

**PLANNING AND ZONING BOARD MINUTES
LOCAL PLANNING AGENCY MINUTES**

The Brevard County Planning & Zoning Board, and Local Planning Agency, met in regular session on **Monday, August 11, 2014, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair; Aneta Ott; Andy Barber; Clyde Thodey; Bill Cannon; Bruce Moia; Robert LaMarr; Ron McLellan; and Ron Bartcher

Staff members present were: Christine Lepore, Assistant County Attorney; Cindy Fox, Planning and Zoning Enforcement Manager; and Jennifer Jones, Special Projects Coordinator II.

The eight regular members voted throughout the meeting.

Henry Minneboo – This is the Planning and Zoning Board meeting, which is an advisory board to the Board of County Commissioners, and they will have the final decision on everything heard today. Today, each applicant will be given 15 minutes to present their request, and each person speaking for or against will be given five, and I'll keep track of that up here. Anything that's heard today will be heard by the Board of County Commissioners on September 4th at 5:00 p.m., and that will be back in this room right here. Did everyone have an opportunity to look at the P&Z minutes of July 7th.

Aneta Ott – I'll make a motion for approval.

Robert LaMarr – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Cindy Fox – Good afternoon, members. We have eight items on the agenda. You'll notice the first item is the North Merritt Island item, so you won't hear that one. We'll start with III.B.2.

III.B.2. (14PZ-00063) – SIRIPORN PESKOWITZ, TRUSTEE – (Phillip Finn) – requests a Small Scale Plan Amendment (14S.06) to change the Future Land Use from NC to CC; and a change of classification from RU-1-7 to BU-2 on 1.24 acres, located on the north side of Lake Dr., approx. 0.24 mile west of Clearlake Rd. (No assigned address. In the Cocoa area.)

LPA Recommendation: Thodey/Moia – Approved. Vote was unanimous.

P&Z Recommendation: Thodey/Moia – Approved. Vote was unanimous.

Cindy Fox read aloud the request.

Phillip Finn – My name is Phil Finn, 265 Bahama Drive, Merritt Island, Florida. Siriporn would like to change this RU-1 [sic] to BU-2 so she can put a warehouse. It's 1.24 acres on Lake Drive, about 1,000 feet from Clearlake Road. She has a culvert there already that is 32-foot wide, and a permit was pulled.

Henry Minneboo – Is that close to the nursery, there on the north side?

Phillip Finn – It's east of the nursery.

Henry Minneboo – does anybody have any questions for this gentleman? Seeing none, I go out to the audience, is there anyone here to speak for or against this item? Seeing none, I bring it back to the board. What's the pleasure of the board on this item?

Clyde Thodey – I'll make a motion to approve as submitted.

Bruce Moia – I'll second that.

Henry Minneboo called for vote on the motion as stated, and it passed unanimously.

Cindy Fox – Just for clarification, that is as the LPA as well as the P&Z, correct?

Henry Minneboo – Yes, ma'am.

III.B.3. (14PZ-00060) – HARBORVIEW MOTEL & EFFICIENCIES, INC. – (Jeffrey Patton) – requests a CUP for Alcoholic Beverages for On-Premises Consumption (full liquor) in a TU-1 zoning classification, on 0.43 acre, located on the northwest corner of U.S. Hwy 1 and 13th Street. (8820 U.S. Hwy 1, Micco)

P&Z Recommendation: McLellan/Cannon – Approved. Vote was unanimous.

Henry Minneboo – Is the applicant here? Please come forward. Are both of you owners?

Jeffrey Patton – No, I'm the applicant and he's the club manager.

Henry Minneboo – Oh, you're the sidekick.

