there are also guidelines for zoning that talk about character of the land, character of the land use of the properties surrounding the property that is being considered; all of the land surrounding the

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subject property is zoned AU and conservation; it also talks about the compatibility of the proposed zoning classification with the existing land use plans for the affected area; and she does not know how one house per acre got in there, but she thinks it was an administrative change that was done. She implored the Board to deny both requests.

David Botto stated he has been in Brevard County since 1968; he was born and raised in Bradenton; he is a volunteer for the Board of Directors for the Marine Services Council; and they sent a letter to the Board on this subject last week. He explained he will try to make a broader perspective on this, everyone knows the root cause of the Lagoon is the bad management of development over the past three decades, and he says bad sincerely; there have been bad decisions as far as land use strategies, bad decisions as far as land development goes; and now there is the "Save the Lagoon" program where the Board is going to spend hundreds of millions of dollars over the next 10 years to correct, repair, and restore from those three decades of bad management. He went on to say that is something that can be done, but the Save the Lagoon Plan does not address the root cause of the bad development decisions; that falls on the Board as well as the Cities; and he believes the Board and all of the residents of Brevard County have shown that it is a priority to everyone. He noted in today's development regulations, codes, and requirements, the first question should be if this is approved would it have a negative impact on the Lagoon; if the answer is "yes", then the discussion should be over; the Board should say thank you, but it would impede the Save the Lagoon Plan and continue to put polluted water into the Indian River Lagoon; and this property is a good example. He explained it is adjacent to the Florida Blueways Project, which is a plan to preserve habitat down the whole west side of the Lagoon to protect the wildlife; the most important habitat is that of the Lagoon itself; it is also the most endangered; and Brevard County is a partner in the Florida Blueways Project through the Environmentally Endangered Lands (EELS) Program with Florida Forever. He mentioned this has not gone very far because neither one of these efforts have been well funded for the past eight years, but it is a good, worthwhile project; the land is considered a buffer, and it has been a target of conservation by Florida Forever and EELs for that matter for a very long time; and it is a recharge area, its character is one that will absorb, store, and percolate water to the aquifer, which means it does not run off. He went on to say there is no treatment there, it goes directly into the Lagoon; it is conservation land and should not be developed at this density; the proposal would more than double the polluted run-off into the Lagoon; the cost of cleaning the added pollution far outweighs any benefit Brevard County would see from this development if it was approved; and he requested that the Board and the Cities adopt what is called the low impact development program; it is being used by the Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (DEP); and it is a very well thought out, very successful program for development. He mentioned the items are given, execution is explained, it is very well done; there is also a recommendation from the East Central Florida Resiliency Council on Climate Change that also has some good ideas in it; they strongly suggest the Board have staff review and adopt the plan; it can be tailored to the Board's requirements, but it is a very important way considering the staggering population growth that is being seen by the University of Florida for Brevard County; and it needs to be done quickly.

Chair Isnardi stated she would like to take a moment to make sure the applicant has all the materials that were submitted to the Board, because there were several; she would also like to verify that Commissioner Smith has had a chance to review the materials that have been submitted.

Commissioner Lober inquired if the impact to the Lagoon is a lawful consideration with respect to either Item H.5. or H.6., and if so, to what degree can the Board consider that.



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Attorney Bentley replied it is one of many considerations, the Administrative Policies that are in the Board package are the primary considerations, such as the character of the area.

Chair Isnardi stated she would like to take a 10 minute break for the applicant to review and make sure they have all of the documentation that was submitted.

\*The Board recessed at 7:23 p.m. and reconvened at 7:37 p.m.

Chair Isnardi called the meeting back to order; she inquired if any Board members had any questions for any of the speakers before getting into the applicant's rebuttal; and that the applicant has a lot of time for rebuttal.

Mr. Buchanan stated he knows the Board has been here a long time, so he will keep it brief. He noted there are a few things he needs to address just for the public record; for clarification, the County went through that was called the Evaluation of Paid Appraisal Process for the Comprehensive Plan; and they are done every seven years. He noted the last one the Board went through was prepared by him, when he was a Comprehensive Planner with the County; as part of that, they had to prepare a Green House Gasses Map, which showed all of the property that had been purchased for conservation; this map showed that 49 percent of unincorporated Brevard County had been taken off of the tax rolls and placed in conservation; and they deliberately took out Federally owned properties such as Patrick Air Force Base and Kennedy Space Center. He went on to say those were taken out because the Federal Government pays what is called impact; it is part of the Federal Impact Act; they pay the County impact fees in lieu of taxes; and all one would have to do to find this out is to contact the County Geographic Information Systems (GIS) Department and they can give the numbers and acreage. He explained for the record, this does not include job/employment centers that are Federal properties; Farmton was discussed, it is 11,000 acres, it is misunderstood, and did not receive any density increases as part of that process; Farmton's density in Brevard County has been the same for the past 30 years; and it was not given one dwelling over what it was supposed to have. He added they simply clustered it and put 80 percent of it under a conservation easement; Volusia County is a different story; this is just for the residents' piece of mind over the 11,000 acres for Farmton; and he reiterated that they did not receive one dwelling unit beyond what the Future Land Use Map already allowed. He mentioned Volusia County's access to this site is actually provided by a Volusia County public road, and there is a letter from Volusia County Public Works in the record; they have met with Volusia County Public Works and the applicant has agreed to do whatever improvements are necessary on the road; and he encouraged the Board to look at the Property Appraiser's website at Tax Account Number 2004953. He talked about the speaker that mentioned the wildlife on his property; the property he referenced is a 1.2 acre lot. He advised the P&Z board is made up of appointees that the Board Members appointed; many of them are professionals, there is an architect, a civil engineer, and a general contractor; one of the things the P&Z was in agreement about was the runoff from the citrus grove, the impact from that is higher than that of single-family homes; and he encouraged the Board to look over the P&Z minutes. He remarked the abutting neighbor to this property, to the south and the east, are in support; there is a letter in the packet from both of those abutting property owners; there was talk about the 2007 Mims Small area Study, he was not part of the County staff at that time, and he was hired by a group of Mims residents who wanted to be taken out of that study area; and the Board chose to follow their request to be taken out of the study. He talked about after that, from 2008 to 2015, he was hired by the Planning and Development Department; he prepared the small area studies; he did several of them for the Board, including the Central Mainland, where 14,000 dwelling units were taken off of the map for one study; and he is very familiar with small area studies. He noted if the Board has any questions about small area studies, he would be happy to address them when he is finished notating things for the public record; the Board has had this 16 acres of the subject property that



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has been on the Future Land Use Map as one unit per acre for 30 years; it has been on file in Tallahassee for one unit per acre on the Future Land Use Map for 30 years; and it was given AU zoning because at the time the zoning map was adopted, it was an active citrus grove, as were the surrounding properties. He revealed they are no longer active; the property is no longer a citrus grove; and it has not been one for years. He stated this rezoning request is only allowed because the Future Land Use Map is Res. 1; if it was not Res. 1, they would not be before the Board requesting the Rural Residential zoning; and RR-1 is compatible with the surrounding land, it is designed to go under Res. 1. He explained if the Board were to look at the Comprehensive Plan, it would see it in the compatibility matrix; he added the applicant has agreed to enter into a Binding Development Plan (BDP) limiting it to 14 lots, or 14 units; he believes the BDO is part of this process that they execute and honor their commitment at the P&Z meeting; what the applicant would like to do it create a 14 lot subdivision for 14 new families in the area. He reiterated the agricultural use has been defunct for years on this property; he encouraged the Board to consult with the County Attorney's Office on any questions it would have concerning this request; and what the process would be should the request be denied.

