

**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, July 6, 2015, 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; Rochelle Lawandales; Andy Barber; Clyde Thodey; Ron McLellan; Bill Cannon; Robert LaMarr; John Stone; Loretta Goggin; Richard Charbonneau; Pat Reed; and Ron Bartcher.

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

The 11 regular and alternate members present voted throughout the meeting. Mr. Bartcher did not vote.

Henry Minneboo – This is the Planning and Zoning meeting, and all decisions that we make here today will be brought to the Board of County Commissioners, who have the final decision on each and every item here today. Did everybody have an opportunity to see the May 4th minutes?

Andy Barber – Motion to approve.

Ron McLellan – I'll second.

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

Henry Minneboo – We've had a request by a couple of attorneys who have other commitments today, and they would like to move that up. Those are items III.B.3. and III.B.4.

Rochelle Lawandales – I don't have a problem with it.

Ron McLellan – I don't have a problem with it. It's not a very big agenda anyway.

III.B.3. (15PZ00030) SWALLOWTAIL, LLC – (Glenn D. Storch) – requests a change of classification from AU to TU-1, on 8.03 +/- acres, located approx. 0.15 mile north of the west end of Deering Pkwy. (No assigned address. In the Mims area)

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

Glenn Storch – I appreciate this. I've got seven hearings today, so getting back to Volusia County to finish those up, I really do appreciate it. This is part of the Farnton Local Plan overall. This is the 5A interchange, and this is some of the things that we made a commitment to the County that we would do. We are doing everything we can to encourage economic development in this gateway for Brevard County, which is 5A. As you know, right now there is nothing there. So, what we've done in the past is we now have utilities dedicated for this area; we have a PSE certification for utilities; and we are getting ready to pay for the extension of the road, which has been renamed Deering Parkway. It used to be called Stuckway Road, but Stuckway was not great for marketing, but Deering Parkway is working out better. So, we're going to extend this end into this commercial area. What we are now asking to be done is, you have two things: The area to the north is the area that is right now designated in the Comp Plan as commercial, so we're asking to finish up and put that as rezoning; and then the area to the west is an area that would allow us to run a road through there and put a traffic signal in that location. If you recall, when you're building roads away from the interstate, they have to be a certain distance before you can put a traffic signal in, and so that would allow us to put our traffic signal in the appropriate location, but we're asking for that to be designated as commercial as well in a small scale amendment and designate the rest of it as commercial zoning. That way we would have a commercial node

right there at that 5A interchange that would be our gateway to the Farmton Mixed Use area. If you recall, the Farmton Mixed Use area is about 2,500 acres that will hopefully be an economic development and job generator, and we're now working also to create the connection between 5A and that area to make this all happen. The Board will also see a request for a CDD and some other things that will allow us to start working on that process. I'm pretty proud of this, and if there any questions I'll be glad to help.

Henry Minneboo – Any questions before I go out to the audience? Seeing none, is there anybody in the audience who would like to speak for or against this item? Seeing none, I bring it back.

Rochelle Lawandales – Once these things are accomplished, how soon do you think you'll be turning dirt?

Glenn Storch – The road itself, the additional 1,000 feet of road is under design right now. With any luck we'll have that design done within 30 days and we will go out for bid to get that thing moving.

Henry Minneboo – What are you going to do about all those 7,850 ATVs?

Glenn Storch – Well, I will tell you there is a problem there. Apparently, especially since they appear to be trespassing, and it's dangerous. To be honest with you, from a liability standpoint, it's massive, so we will be looking for help from the County. We are going to put, obviously, fences and 'no trespassing' up for our areas, with tow-away zones, and we would expect that there would be a right-of-way area that would have to be designated the same, because you can't have lawlessness like you have right now down there and still expect to market this. So, we are hoping to work with folks to solve that problem.

Henry Minneboo – You all have certainly been very good to those people. I don't think they realize how good you all have been.

Glenn Storch – I would love to find alternatives, but I just can't have them trespassing in this area.

Andy Barber – I think it's a fabulous plan, I'm excited to have you move into the area, and I move to approve.

Ron McLellan – Second.