Jeffrey Patton – My name is Jeff Patton, I live at 790 Fletcher Road, Palm Bay, Florida. I was the organizer of the Eagles in Barefoot Bay. This is Nick Samron, and he is the manager of the Eagles we have. We chartered in back in June 23, 2009, as the Indian River Lagoon 4527. We are one of seven Eagles' in Brevard County. We had a problem with the building where we were at and couldn't get zoned for the liquor, so we moved into Indian River County to the old Marker One restaurant. There, we received the zoning, we've got a full-liquor bar license there, but because of the building's condition – it was in the process of being condemned – we had to move out. We found the old R.J. Building and the restaurant, Sonny's, was just in there and they have a beer and wine license, so we'd like to change the CUP to a liquor bar, full-liquor, for the club. To clarify the liquor license that we would apply for, because we are a fraternal organization and we are a charitable organization, a lot of the fundraisers we have go to our national charities, such as cancer, diabetes, heart, kidney, and so on, that the license that we're going to apply for once we get approval would be the 11C license for fraternal organizations for members and guests only, so we're not going to be open to the public, it's a membership club. I just wanted to clarify that. We are a family oriented organization. Like I said, there's seven Eagles' in Brevard County, there's 90 Eagles' total in the State of Florida, there's about 1,500 Eagles' across the United States and Canada. So, we are a good-sized organization. We're in the process of getting our health signed off on in the building that we're in right now, the R.J. building, so we applied to get our CUP for a full-liquor bar.

Henry Minneboo – So, you're going to be under the total auspices of the Eagles?

Jeffrey Patton – Yes, the Fraternal Order of Eagles.

Henry Minneboo – Home come when I first read this and was reviewing it, it sounded like a motel needed a liquor license, and I was real confused. Did we leave the Eagles out of there for a reason?

Cindy Fox – The owner of the property is always listed, and that is the owner of the property, Harborview Motel & Efficiencies.

Henry Minneboo – Yes, I read it a couple of weeks ago and I thought you guys were asking for a liquor license at a hotel or motel, and I wasn't too excited about it.

Ron McLellan – That building is the old Harborview, right?

Henry Minneboo – That's the problem.....

Cindy Fox – It's adjacent to the Harborview Motel, it's a retail strip that was constructed when the motel was constructed.

Henry Minneboo – I just wanted to clarify that. Anybody on the board have a question of this gentleman?

Andy Barber – I noticed just by looking at the site plan that it doesn't look like there's a whole lot of parking, and you guys are probably pretty popular. Staff has recommended that you stripe the pavement that you do have, and then some kind of joint use agreement with the hotel. Are those your plans?

Jeffrey Patton – Yes, the hotel has its own parking in front of the hotel itself. The hotel is actually north of the building that we're in, and they have their own parking. What we have is 11 spots in front of the building they want striped, then out back they have the dirt parking and so on. Our membership is around 150 to 200 with the women and men and at any one time we don't have all of them there at one time. The most we'd probably have at one time would be 50 people, but not all drive in cars, you've got a few of them driving together and things like that.

Andy Barber – And some of them are taking cabs.

Jeffrey Patton – Plus, the walk-in's.

Ron McLellan – That was about the same thing I was going to talk about, too. Didn't staff advise us to do something with the parking? In other words, in order to pass the CUP the parking lot has to be striped and right for 50 seats. Is that correct?

Cindy Fox – We had said that if the board found it appropriate to approve this request that it might include in its conditions that the access agreement with the motel and striping of the parking lot.

Henry Minneboo – Any other questions for the applicant? Seeing none, is there anybody in the audience that would like to speak for or against this item? Seeing none, I bring it back to the board.

Ron McLellan – I vote for approval.

Bill Cannon – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Christine Lepore – Mr. Chairman, did that include the staff recommendations for the access agreement and the parking? I understand there are 10 spaces to be striped, 10 or 11, just so we have a set number.

Henry Minneboo – Yes, ma'am. Our attorneys keep us straight.

Jeffrey Patton – Thank you.

III.B.4. (14PZ-00065) – JOHN TULLY PROPERTIES LLC – (Laura Minton Young) – request a change of classification from RR-1 and GU to AU on 440.95 acres, located on the east side of Fleming Grant Rd., approx. 1.65 mile south of Micco Rd. (Lot 57: 9101 Fleming Grant Rd. All others located in the Micco area, no assigned addresses)

P&Z Recommendation: McLellan/Ott – Approved. Vote was unanimous.

Cindy Fox read aloud the request.

Henry Minneboo – Is the applicant here?