Chair Isnardi stated she has quite a few lights on, but is not sure if they are questions for the applicant, or for discussion.

Commissioner Lober stated his is for discussion afterwards.

Chair Isnardi stated she would then close the public hearing portion of the Item.

Commissioner Pritchett stated her and her staff have spent a lot of time studying this out; she is pro-growth, and she is always looking for new opportunities to bring housing to the area; but, with that said, this location is really rural, and it is really agricultural; she has been up there a lot, and the residents that live there have a great love for their property and homes; and she has to say every person she has met in that community really likes the applicant, and she appreciates that kindness. She added they definitely fit into the Scottsmeer area, and she thanked them, too; she is really proud of her community for kindly stating their causes and concerns; she is blessed to be their Commissioner; and she thanked them for how they spoke about their opinions on this matter. She went on to say her concern, and she does not know what was put up there 30 years ago, but the personality of it now and what is going on around it, it really is agricultural; there are problems with water, she hears from the residents all the time; she knows about the salt water intrusion and she is trying to figure out how to help them fix it; and she does not know how to help them fix it. She went on to say the only way she knows how to fix it is for everyone to get one of those \$6,000 water systems that were discussed; she also gets calls about the roads, and she knows how bad they are; and increasing the septic tanks from three to one will be tough as well. She advised there is a lot of rock out there, and she is concerned about that; it is another world in Scottsmeer; there is a lot of conservation land; she thinks it is there for a reason; and she is not going to support this tonight. She explained she did spend time trying to see what would work up there; she really does not think this will fit up there; maybe in 20 years if growth comes to the North End; and right now she does not think it is a good fit. She noted she does not think it is good for the Lagoon; she is concerned about the water situation; and when discussion is over, she would like to make a motion to deny both Items.

Commissioner Lober stated he would second that for discussion.

Attorney Bentley advised that there needs to be separate motions for each Item.

Commissioner Lober stated his thanks to everyone, including the applicant; they did a great job in terms of making their positions known; the only thing he does not like, and he has pointed it

out every time, are the threats of litigation; and it does not win him over to have a veiled threat if the application is denied. He added he is not concerned about that; he is more concerned with the criteria the Board has to determine on whether or not to grant or deny an application; he is thankful for the District 1 Commissioner and her position on this Item; and this was a troubling Item for him. He explained he has, with one exception, always, with respect to zoning Items, deferred to the Commissioner in whose District an item falls in; and he was worried because he was pretty strongly opposed to this based on everything he has heard at the outset. He noted he was really worried that Commissioner Pritchett was in favor of this, that he may have to break the tradition of going along with what that Commissioner knows based on their expertise living and working in a particular District, and he is thankful that is not the case; and when he was looking at this, and he apologized if any of this is repetitious, but the items he was concerned about when evaluating this, apart from Commissioner Pritchett's thoughts, are the actual Administrative Policies the Board is supposed to and ought to follow. He explained that Laurilee Thompson had touched on some of these things; he added the Administrative Policies dealing with Future Land Use, Policy 3, talks about the compatibility of the existing or proposed land use and the pertinent part in Subsection C, talks about whether the proposed use or uses is or are consistent with an emerging pattern of surrounding development, and he thinks it is not; as far as Administrative Policy 4, it talks about character of a neighborhood, and it says, "The character of the neighborhood or area should be a factor for consideration whenever rezoning, or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application"; and he does not think this request fits in that neighborhood. He went on to say in Administrative Policy 5, there are three out of a slew of quite a few more where it talks about whether the physical qualities of the surrounding existing road system is of sufficient width and construction quality to serve the proposed use or uses without the need for substantial public improvements, and it talks about whether the surrounding existing road system is of such width and construction quality that the proposed use or uses would realistically pose a potential for material danger to public safety in the surrounding area; and he knows everyone has heard that the road is made of millings, and the pavement condition is somewhat poor. He added he knows he has heard it before, but it was mentioned again this evening that two cars cannot drive past one another without one having to pull over, so he has concerns with respect to that, at least the pertinent parts that he has mentioned; Administrative Policy 7 talks about having sufficient adverse and un-mitigatable impact on nearby water bodies, significant natural wetlands, water bodies, or habitats for listed species; he has concerns with respect to that as well; and he believed Ms. Thompson mentioned factors with respect to rezoning that are in the Municipal Code or County Code, Section 62-1151(c). He added some of the things he thinks are pertinent in that Section are the character of the land use of the property surrounding the property being considered, it is rural, there is really no Res. 1 anywhere nearby; in fact, the applicant mentioned to go to the Property Appraiser's site and plug in Tax Account Number 2004953 to find one that was under Res. 2.5, and even that is not Res. 1, it is well over one acre in size for that particular parcel, at least of his quick review of it; and it talks about in the same document, factors to consider for zoning requests pursuant to Section 62-1151(c), that talks about the impact of the proposed zoning classification on water and sewer systems, there are none, and that is a problem. He mentioned the other thing that was mentioned today was the potential of having salt water intrusion, at least it was alluded to, in the wells; at least one of the test wells tested over the EPA suggested safe drinking limits; that is a concern to him, that if that continues to get wicked down, it will go beyond the suggested safe drinking limits; and it was also mentioned about wells running dry depending on how much development is in that area. He explained there is another item in that section that has a set of factors to consider out of 62-1151, that talks about compatibility with existing land use plans, and it just does not seem to fit; for those reasons, and thankfully he is in agreement with Commissioner Pritchett, he is happy to

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second that; he does not begrudge the applicant by any means for trying to do this, he thinks that everyone has to make an individual decision; and the gentleman that said he did not love the applicant for trying to do this, he may want to love him anyway, because this does not seem to be a malicious request, he just does not see it being compatible.

Chair Isnardi asked if Commissioner Smith had any comments or questions.

Commissioner Smith replied no, he agreed with the two Commissioners that have spoken already.

Chair Isnardi stated without sounding like a broken record, it was something that weighed heavily on her as well; if everything around it was smaller than two and one-half acres, she may have looked hard at it; Commissioner Lober stated this more eloquently that she is, but the main issue is compatibility, and it is just not compatible with the surrounding area; and the infrastructure barely supports the few people that live around it now. She added she hears about the road and the jokes about pulling over, but one really does have to pull over; if there is a big vehicle, and someone is trying to drive down that road, someone would have to pull over; and she does not think there is infrastructure there for this kind of development. She encouraged the applicant to look at two and one-half acre lots; that is a reasonable compromise, because most properties are not much larger than that; and she will not be in support of this tonight, either.

Commissioner Lober asked to call the question.

Chair Isnardi inquired if the Board needed separate motions for each Item.

Attorney Bentley responded affirmatively.

There being no further comments or objections, the Board denied the request for a Small Scale Plan Amendment from Res. 1:25 to Res. 1.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Rita Pritchett, Commissioner District 1         |
| <b>SECONDER:</b> | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

**ITEM H.6., JOSEPH BRANDON AND NIKKI THOMAS REQUEST A CHANGE OF ZONING CLASSIFICATION FROM AU TO RR-1 (18PZ00154)**

Chair Isnardi called for a public hearing on the request to change the zoning classification on a property located on the southeast corner of County Line Road and Dixie Way and is 19.75 acres in size.

There being no further comments or objections, the Board denied the request to change the zoning classification on a property located on the southeast corner of County Line Road and Dixie Way and is 19.75 acres in size; and directed staff to prepare a Findings of Fact to be brought back to the Board at a future date.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Rita Pritchett, Commissioner District 1         |
| <b>SECONDER:</b> | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

Commissioner Pritchett stated she would like to make a motion to be able to do a small area study in Scottsmoor like the Board is doing in Port St. John, and that way it would save staff time; the residents of Scottsmoor are welcome to sign up for the board, just like residents of Port St. John have; and she reiterated she would like to make that motion so that staff can possibly start working on it when time opens up. She added it should be fine for a while now, but it is something she would like to do.