Laura Young – Good afternoon, my name is Laura Young, I'm an attorney with the law firm of Dean Meade, at 8240 Devereux Drive, Suite 100, Melbourne, Florida. The applicant could not be here today as he is out of the country, but I'm representing him. He has, like staff has mentioned in the report, he has about 440 acres that he would like to rezone to agricultural, and his intention is to put a small cattle operation on the property and hold it there for a number of years, 10-plus years, and he's already got property to the north of that that's already zoned AU and it's all going to be part of one overall agricultural project. It's compatible with the surrounding area, and there's agricultural and rural uses out in that area. There's a few residential, but for the most part it's pretty rural in south Micco. Does the board have any questions?

Henry Minneboo – Anybody have a question for this applicant? Did she have to fill out a card?

Cindy Fox – She's covered.

Henry Minneboo – Is there anybody in the audience that would like to speak for or against this item? Seeing none, I bring it back to the board.

Ron McLellan – I think it's a great thing and I move for approval.

Bill Cannon – Second.

Bruce Moia – I have a question.

Henry Minneboo – We're moving fast today. That was a motion by Ronnie, and I'm going to give the Aneta the second.

Bruce Moia – I guess it's mostly RR-1, or GU, is the rezoning going to change if he changes his mind somewhere down the road and decides to put in residential, does the rezoning change his density from what's existing?

Cindy Fox – It does.

Andy Barber – It cuts it in half.

Laura Young – If he decides to develop it in the future we'll probably be back here for another rezoning.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

III.B.5. (14PZ-00057) – ANITA TRICOLI – requests a change of classification from GU to AU(L) on 1.08 acres, located on the north side of Areca Palm St., approx. .087 mile west of Florida Palm Ave. (5480 Areca Palm St., Cocoa)

P&Z Recommendation: Ott/Barber – Approved. Vote was unanimous.

Henry Minneboo – Is the applicant here? Yes, ma'am.

Anita Tricoli – Good afternoon, I'm Anita Tricoli, I live at 5480 Areca Palm Street, in Canaveral Groves. I'm petitioning today for.....

Ralph Hagans – I'm Ralph A. Hagans, and I'm an attorney from Boca Raton, Florida. I'm a sole practitioner, I live at 10528 Mendocino Lane, Boca Raton, Florida.

Clyde Thodey – Could you speak up, sir? It's hard to hear you.

Ralph Hagans – Ralph A. Hagans is my name, I'm an attorney from Boca Raton, Florida. I announced my address on the record, and I'm a sole practitioner.

Anita Tricoli – I'm here today, I'm a single woman, I'm 60 years old and I'm used to having four dogs. At this point, with my dogs, I have two elderly dogs and one dog that has cancer. I'm petitioning the court today for approval so that I can bring in a couple of other dogs. I'm used to having four, and I like my alpha dogs to train the puppies when I bring puppies in. So, I want to comply with the ordinance.

Aneta Ott – What kind of dogs?

Anita Tricoli – They're rare breed Shiloh Shepherds.

Aneta Ott – I'm sorry?

Anita Tricoli – They're rare breed dogs.

Henry Minneboo – Anybody on the board have any questions for the applicant?

Andy Barber – How many? Are you going to raise dogs to sell them?

Anita Tricoli – No.

Andy Barber – How many dogs do you anticipate? Right now, you can have four and four is not enough.

Ralph Hagans – She does have four, she's accustomed to four.

Andy Barber – She's allowed to have four according to the zoning.

Ralph Hagans – Three of them are in ill health, and she wants to have the new puppies by the dogs who are there now before they pass on.

Andy Barber – Okay, so it's not like you're going to go for 10 dogs?

Anita Tricoli – No.

Ralph Hagans – No, they're indoor dogs, and she's in an area that's compatible and is mixed rural agricultural and residential.

Henry Minneboo – But his question.....we have to cap some of these sometimes, because sometimes people start with one horse and wind up with 20.

Ralph Hagans – We would agree to any kind of cap that you feel is reasonable.

Henry Minneboo – Any other questions from the board? Is there anybody out in the audience that would like to speak for or against this item? Seeing none, I bring it back to the board.