Commissioner Tobia inquired what the cost to do the study would be, what the time frame would be, and if it could be brought up for discussion later when the Board has some pertinent facts before the Board goes out on a whim to create a study that may not be needed. He added he would like to get that premise before the Board votes on this.

Erin Sterk, Planning and Zoning Manager, stated the best case scenario is nine to 12 months; some of the factors in Scottsmoor that the planning staff is not necessarily well versed in are things like drinking water quality; that is the purview of other State agencies, as the planning staff does not have in house staff for that analysis; and they can conduct the coordination with those agencies. She added staff can host the conversation, and reiterated that planning staff cannot evaluate those things in house; there are some environmental factors that will need some due diligence with those respective agencies, and she is not sure how long that takes to do; many of the other studies have not dug very far into those factors; and she feels that is a very relevant concern in this area that is unique, and she has not managed a project with that purview in the past. She noted that could lengthen the time; she is not sure what resources may be needed; and she can address some inconsistencies between the zoning and the Comprehensive Plan that Mr. Bartcher brought up earlier in the meeting. She explained as the Board knows, the Comprehensive Plan started in 1988; there were zonings on the properties already; if those properties have continued with that zoning and that use, staff does not deploy the Comprehensive Plan and then change the zoning classification, because that would be a taking of rights; and when the Comprehensive Plan was put into place, there is a policy for preexisting uses and there is a policy of not changing the zoning until the use changes over time. She mentioned the uses that are there have an inconsistent zoning with the Future Land Use Designation are because they existed long before the Comprehensive Plan did; those things are not going to be affected by a study because the Board would have to purchase those properties, so there is a concern she has about the change it can affect; and it is definitely in the rural areas, the Res. 1 could be cleaned up, and that is a tool to do that. She pointed out staff cannot change the Res. 1 without a small area study, that is the mechanism to get there, and she reiterated the Board will have to have some other agencies involved.

Commissioner Tobia inquired if Ms. Sterk has any idea of the cost that would be incurred.

Tad Calkins, Planning and Development Director, replied he does not know that staff would be able to identify what the cost is; what he would ask, with the Board's permission, is maybe at the next Zoning meeting, staff comes back with an estimate, and this topic could be picked up then. He added if the Board would be gracious enough to allow that, staff may be better able to answer the question and have an opportunity to evaluate concerns that staff has heard here tonight; staff could then look at what expertise they do and do not have, and have time to collaborate with other State agencies and the Health Department

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Commissioner Tobia stated for the benefit of the new Board Member, as well as all of the people that took time out of their schedule here and are hanging their hats on a small area study, he understands that Mr. Calkins and/or Ms. Sterk did all the work for the small area study that happened in Merritt Island; and he asked if Mr. Calkins could inform the board of the direction the Board took when it came to the small area study that Merritt Island residents and County staff worked tirelessly on for three years.

Ms. Sterk stated she thinks the Board directed staff to pursue the first step in implementing those recommendation, which was to pursue the drainage model, then the Board directed in the motion to include two additional recommendations for eventually a land use change, if that were necessitated. but it was not a direction to do the land use density reduction, it was a direction to bring it up again when the evaluation of the drainage model was complete. She went on to say staff has a series of steps that the study resulted in, which will take place over the next several years and it will come back before the Board several more times, she is sure.

Commissioner Tobia inquired if density was changed because of the study.

Ms. Sterk responded not yet, but staff received direction to address it again when more information comes forth.

Commissioner Pritchett stated she has thought on this; she understands each Commissioner has those areas in their respective communities, and she only really has one City in District 1, the rest of them are unincorporated; she added she has a tiny bit of Cocoa, and she shares that with Commissioner Lober or Commissioner Smith, but most are out there on their own; and she cannot ask for a large area study of the County's unincorporated areas, but when there is an unincorporated City like Port St. John or Scottsmoor, she cannot order a large area study; and she thinks it is fair for Scottsmoor to have some continuity of what is going on in their lives. She explained that is her reason for asking for the small area study; if they were a city, of course, the community would have an idea of what they want to be and what they want to say; so, in all fairness the community is all the Board has; it would like to help the community have some kind of parameters of what they do and do not want in their area; and it is imperative that it gets done. She added she does not know how much detail the Board can get into it, like the water quality, that may be a completely different issue; there are issues the Board can address in a small area study, like the zoning issues; and see what should or should not happen with those hard, rocky areas. She went on to say she is comfortable with staff bringing it back; as far as the community goes, she thinks the Board should do this for them; the Board is all the community has; she thinks this is a very important thing for Scottsmoor; and she would like to make a motion to have staff come back with some parameters on a small area study, but she would really like to do one for the Scottsmoor area.

There being no further comments or objections, the Board directed staff to come back with some parameters on a small area study to come back to the May 2, 2019, Board meeting.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Rita Pritchett, Commissioner District 1         |
| <b>SECONDER:</b> | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

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**ITEM H.7., CLARK A. AND PATRICIA A. SIMMS REQUEST A CHANGE OF ZONING CLASSIFICATION FROM RU-1-9 TO RU2-4. (18PZ00130)**

Chair Isnardi called for a public hearing for a request to change the zoning classification from RU-1-9 (Single-Family Residential) to RU-2-4 (Low Density Multi-Family Residential); on a property that is 0.93 acres in size, and is located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road.

Erin Sterk, Planning and Zoning Manager, stated this is a proposal by Clark and Patricia Simms, requesting a change of zoning classification from RU-1-9 (single-family residential) to RU-2-4 (Low Density Multi-Family Residential); on a property that is 0.93 acres in size, and is located on the west side of North Tropical Trail; and the Board has seen this Item before, and asked the applicant's to come back with a concept plan, which is in the Board package.

Clark Simms stated he is in awe of the last Item; he and his wife are proposing to change their zoning designation from RU-1-9 to RU-2-4, to be more in line with their Res. 4 Future Land Use designation; he is not sure if it takes much more than that, but he thinks it looks like a pretty simple thing to discuss and look at here for the Board; and the area surrounding it is not anything like Scottsmoor. He added from this point it is definitely from any view well within what he would say the classification of Res. 4; that would give it the best designation, actually.

Pattie Simms agreed, considering the size of their property; they have already beat this horse to death.

Chair Isnardi stated the Board will reserve the rest of the applicant's time to speak after Public Comments.

Commissioner Lober stated he has some disclosures on this Item; on March 20, he met with Susan and Linsey Johnson, who were concerned about the proposal; on March 23, he received an email from Bill Henk, who was concerned about the proposal; and there may have been additional disclosures at the prior meeting when this came up then.

Leana Wolters stated they have been to the Board several times to oppose this applicant's request; it is their understanding that the applicant would like to use the additional houses to provide a place for their aging family members in need; she felt that is a need that is in the moment, but it is a need in the moment that will always impact the neighborhood; and inevitably these properties houses will become rentals, that is just where it is headed one day. She added from reading the paperwork, they are asking to add three houses with at least nine total bedrooms; she has seen a lot in her 25 years of professional experience in the multi-family industry, that is her background; even if this applicant's requests were being made in a different part of the neighborhood that did not impact her directly, she would still have two major concerns; and the approval of this rezoning would allow just one owner the autonomy to select the occupants of the proposed houses. She explained the screening of qualified renters, or the lack of screening of qualified renters can greatly change a property overnight; a lot of owners go into a project like this with full intentions of maintaining, or possibly improving their property, but circumstances of wealth, health, lack of desire, whatever, will delay or even totally prohibit the intentions; and they are truly concerned about the addition that these houses will be too much burden for one owner. She went on to say there are so many properties in that area that are run-down.