Andy Barber – I would move to approve it with a cap of six. You want to have two more dogs?

Ralph Hagans – Three more, so it would be a total of seven, because three are in ill health.

Andy Barber – Okay, I would make a motion to approve it for up to seven.

Aneta Ott – Second.

Christine Lepore – That would be with a binding development plan.

Andy Barber – Forget that, then.

Henry Minneboo – That was a motion by Andy and seconded by Aneta.

Andy Barber – Can they create a binding development plan? Do they have to go back and create one? That's a lot of steps, so I might withdraw the request for the cap of seven. I move to approve as written.

Henry Minneboo – Do you withdraw yours, too, Aneta?

Aneta Ott – Yes.

Henry Minneboo – We're trying to save you another trip.

Ralph Hagans – I appreciate that.

Henry Minneboo – What's the.....

Bill Cannon – Henry, I know we've had some situations in the Groves with dogs that have become nuisances and very aggravating to the neighbors. Ma'am, you're on the end of Areca Palm, all the way out?

Anita Tricoli – Yes, and I'm totally fenced. I have nobody on one side, I have nobody behind me, and I really, theoretically, have no one in front of me. When I moved in I put up a privacy fence for the one neighbor that is actually on the one side.

Bill Cannon – Have you talked to the neighbor about increasing the amount of dogs?

Anita Tricoli – Yes, everybody there is very friendly and very compliant with everything. They like my dogs.

Henry Minneboo – Plus, they're inside, too.

Anita Tricoli – Yes, they live inside and they only go outside to go to the bathroom and get a little exercise. They're never left outside. They're my babies. I have no children, so these are my children.

Aneta Ott – I make a motion for approval.

Henry Minneboo – Motion by Aneta.

Andy Barber – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Anita Tricoli – I don't have to come back in September?

Henry Minneboo – Not with us, but you will have to come back in September for the Board.

Christine Lepore – You will. A binding development plan is an additional step in the process, and it doesn't require another meeting, so you don't have to worry about that.

Anita Tricoli – Thank you.

III.B.6. (14PZ-00061) – BRIAN BURT AND LINDA GRZYBOWICZ – request a change of classification from RR-1 to AU, and removal of existing BDP on 14.43 acres, located on the north side of Parrish Rd., approx. 0.20 mile east of U.S. Hwy 1 (No assigned address. In the Mims area)

P&Z Recommendation: Ott/Moia – Approved. Vote was unanimous.

Henry Minneboo – Is the applicant here? Please come up and state your name and address for the record.

Brian Burt – My name is Brian Burt, I live at 1980 Palomino Court, Titusville, Florida. I'm just here to change the property back from RR-1 to AU. It was AU, and they changed it and put a building development on it before I bought it. The reason I bought it was that me nor the neighbors want building, we'd just like to keep it rural. So, all I want to do is put it to AU, put up some fencing....I own the five acres next to it, which I already had changed to AU, and put a couple of barns. I might rent out a couple of stalls to help pay for taxes, but that's about it. I just want to keep it natural.

Henry Minneboo – Any questions for this gentleman? Is there anybody out in the audience that would like to speak for or against this? Seeing none, I bring it back to the board.

Aneta Ott – A man after my own heart. I make a motion for approval.

Bruce Moia – I'll second that.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

III.B.7. (14PZ-00064) – MARY ELLEN R. WILLIAMS – requests a change of classification from RR-1 to AU on 2.75 acres, located on the southwest corner of Quail Path and Cox Rd, approx. 0.20 mile south of James Rd. (2520 Cox Rd., Cocoa)

P&Z Recommendation: Barber/Ott – Tabled to the 08/25/14 LPA Meeting. Vote was unanimous.

Cindy Fox read aloud the request.

Henry Minneboo – Is the applicant here? (Seeing none) Do we know anything about the applicant?

Cindy Fox – Do you want to move it to the end?

Henry Minneboo – Yes, let's hold it. If the board doesn't mind, let's hold off until the very last item. It could be raining out there or something. If the board doesn't mind we'll go back to that at the end.