Jon Mason stated he wanted to keep it simple; his concern is the unknown; there was the first Planning and Zoning meeting and they talked about it; they came to a gentleman's

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agreement of one extra house on the property; and they were okay with that. He added at the next meeting it was three additional houses, possible duplexes or triplexes; and to him, he thought they agreed on something, and were clear about something; it was not what they wanted, but they do not want to have ill feelings towards their neighbors, they want to be transparent and open. He added they would like to understand where they are going with this, but his concern is, in order to put that many houses on that canal, they will have to build a seawall, plus the houses and will be close to \$700,000 by the time they are done and it does not make sense. He went on to say he does not believe with the canal if one did the measurements, that there is enough room to put that many houses there; if there is and it turns to rentals at some point, these renters are going to park on those septic tanks, it is just going to happen; the do no harm, the transparency, and the character of the neighborhood are all at stake here; he does not want to speak badly towards the Simms, he does not know them, but his concern is about the future; and they have talked with their other neighbors, they have a lot of great neighbors in that neighborhood. He reiterated he does not know what happens in the future, and what it would do to the neighborhood; and those are his concerns.

Ms. Wolters inquired if this zoning is reclassified, would there be five houses on the property; she noted they are allowed a guest house, and they are asking for three more houses; that would make five houses on the property if it gets rezoned.

Ms. Sterk responded staff would not perceive the guest house as a second house, but there would be an allowance for a guest house along with the others that are being requested.

Mr. Mason asked if they are looking at 12 to 15 vehicles.

Ms. Sterk stated when looking at concurrency, which is an average of two and one-half people per house, and they make an average of 10 trips per day.

Commissioner Lober stated those half people are very hard to quantify.

Ms. Wolters inquired on the buildable part of the property, part of the acreage, if they are counting on this, is part of the canal, so it is no buildable on top of that canal; and when the Board is considering to allow adding three houses to that area if that is considered or not.

Chair Isnardi stated the Board will check.

Mr. Mason stated to add to that, this is proposed as .93 acre, if one cuts away where the canal is, and cut the setbacks, there is only about one-half of an acre of buildable space; that canal right now is just a dirt canal that has no support; and if a house is put there, they will have to build a 400-foot sea wall to go in there. He inquired what the economic impact on that property to maintain and that sort of thing.

Susan Johnson presented a picture to the Board; she did not expect to be able to be present at the meeting, but due to the software meltdown with the airline industry had on Monday, she was able to be here; she has lived at her residence since 2004; and in that time they have developed a really nice neighborhood. She added she has nice neighbors, they take care of each other, much like the people in Scottsmeer; they really do look out for each other; and they have always gotten along well with Clark and Pattie. She went on to say they hosted a barbecue at their house the night before the initial meeting back in January to hear from them what they were proposing to do; and at that time, they were

talking about taking care of their elderly parents. She added over the course of the last couple of months, it has evolved from elderly parents to a sister; she noted her mother lived to be 100, she just passed away about a year ago, and she understands the concerns that people have with regard to taking care of elderly parents; but sad to say, and she does not mean to be rude about it, they do die, they go away; and at some point in time, these three houses that they are looking to develop are still going to be there. She advised because of the nature of the property, it is all going to be one property; they will have the house on the river, and three houses elsewhere; her understanding is because they are not doing a flag lot nature, it would always be one parcel, therefore one person will own four homes and a potential guest house on one property; and that says rental to her, there is no choice in the future, these will be rental properties. She noted on the site map that was provided, the pink area is the canal itself; the southern property line falls within the canal; she has identified various setback locations, taking into consideration the setback from the front of the property, she has drawn a line from 15, 30, 45, and 60 and shown what the dimension is; and based on the canal that is shown on the site map, and how that impacts the actual width available to the property. She went on to say the first three closest to Topical Trail, going west, at this point in time, there is only 92.5 actual feet of land when one takes back what is needed for the septic, and the proposed driveway along the northern perimeter, there is only nine and one-half feet left for the drain field; and her understanding on the drain field it has to have the two four foot shoulders, and she believed they are proposing a five by 70 foot drain field. She explained as one looks, the property gets more narrow as the canal gets wider as it runs along the west to where they want to build; from a logistical standpoint, she does not see how they can even build a house, let alone three houses there; it is a little bit concerning if they go from two to four, she does not know if that means that they can do two to four single houses, or if it is two to four duplexes; and these are questions that she has in regards to that as well.

Mrs. Simms stated they have six children, four early adult children who would live there, three are in significant relationships, so hopefully she they will have grand babies soon; the three houses will always be occupied by family, they have tons of family; and that is why they have a big piece of property. She added they are not a single child family, they have three bedrooms in their house, and when they have to stack them; it will be really nice as the kids have families; and inevitably their parents will pass away, but the houses can go to some really good use, for grandchildren. She added as far as the concern that they would become rentals, her family has been in real estate for 55 years in Brevard County; her mother is Sally Gould, she has owned Marketplace Realty, she believed her mother knows almost everyone; and she just recently sold her major rental properties because she is over it. She went on to say she is not real excited about rental properties, but she does know how to manage them and how to vet potential renters, so that should not be a problem or concern; there is no way they would want someone to hurt any property they have; and they know what to do if it is rented, but they have no intention of renting it. She advised she called today and spoke with Anthony Grueller and Don Keane in Utility Services, they do fall in an area where they can apply for funds to change out from septic to sewer; if they put new home there, they also fall in an area where they are going to require connection to sewer; and the septic setbacks are no longer a consideration because they are not something that can be done. She explained that is the information she received today; it has to do with something new that just passed, but the application had not yet been updated; he sent the information, and told her if they were to do something that they would have to connect to the man hole that was on Ormond Ave, which is diagonally across the street from them at the subdivision where it connects with North Tropical Trail; he gave an estimate of the cost from her home which was a minimum of \$60,000; and then she asked



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about the front of the property. She added he told them it would be \$25,000 to \$30,000 barring any unforeseen issues; they are aware that there is a cost; they are aware it needs to be put on sewer, and that is a good thing, because she does not have any desire to deal with more septic issues; and as far as environmental impact, she does not see that as a problem. She went on to say her mom only has one vehicle; Mr. Simms parents have two, so that is three more cars; and it is their driveway and it should not impact anyone else.

Mr. Simms stated he thinks the other thing to note is there are 13 houses on the other side of the canal that border their property; they have one house, and even if they had four houses, that would not even come close to what is already there on the other side of the canal.

Mrs. Simms stated the character is not disturbed, the Future Land Use is good; they have solved the sewage problem; the reason for the RU-2-4 is because of the size of the property; and they really only want to use the current driveway. She added they know there is going to be all kinds of things they have to do; they will need a site plan if they do more than three units, or more than two she believed; they would have to do that anyway; and they have to go by what they say. She mentioned the engineers, all the different agencies, this is just the first step to be able to do anything.

Mr. Simms stated they have to be single-family type homes, they cannot be apartment buildings, duplexes, or anything like that; and they already know that.

Mrs. Simms stated that has been all the meetings that she has heard that.

Ms. Sterk interjected they do not have to be until they enter into a binding development plan (BDP), which is self-perpetuated, so if they are agreeing to that, there is an additional document that would necessitate that; and it would also take a signature by their mortgage company.

Mr. Simms inquired if that was to do the BDP.

Ms. Sterk stated the joinder is a limitation on ones property rights; some people do not have that conversation with their lender before they do anything; and if they agree to those conditions, they need to sign that document before it comes back on consent.

Mrs. Simms inquired if there could be a stipulation to single-family homes without a BDP; they would stipulate to it right now; and they have no intention for anything other than single-family homes.

Attorney Bentley stated the Board would need a BDP to make that restriction.

Mrs. Simms stated okay if that is the only way to do it.

Commissioner Lober inquired in terms of a requirement to connect to sewer at present, is he aware if whether they were to build today, assuming everything were magically in place, if they would have to connect to sewer.

John Denninghoff, Assistant County Manager, stated he would have to double check something on that to be certain; he can say if there was gravity sewer in front of their property, they would have to connect to it; the State would not issue a permit for a septic

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system when gravity sewer is available for a residential property; and if it is considered a commercial property, then there is a distance of limitation or requirement that if it exceeds a certain distance, then the commercial property could use a septic system. He added if it is within that distance to the sewer system, they would have to build a force main or gravity sewer extension system to connect in; there is sewer on Ormond Avenue, he does know that; as a residential property, single-family, he does not think it is required to connect to the sewer; and as he understands the application of that rule, but if they do consider it commercial, then it could be required to connect. He added he would be interested in what Mr. Dugan or Mr. Keane's interpretation of the rules would apply to this particular case.

Commissioner Lober questioned to the best of Mr. Denninghoff's understanding, unless it is considered commercial, at present, as of this moment, they would not necessarily have to connect, or they would not have to connect.

Mr. Denninghoff stated that would be consistent with his understanding, yes.

Commissioner Lober stated his appreciation. He inquired if staff has been able to evaluate whether or not the documents and/or sketches that have been supplied and the proposals that have been supplied would be adequate to meet all of the criteria for this to move forward.

Ms. Sterk replied not with the level of detail that they have; they are not engineered plans; and there is a whole site plan approval process that staff would need to go through to review those details.

Commissioner Lober stated the applicant had mentioned they thought if there were more than two or three houses on a particular parcel that a site plan would be required; and he inquired if that pertains to more than one house, two houses, and what the magic number was.

Ms. Sterk responded the magic number is more than one single-family residence on a property necessitates a site plan; and to clarify, they have one single-family residence now, so even one more would need a site plan, although that is unusual to do a site plan, but that is the site plan Code.

Commissioner Lober asked if that would be exclusive of the guest house.

Ms. Sterk responded affirmatively.

Commissioner Lober stated he wanted to make sure he was on board with everything so far. He inquired if the applicant has had the ability to come through and do a pre-application meeting with staff, and if so, did they avail themselves at that opportunity.

Ms. Sterk responded they have not come through for a pre-application meeting mainly because that necessitates engineering drawings which are very, very costly; but they have met with the Planning and Zoning staff several times; they jokingly refer to it as a free-ap, because they get the same appropriate people in the room, it is just that staff does not have the same level of detail for review.

Commissioner Lober inquired if the applicant could sub-divide the property and create flag lots to accomplish putting three additional houses in there.

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Ms. Sterk stated yes; staff measured the dimensions necessitated for flag lots; they require one acre on the body of the lot, excluding the flag stem, and they have almost three acres now, so staff believes without really engineering it out, the canal of course, eats into this, but they could create two flag lots and a parcel with frontage along Tropical. She added the would need a variance to .45 feet.

Commissioner Lober stated that is less than six inches.

Ms. Sterk stated yes, but they would still have to go through the Board of Adjustment because they have 99.65 feet of frontage, and the flag stems would be 25-feet each, and then they would need 50-feet for the single-family zoning minimal lot size.

Commissioner Lober inquired if staff has run that option by the applicant.

Ms. Sterk responded affirmatively; they met with the applicant and presented that as an alternative solution to a single-family product.

Commissioner Lober asked when she said staff presented that to them, if that was a verbal presentation with a sketch or what level of complexity was involved in that discussion.

Ms. Sterk responded staff drew it with markers on the board; it was not engineered plans.

Commissioner Lober asked if it was enough from her estimation from having been there and seeing what was drawn.

Ms. Sterk stated there were dimensions involved.

Commissioner Lober asked if it was at least understandable.

Ms. Sterk replied she thinks so.

Commissioner Lober asked if there was anything that would suggest to the contrary.

Ms. Sterk responded no, but he should certainly ask the applicants if they understood.

Commissioner Lober stated he is trying to get a better understanding; he will probably bounce some questions to them as well; with respect to using multi-family zoning as a vehicle to get single-family housing; and he inquired if staff has been able to ascertain why the request is being done in this manner as opposed to availing themselves of potentially requesting a variance of over five inches and doing flag lots.

Ms. Sterk stated she believed the proposal is because they cannot split their lot, and one cannot build more than one single-family house on a lot in single-family zoning; and with multi-family zoning one can.

Commissioner Lober inquired why the applicant could not split the lot.

Ms. Sterk responded that she would like him to ask the applicants that question.

Commissioner Lober asked the applicants to come up to the podium to explain that.

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Mr. Simms stated when he spoke to George Ritchie the first time around, they went to Planning and Zoning with the idea of putting in a flag lot; they thought that was the only option; after speaking with Mr. Ritchie, the only issue they have is the width, and he does not believe it was six inches, there was an issue with having a second driveway; and there was quite an issue with that.

Commissioner Lober asked for him to back up a little bit, it has been a long meeting so far, but in terms of the issue with respect to the driveway; and he inquired if it was a spacing issue, a Code issue, or something else.

Mr. Simms replied he believed it was spacing.

Commissioner Lober inquired if that was to have three flag lots, or two flag lots and the parcel up front.

Mr. Simms stated there is just not enough width for it, not even close.

Mrs. Simms stated they would have to have a road so that those lots have access; and she inquired if that was correct.

Ms. Sterk stated the applicant's driveway could be on one of the flag stems, and the other flag stem could use the same driveway, the lot would just need to be split and designed, but they could share a driveway and give easements to one another.

Mrs. Simms stated there is another issue; they have a mortgage on their house; the mortgage company would require them to pay off the entire mortgage in order to split it; and they are not interested in them splitting the property and the mortgage, it is a financial impossibility right now.

Commissioner Lober stated he does not mean to be callous at all, but he has to ask; he asked thus far what he has heard that is un-rebutted, and if they have evidence to the contrary, to let him know, they have heard that a 400-foot seawall might be required and that would run the applicant \$700,000 or more.

Mrs. Simms stated there is no seawall there now; she does not know why it would be required; and it would be required if she were going to build right on the canal.

Commissioner Lober stated he does not know how tight the property is.

Mr. Simms inquired if it would be required at all; he added they have never heard anything about that.

Mrs. Simms stated there is plenty of space without a septic tank.

Commissioner Lober inquired if there is septic on the other hand, would there be ample space, or if they would eventually have to put a seawall in; and he noted it seems that there are so many variables that are not defined yet.

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Mr. Simms stated after talking to someone about the septic, he believes one of the things they mentioned to him was that there was no issue with the septic, it was just the type of septic system one would be required to use.

Chair Isnardi stated she thinks a lot of this would get hammered out in the site plan.

Mr. Simms stated that is for the experts at Planning and Zoning to decide, they are just supposed to figure out if this is in congruence with the neighborhood.

Chair Isnardi stated that is her two cents; the small details, if it does not work with the site plan, it is not going to move forward; and she understands why the applicants did not go through the engineering part of it because it is expensive.

Commissioner Lober stated there is no point; he does not begrudge the applicant for that at all.

Chair Isnardi inquired if it would be better to take that property and put a whole bunch of driveway and concrete down as opposed to leaving, or sharing, as much driveway as they can; and if one was asking her, she would rather not see it split up into flag lots.

Mr. Simms stated it has beautiful oak trees on it; it is a beautiful piece of property.