III.B.8. (13PZ-00098) FLORIDA RIVER RAT, LLC – (Jay Schenck) – requests a change of classification from AU and EU-2, with a BDP, to BU-1 on the west 400 feet (3.43 acres); and AU on the remaining 7.26 acres, with removal of existing BDP, on 10.69 acres, located on the east side of U.S.1, approx. .23 mile north of Silver Hill Lane. (No assigned address. In the Cocoa area.)

P&Z Recommendation of 01-06-14: Cannon/Goggin – Approved. Vote was unanimous.

BCC ACTION of 02-06-14: Fisher/Anderson – Approved with a Binding Development Plan limited to nursery operations and beekeeping. Vote was unanimous.

BCC ACTION of 04-15-14: Anderson/Nelson – Moved to reopen the public hearing, to be continued at a later date, following re-advertisement and re-noticing at the applicant's expense; and the motion effectively stayed the 120-day period and re-set it once the hearing has been concluded.

P&Z Recommendation of 08-11-14: Thodey/Moia – Tabled to the 09/08/14 P&Z Meeting

Cindy Fox – This item, just for clarification, was heard by the Board of County Commissioners in February and approved with a binding development plan, and the applicant didn't follow through with the binding development plan, so the Board agreed to reopen the public hearing in April. I need the purple affidavit also.

Henry Minneboo – What was the BDP comment?

Cindy Fox – I think the applicant can come and tell you, but we had a.....the hearing was exactly the same, but we had a binding development plan that the applicant wasn't comfortable with going forward with, so we brought it back again.

Henry Minneboo – Jay, do you want to come up? State your name and address for the record.

Cindy Fox – I need the purple affidavit, the sign affidavit.

Jay Schenck – I don't have a sign affidavit.

Cindy Fox – Did you post the sign on the property?

Jay Schenck – We did for the original one.

Cindy Fox – You had to post a sign again for the whole thing.

Jay Schenck – I was not aware of that.

Christine Lepore – That presents a notification problem. This is a public hearing and the posting of the property is part of the notification requirement. If it wasn't posted we can't hold the public hearing.

Jay Schenck – This is round two of this and letters did go out. We went through this process.

Henry Minneboo – But the problem is that all of its got to be done at one time, the posting and affidavits have to be here today.

Jay Schenck – I realize I failed to act.....(inaudible)

Henry Minneboo – I don't think we have a choice, do we?

Christine Lepore – No, we don't .

Clyde Thodey – I'll make a motion that we table to the next meeting.

Bruce Moia – Second.

Ron McLellan – Would it be crazy to ask if we could slip that in at the LPA next week?

Henry Minneboo – No, because you can't advertise fast enough.

Jay Schenck – It's been advertised and everything, but not posted.

Henry Minneboo – You have to post it and come today with affidavits.

Cindy Fox – If you go over to the Planning and Zoning Office and see Mary, she can give you the sign with the instructions.

Jay Schenck – Over the last two months I've been over there numerous times, and no mention.....

Christine Lepore – For the record, the next Planning and Zoning meeting date is September 8th.

Henry Minneboo – We'll see you September 8th.

THE FOLLOWING ITEM WAS TABLED BY P&Z ON 07/07/14 AT THE REQUEST OF THE APPLICANT

III.B.9. (14PZ-00047) – JOHN E. AND LAURAY AITCHESON – request a change of classification from RU-1-13 to IN(L) on 0.29 acres, located on the southwest corner of Green Rd., and Fiske Blvd. (1003 Green Rd., Rockledge)

P&Z Recommendation: Moia/Ott – Approved. Vote was unanimous.

Cindy Fox read aloud the request.

Lauray Aitcheson – Lauray Aitcheson, I own the house on 1003 Green Road. My brother-in-law is helping me with this project. I'm trying to license a home as an assisted living facility for veterans. I'm in residential, so I already qualify for six residents. We have the space for eight, so we just want to increase the bed number, which puts me in a different category all together, so she told me I had to do a rezoning.

Henry Minneboo – Does anybody on the board have questions for the applicant?