Commissioner Lober inquired if the applicants went about going the flag lot route, would they have to have more driveways, and what he understood from what staff said is that they could get an easement from one of the lots and share it with the other lot and then use the same driveway so they are not just pouring concrete and making soil impermeable for no good reason.

Rebecca Ragain, Assistant Planning and Development Director, stated in order to do the two flag lots they would still have to do a minor subdivision, and with a minor subdivision, they could create a cross access easement across the flag stem, and center the driveway, or put the driveway in that area.

Commissioner Lober inquired if that meant it would not require additional driveways over what they would have to put in to get access if it was approved as is, or if it would.

Ms. Ragain replied they could just have the one driveway access.

Commissioner Lober stated hypothetically assuming the Board approved the request, there was no point in making them put six or two driveways in, because that is not fair.

Ms. Ragain stated they could provide easements across each other's lots, so they could have just the one driveway.

Commissioner Lober inquired in terms of the nearest multi-family, is there any multi-family at all west of North Tropical Trail in that area.

Ms. Sterk replied no, there is some east of North Tropical Trail, and it does not directly access North Tropical Trail, it is off of the street to the south, and she can measure it for him.

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Mrs. Simms stated there are also condominiums there to the east, on the west side of Tropical Trail, towards S.R. 520, yes, there are; if one drives down Tropical Trail there are all kinds of condominium complexes on the left, they are pink buildings.

Commissioner Lober inquired how far away those are.

Mr. Simms stated around one-half of a mile.

Commissioner Lober inquired if they access the roadway from North Tropical Trail or if they have to go around in order to connect to it.

Mrs. Simms stated no, they go right in; there is a little gate.

Commissioner Lober inquired if that was correct to the best of Ms. Sterk's knowledge.

Ms. Sterk asked for a minute because she was pulling up the maps.

Mr. Denninghoff stated there is a multi-family development known as Island Cove Condo, that is just immediately north of Merritt Avenue, that is on the west side of North Tropical Trail; so if the Board thinks of where Edgewood Junior/Senior High School is, and the Elementary School, MILA, that road is Merritt Avenue, and if one goes onto the west on that road, it will go to North Tropical Trail, and the condo is right there at that location; and it is pretty far south of the location that the Board is discussing.

Commissioner Lober thanked Mr. Denninghoff.

Mrs Simms stated it is really not far, but that is okay.

Commissioner Lober stated the other concern that he has, obviously the septic, and the potential of having septic if they are not able to connect to sewer, because he is getting conflicting messages from what the applicant was told, and what staff has said; having three of them on that canal is very concerning to him, whether they are high efficiency, or not, to have them in that proximity; and he would feel a lot warmer about this knowing they could and would connect to sewer.

Mrs. Simms stated their house is in one of the study zones from that big map that was done; they fall within the group that they will give money to to do it; she just found all of this out today; and they sent her the application.

Commissioner Lober stated if that is something that is down the road, obviously when that comes into play, then that certainly might change things, but that is not the condition now; and unfortunately, fortunately, or otherwise, he has to rely on staff. He added if the applicants heard it from staff, but staff is now telling him something different that is a different situation.

Mr. Simms stated they talked to sewage and septic and found that there are plenty of options for septic, and obviously a site plan has to be done before any determination or permits can be given.

Chair Isnardi inquired if there is a safe option for septic with the upgraded systems.

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Mr. Denninghoff stated the space that is available for septic systems is going to be very challenging; he has not laid it out and looked at it, but he can say the setback requirements from open water, whether there is a seawall or natural shoreline, are significant, and he believed they are 75-feet, maybe 100-feet now; and he has not done one of these in a while, but they are pretty significant. He added to deviate from that, it requires a variance from State Code, or Florida Administrative Code, and it will be a big challenge to get it approved.

Chair Isnardi inquired if it cannot be done it would not move forward anyhow.

Mr. Denninghoff replied they could seek a variance from the State; he does not know if they could get it or not.

Chair Isnardi asked if they would still need site plan approval from the Board.

Mr. Denninghoff replied to go with a site plan, that is correct, if the applicant were going to go with a small subdivision, then that would not be a site plan, that would be a subdivision plan, and there is no question that they could arrange their driveways to where they could be shared driveways, but they would have to configure the geometry of their lots to comply with the Code; and the "and" in this case it seems as though they might have to have a variance from the Board of Adjustment regarding the layout of that subdivision given that geometry requirement, because they are a little short of the required width on the frontage on North Tropical Trail.

Chair Isnardi stated it seems like a lot of these questions could have been handled before the meeting, if the Board is so unknowing of what is happening here.

Commissioner Lober stated there is a lot of confusion over this; he had a comment over the break over some of these items, and he was hoping by the time he was briefed on this, and now there may be other conversations that would have clarified this for staff; and apparently that has not taken place. He went on to say regardless, he has a few concerns about it; he will address a couple of them, as far as the issue with the not being able to pay off the mortgage prior to being able to do this, and that boding going the flag lot route, it just concerns him that the applicant is looking at building three separate houses that, even putting the seawall aside, are going to be at least three bedroom a piece, that are certainly going to be a sizeable amount of money to construct, even one or two of them would be a decent amount of money to put into that. He added they claim to have the money to do that, but not to pay off the mortgage and go the flag lot route.

Mr. Simms stated that is not what they are saying; this is an eventuality; first they have to have the ability to do anything up there; and they would not be before the Board if RU-1-9 was considered compatible with the Res. 4; but after the initial meetings with staff, they said they cannot do anything with RU-1-9, and that it would have to be changed to something. He added the best thing that Planning and Zoning came up with for them to change it was RU-2-4, that is the only reason they are before the Board.

Commissioner Lober inquired in terms of when the applicant says "an eventuality", what they mean by that.

Mr. Simms replied his mother-in-law is 84, she is getting to the age where she would like to put a house up there; and it was her idea to begin with, not theirs. He added they then

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asked what they needed to do first, and this was the first step, to go to Planning and Zoning, and they said the first step would be to change to something other than RU-1-9, because they could not do anything with RU-1-9. He added he did not understand why that is, but that is what they told him, and the next thing he could go to was RU-2-4; they mentioned flag lots, but then the neighbors had concerns about a flag lot, because then they could subdivide it and potentially sell it to someone else who would or could turn it into a rental and rent it to who know who; and they would not want to drive by it either, it is his piece of property, he moved there and pays the taxes there for a reason, because he loves it. He added he does not want anything to happen to it other than that; and he would love to have his family there with him, that is all there is to it.

Commissioner Lober inquired in terms of anything the Board can do at present, is there anything the Board could do tonight to require that whatever structures are put up are not rented out; and he asked if there is anything whatsoever that Attorney Bentley is aware of that would work.

Attorney Bentley replied not without significant enforcement problems; it would have to be tracked.

Mrs. Simms stated there are at least three houses for rent on the street next to them; she is not even interested in renting; and she is just saying it is not against the character of the area.

Commissioner Lober stated in terms of having single-family homes that are of a certain size and renting them, or single-family homes on lots of a certain size and renting them, that is one thing, but he thinks the Board is talking about something a little different in terms of changing the zoning and putting up additional structures and then potentially renting them out; so, the first thing he heard was it was for his mother-in-law, then he heard there were additional structures now being requested for other family members; and he is hearing it is not really inconsistent to rent it, he just has too many concerns with respect to this. He noted the Board is a democracy; his colleagues are free to disagree and if that is the way it goes, that is the way it goes; he has too many concerns, both with respect to the septic issue, with respect to the character of the area; obviously whether it is one-half of a mile or farther away it is certainly not within a reasonable proximity in his mind for that little swath of Merritt Island; and he would move to deny it.

Commissioner Pritchett inquired if the applicant is wanting to build five homes or four, because she got a little confused.

Mrs. Simms stated three more.

Commissioner Pritchett stated so it would be a total of four; and she inquired with the zoning it is now, could they put more houses on there with the RU-1-9.

Ms. Sterk replied on the zoning they have now, on the parcel they have in the front, she will clarify; they have split zoning on their property, they cannot do anything with the portion zoned RU-1-9, because the zoning classification is inconsistent with the Comprehensive Plan; the Comprehensive Plan was changed from Res. 15 to Res. 4; and had the RU-1-9 portion been a separate lot, it would retain pre-existing rights under the current zoning, this is exactly what she was talking about in Scottsmoor, where they would retain the rights they previously had, separate from what the Comprehensive Plan did, had the lot been in



existence when the Comprehensive Plan was made. She explained here is where the corner is turned towards the future that the Comprehensive Plan is trying to define, when they want to make a new lot, it has to come into compliance with the Comprehensive Plan; and that is where they would need a different zoning classification to be able to develop a single-family home there, or have a BDP that limits the property to one lot.

Commissioner Pritchett stated she does struggle with changing it from single-family zoning, where one could do that and maybe putting houses on it, to multi-family, but she guessed it could be taken care of if they did a BDP; she does struggle with property that is only 2.92 acres and having four septic tanks; and she knows that sewer was discussed, but that would have to be part of the BDP, too. She went on to say this is something else, too, the applicant has a mortgage with this whole property, they are going to have to talk to their mortgage company into letting them split it up; and she inquired if they are paying cash or mortgaging the houses they are putting up.

Mr. Simms stated no, they are not getting mortgaged.

Commissioner Pritchett stated she thinks their mortgage company may be okay with the applicant going the other route; she almost thinks the applicant is not ready for where they are at right now in this; she does not think there has been enough work with this; and she thinks, just from looking at this, she knows what the applicant thinks they would like to do, but she does not think it is established enough to have it there. She explained she does not even think there is sewer lines going in there; she thinks that is something that she is sure Commissioner Lober is saying, too, and that might be something to know they can hook up to that; and the Board is trying to clean up the Lagoon, existing properties are hooking up, and she thinks new construction needs to pay to hook up to the sewer lines if they are in there. She noted she does not want to use the Lagoon funds on that, either.

Mrs. Simms stated the three houses that just went in, and they just subdivided on Lucas, paid to hook up to the sewer.

Commissioner Pritchett stated those are the things that need to be considered, but she hears Commissioner Lober's struggle; she thinks unless he wants to table it, she will have to agree with him tonight to deny it.

Commissioner Lober stated he is happy to table it if the applicant can provide more information.

Mr. Simms stated there are far more than four septic tanks on the 2.92 acres on the other side of that canal, there are 13.

Commissioner Pritchett stated she understands, but where the Commissioners have been in the past in this area, and she does not know, she thinks she is hearing Commissioner Lober's concern, and he is very strongly concerned about the Lagoon; the Commissioner before, too, quit putting septic tanks on such a small parcel; and she does not know, she would have to hear from the Commissioner on that, because he knows the area much better than she does. She added she is hearing his concern, she has the same concerns; he knows what is going on; she kind of agrees with him on his hesitation.

Commissioner Lober stated his biggest single concern is the septic/sewer issue; that is his biggest, single concern; if he knew they could connect to sewer, or even that it is a realistic

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possibility, where they will not have to go bore under a road to get to it he would feel a lot better approving this; and whether it be in full or giving the applicant the ability to add two rather than the three he would be more flexible with it, and without knowing if they can connect to sewer, having something to substantiate that.

Mrs. Simms inquired if she would need to bring a letter saying they can connect to sewer.

Commissioner Pritchett stated they can do four houses on a single family zoning, there is a way to do that, this multi-family is throwing her off.

Mr. Simms stated that is the way by doing RU-2-4.

Commissioner Lober stated if there was some way to do a variance to allow them to maintain the existing zoning, but put up an additional structure or two, he could live with that, easily, but when talking about three structures and changing the zoning, and not knowing whether they are going to connect to sewer or septic, there are just so many variables that cause him to cringe a little bit; if some of those were firmed out, he is happy to work with staff to do some homework so it is not all on the applicant, to see if they are able to connect to sewer; that is not a problem, and he is happy to re-visit it; but if he has to vote on it tonight, he is not going to vote in a way the applicant will be happy.

Ms. Sterk stated staff met with the applicants and sought out that meeting to present the option of sewer; they had a plan in hand that showed septic on the property, which the Board has before it today; staff was never apprised of any intention to hook to sewer; and were actually told that it would be impossible. She went on to say perhaps they would like it to be tabled; staff definitely did ask if that was something they were interested in; and brought up the maps and showed the proximity, and it is 300 feet away.

Mrs. Simms stated she just found out today; they were worried that it would be cost prohibitive because it was 300 feet away.

Ms. Sterk stated it is across the road, of course it is a huge cost to get under the road, which is why the other people on that side of the road do not have it yet.

Commissioner Lober stated he does not want to do anything impulsively, and nuke what the applicants are trying to do tonight; if they are able to, let the Board do a little more recon on it.

Commissioner Tobia stated this is just another option so the Board does not go through this again; it has a process, if they go back through the Planning and Zoning Board (P&Z), but the last time they went through P&Z was January 2019, in which there was a BDP for one single-family unit; and clearly that is not what they are interested in. He added he thinks the Board has stated for the record over and over and over again what the many issues are; he thinks P&Z will have a good idea; and maybe they could make another suggestion to the Board instead of it unilaterally denying the request and the Board going through this again. He explained this is not his District, but he thinks it would be much better to have it dealt with at least a little bit tighter in P&Z, and brought it back to the Board in two week or something.

Commissioner Lober stated he will withdraw the prior motion and move to send it to P&Z.

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Attorney Bentley stated the Board will need some dates because it is an advertised Item, it will have to come back for a date certain, so the Board will need to know the date of P&Z.

Commissioner Tobia stated before the Board sets a date it needs to know how long it would take the Board, because it has heard the issues.

Mrs. Simms stated she already found out they can connect to sewer, but she has to verify that.

Commissioner Tobia stated that is a great piece of information that would go into the BDP, but again, that would be something that would have to be hammered out.

Mrs. Simms asked if he would like them to invest in a BDP and get a site plan before they even know if the Board is going to approve the Item.

Commissioner Lober stated not the site plan, that is the expense he believes.

Chair Isnardi stated what they are asking for is way out of the norm; even if she wants to find a way to allow them to have their family live with them, because she thinks that is the greatest thing ever; she has purchased quarter acres lots where she lives in hopes that her children can build near her; and one has already claimed which one he wants, so she understands the applicants desire, but the Board would like to make sure it does it right. She went on to say the Board would like to make sure it makes the least amount of impact; it wants to make sure it is really tight with a nice bow on top.

Commissioner Lober stated he is not trying to be mean for the sake of being mean, he is really not.

Mr. Simms stated he understands that.

Mrs. Simms stated she just really wants to know exactly what the Board wants, because she feels like they keep wasting the Board's time, and heaven knows everyone has had a long night.

Commissioner Lober stated he thinks part of it is that it would be nice to have P&Z evaluate three particular additional structures being added on, that being one; if there is ambiguity as to whether they were told one was the goal or more than one, he thinks that would be nice; and it would be nice to have some certainty as to whether sewer is available, and if so, whether it is realistically possible to connect to it, what it would run to connect to it, and what funds are available to connect to it to facilitate that.

Mr. Simms stated one of the times he met with P&Z, they brought the site plan person in and they said they would not need a site plan with the RU-2-4, so that is changing on them as well.