Rob LaMarr – What is the feedback from the residents on that street, because it is all residential.

Lauray Aitcheson – Before the first hearing I did an open house and invited the residents and all the neighbors, and everybody welcomes it. It was initially, before, was an ALF, and the house was sitting there.....I didn't think I'd be able to keep, but they did the modification and I was able to keep it, and I renovated and upgraded and it's beautiful. Everybody who passes by can't believe how great it looks. I brought pictures if you guys would like to see. Everybody welcomes it, and they've asked how you can tell veterans no. I never thought about that, and my husband served in Iraq. I just thought somewhere that would be nice, comfortable, and affordable. This is a nice area compared to the time I bought the house.

Rob LaMarr – So, everybody up and down Green Street is in favor?

Lauray Aitcheson – Everybody.

Andy Barber – This IN(L) zoning would allow you to go up to 14 and your request is only to go to eight.

Lauray Aitcheson – Yes, I only have the space for eight.

Andy Barber – So, we could, without a binding development plan, put a cap of eight on this zoning change?

Christine Lepore – No, you can't do that with a zoning change. It would require a binding development plan, and I also want to point out that if the rezoning is approved they will need to request a waiver from the Board of County Commissioners for a separation distance requirement, separation from other residential zoning. That will be processed either at the same time or close in time of meetings as the rezoning meeting that this item will be held. I just wanted you to be aware of that, but you can't cap anything, dogs or residents in a group home, without a binding development plan, because this is not a conditional use permit request, it's a rezoning request.

Andy Barber – That creates a situation then, I mean, 14 is a lot different than eight. I don't know if your neighbors would like it if you tried to go for 14.

Lauray Aitcheson – That would be too much for me to handle.

Andy Barber – I guess we can just hope that that's all you would do.

Lauray Aitcheson – I don't have the space and I'm limited with ACA, spacewise, as to how many I can have and the square footage and everything, so there's no room.

Aneta Ott – Can she say that there will be no more than eight.

Andy Barber – Not without a binding development plan.

Christine Lepore – She can say that, but it won't be legally binding, so if she happens to sell the property, the new owner – if there's no limit – could potentially increase the building structure to accommodate the additional residents up to eight. So, that's something you may want to consider.

Rob LaMarr – Can the structure, or building, be limited?

Christine Lepore – Not without a binding development plan.

Cindy Fox – The only thing I can tell you is that the State has specific requirements about a certain amount of square footage per resident, so unless they modified the structure with permits they would be capped for what it could hold.

Henry Minneboo – Is this one just north of the school?

Rob LaMarr – Just north of Anderson Elementary, facing Fiske.

Henry Minneboo – Any other questions from the board? Is there anybody that would like to speak for or against? Seeing none, I bring it back to the board.

Bruce Moia – I'll recommend approval.

Aneta Ott – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Christine Lepore – You need to request the reasonable accommodation to waive the setback from residential.

Lauray Aitcheson – I'm working on that with Cliff Repperger.

Christine Lepore – Yes, he contacted my office.

Henry Minneboo – That will be September 4th.

Lauray Aitcheson – Yes, I'm going to see him tomorrow.

III.B.7. (14PZ-00064) – MARY ELLEN R. WILLIAMS – requests a change of classification from RR-1 to AU on 2.75 acres, located on the southwest corner of Quail Path and Cox Rd, approx. 0.20 mile south of James Rd. (2520 Cox Rd., Cocoa)

P&Z Recommendation: Barber/Ott – Tabled to the 08/25/14 LPA Meeting. Vote was unanimous.

Cindy Fox – It doesn't look like anyone is here, would you like to table the item to the next meeting?

Henry Minneboo – They could have had some mitigating circumstances. I'd like to recommend tabling.

Andy Barber – I'll move to table.

Aneta Ott – I'll second it.

Christine Lepore – What day would you like? We need a time certain to avoid the re-advertising requirement, so it could be tabled to the LPA.

Henry Minneboo – Do you want to put them first on the next agenda? Is that okay?

Cindy Fox – The 25th? That's fine.

Upon consensus, the meeting was adjourned at 3:32 p.m.