Commissioner Lober inquired if Ms. Sterk had the P&Z dates available.

Ms. Sterk responded affirmatively; she advised the next P&Z date is May 6, 2019, and that would allow the applicant to come back to the Board on May 30, 2019, which would bring them in before the break.

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Commissioner Lober stated he would move to set it to May 6, 2019 for P&Z, and then May 30, 2019, to come back to the Board, if that works for the applicant.

Mrs. Simms inquired what P&Z was.

Commissioner Lober replied the Planning and Zoning Board.

Mr. Simms inquired if it was the other hearing.

Commissioner Pritchett stated they are the ones that hash this stuff out.

Commissioner Lober stated they will give the Board a recommendation with respect to it that will be a lot easier to act on.

Mr. Simms stated okay, they kind of went through that.

Chair Isnardi stated their plan has completely changed.

Ms. Sterk stated the one thing staff would ask is that if there are commitments that are going to be agreed to in a BDP, and a mortgage company is not going to agree to them, it all falls apart no matter what the applicant does, just so the applicant knows, that was they have some education on those obligations.

Mr. Simms stated they were actually told that the Board was to decide if RU-2-4 was compatible with Res. 4, and that is what they thought this entire meeting was about.

Chair Isnardi stated it would be compatible with a BDP, which they cannot have without the approval of their mortgage company, so that is a thought; and if they were doing something really easy, then they would not need it.

Commissioner Lober stated he thinks the Board still needs a second and a vote on it.

Chair Isnardi inquired if staff got the motion.

Commissioner Lober stated he will see if the Chair will be nice enough to take them a little earlier in the schedule the next time.

Mr. Simms stated that would be great, he would appreciate that.

Chair Isnardi stated nobody asked, because she would have.

Commissioner Lober stated next time he will ask.

There being no further comments or objections, the Board continued the request for a change of zoning classification from RU-1-9 to RU-2-4, to the May 6, 2019, P&Z meeting, and the May 30, 2019, Board meeting.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>SECONDER:</b> | Rita Pritchett, Commissioner District 1         |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

#### **ITEM L.5., BOARD REPORTS, RE: JOHN TOBIA, COMMISSIONER DISTRICT 3**

Commissioner Tobia stated there has been some discussion on the County option regarding some property on NASA Boulevard and Wickham Road; through discussions with staff it has become clear to him that there is no way to determine the true value of this property without going through an Request for Proposals (RFP) process; a certain and singular developer has proposed a plan that would be potentially beneficial to the County; and he would include it in the RFP, the same requirements to improve that property as that is being suggested. He added after speaking with John Denninghoff, Assistant County Manager, it is his understanding that there is no imminent danger in the County waiting to have this work performed; and he would like to make a motion to direct staff to bring back to the Board, options with this property, which would include the option to issue an RFP.

Commissioner Lober stated he actually had a meeting with some of the people involved with this, maybe even a couple meetings come to think of it; in any event, when looking at that property and looking at the development that has taken place even since their most recent document that addresses the valuation of the property, he thinks the area is more valuable than it was when it was last studied; additionally, another thing to keep in mind, and none of this will be news to the people proposing this project, they did not approach them to suggest a land swap, they approached them; and they do not know what they do not know, and what he means by that, what his concern is, is there may be unforeseen or unforeseeable issues that are encountered. He went on to say he is not trying to stifle anyone's plans but there needs to be some money not for them to profit from even though it may be viewed that way, but for it to buffer unforeseen or unforeseeable expenses that may occur in trying to do the right thing to help them out. He noted that particular piece of property at that particular intersection, he does not think one needs to be a real estate mogul to know that is a tremendously valuable piece of property; it does concern him that based on conversations he has had with the people involved that there is such a slim margin that they are unwilling or unable to bring any amount of money to the table beyond a straight swap; and he had the discussions with them, he has sat down and provided them the opportunity to go over this at whatever length they would like, he spoke with their attorney as well, following the most recent discussion and he has concerns that the Board does not know what is going to be involved in this and what may come up for that reason it concerns him. He went on to say he is not saying the Board should go behind their back or profit from the suggestion to try to work out a deal with the City of Melbourne, which the Board could do, but he thinks Commissioner Tobia's motion at least puts the Board in a better position of doing additional due diligence to determine the proper value to assign to that particular piece of land.

Commissioner Pritchett stated Commissioner Tobia threw her off guard with this just a little bit; she would like to ask him a question, because up until this conversation, she liked the switch out; and she inquired if the Board were to go forward with this motion, and it comes back to the Board, if it still likes the project, will that hinder the Board in doing anything if it ends up being a good thing. She went on to say she has not had any time to think through what he just proposed.

Commissioner Tobia stated she does this very often, effectively, and more diplomatically; he

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sees her point, and her thought is, and he has worked through this, and he thinks Commissioner Lober touched on it, that this request is not requiring an RFP; he asked the Board to let him be very clear, this is just asking to bring back various options, one of which would be an RFP; and assuming the Board does an RFP, and for some reason there is only a single source, then does that put the Board in a poor negotiating position, one of which it is in worse at that point than this juncture. He explained that would be a fair comment if the development that was currently taking place in that area with the new interchange; the Board has an asset that is increasing in value, so he thinks the longer the Board holds onto this, the better position the County tax payers are in; the Board has no obligation to do this, this is functioning as a drainage ditch at minimal, at minimal cost to taxpayers; and whether the Board does this tomorrow, or in two years, it is in good shape. He added it is his opinion that the Board is holding the better cards in this one; for the Board to single source it, as this group wants, it is outside of his understanding; and he thinks the only way to get an understanding is to bring back some options from people that do know. He mentioned as time goes he thinks the Board's position gets better, and better, and better; the fact that these individuals are not interested in the Board going out with an RFP is sending up a red flag; and he does not know, but the market does, so that is all he is asking. He added he is not even asking for an RFP, he is just asking for options including an RFP.

Commissioner Smith stated he has mixed feelings, he certainly does not have any disagreement with giving the Board options, but one side of the coin is a piece of property that really has no worth at all as it does not bring any taxes in, it is a drainage ditch; so these guys are willing to swap out land for that, and then it would become a very valuable commodity to the County in that there would be tremendous taxes that are gained from it; and that is his two cents, he does not know where Commissioner Tobia is going with this other than he is trying to get the County in a better position he would guess.

Commissioner Tobia stated Commissioner Smith brings up a very good point, he just does not have the knowledge to know what they are offering; he believes what they are offering is a good deal to the County and to the taxpayers; however, what he does not know if it is the best deal; and he thinks that is what the Board's obligation is, would it be in a better position going through the single source, absolutely the Board would, he thinks staff would also agree with that. He added what staff cannot answer is if there is a better position would the Board derive more resources should it go a different route with a different developer; and that is all he was going for, he did not mean to impugn this individual or these groups that wanted to do this swap, because what they are offering is very good, he just wants to make sure for the County taxpayers that the Board is not just doing very good, but the best for them.

The Board authorized staff to have an RFP be added to options for the County property located at the south east corner of NASA Boulevard and Wickham Road.

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| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                      |
| <b>MOVER:</b>    | John Tobia, Commissioner District 3             |
| <b>SECONDER:</b> | Bryan Lober, Vice Chair Commissioner District 2 |
| <b>AYES:</b>     | Pritchett, Lober, Tobia, Smith, Isnardi         |

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Upon consensus of the Board, the meeting adjourned at 9:06 p.m.

ATTEST:



*Scott Ellis*

SCOTT ELLIS, CLERK

*Kristine Isnardi*

KRISTINE ISNARDI, CHAIR  
BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

As approved by Board May 30, 2019.