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

III.B.4. (15PZ00031) – SWALLOWTAIL, LLC – (Glenn D. Storch) – requests a Small Scale Plan Amendment (15S.07) to change the Future Land Use from Residential 1 to CC, and a change of classification from AU to BU-1, on 8.810 +/- acres, located approx. 750 ft. west of the terminus of Deering Pkwy. (No assigned address. In the Mims area)

LPA Recommendation: Ron McLellan/Rochelle Lawandales – Approved. Vote was unanimous.

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

Glenn Storch – This is the one I was talking about before. This is to allow for it to be in a logical manner and with the traffic signal. This is an area that is mostly upland, so that also works well with us, so it's not appropriate to be residential, it is appropriate to be commercial.

Henry Minneboo – Any questions before I go out to the audience? Seeing none, is there anybody in the audience who would like to speak for or against this item? Seeing none, I bring it back.

Ron McLellan – So moved.

Bill Cannon – Second.

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

Cindy Fox – Was that for both motions?

Henry Minneboo – We've got to do the LPA side.

Ron McLellan – I make the motion.

Rochelle Lawandales – Second.

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

III.B.1. (15PZ00024) – CALVIN D. & DEBRA D. BALDWIN – (Scott Langston) – request a Small Scale Plan Amendment (15S.06) to change the Future Land Use from NC to CC, and a change of classification from GU to BU-2, on 4.68 acres, located on the south side of Lake Dr., approx. 0.11 mile east of N. Burnett Rd. (3255 Lake Dr., Cocoa)

LPA Recommendation: Lawandales/McLellan – Approved. Vote was unanimous.

P&Z Recommendation: Lawandales/LaMarr – Approved. Vote was unanimous.

Calvin Baldwin – I'm flying blind; a lot of my papers got wasted in the flood in Arkansas last week, or two weeks ago, so if you've got questions you can ask me.

Cindy Fox – Do you want to wait and move this item to the end of the meeting since he doesn't have his affidavit for posting the sign?

Henry Minneboo – Any opposition to that?

Cindy Fox – If he wants to attest and sign that paperwork now, he can do that.

Henry Minneboo – You had a different representative, didn't you?

Calvin Baldwin – Scott Langston was supposed to be here, yes, sir.

Henry Minneboo – Is he okay to go now?

Cindy Fox – Yes.

Henry Minneboo – Just tell us briefly what you've got here.

Calvin Baldwin – We've got a parcel of land on Lake Drive that we're looking to have totally rezoned to where I can put either a boat storage lot or maybe mini-storage lots out there for boat/RV storage and self-storage. It's right beside Western Waste and behind Bob Steele Chevrolet. We've got BU-2 zoning all around it.

Clyde Thodey – Did you want to speak into that microphone so we can hear you?

Calvin Baldwin – I'll repeat myself. The property location is beside Western Waste on Lake Drive, and almost directly behind Bob Steele Chevrolet on S.R. 520.

Henry Minneboo – Didn't we change this from.....we made this BU-2 in the last six or eight years?

Cindy Fox – No, but we've had a similar application not too long ago close by there. There's several properties along this Lake Drive corridor that have been coming in. This one has always been GU; it's never had a commercial zoning before.

Henry Minneboo – Is this one contiguous to Western Waste?

Cindy Fox – No.

Calvin Baldwin – We're immediately next door to it. You may be thinking back in 2003 and 2004 I was going after a rezoning to build a house, and we got it granted and I never did it.

Ron McLellan – I remember that.

Henry Minneboo – Anybody have any questions for this gentleman? Seeing none, I go out to the audience. Is there anybody in the audience who would like to speak for or against this item? Seeing none, I bring it back to the board.

Ron McLellan – He's surrounded by BU-2 anyway.

Robert LaMarr – What is currently on the property right now?

Calvin Baldwin – Scrub trees. I've got a building that we permitted and built back after the hurricane destroyed some equipment in 2003 or 2004.

Henry Minneboo – What's the pleasure of the board.

Rochelle Lawandales – Motion to approve.

Robert LaMarr – Second.

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

Henry Minneboo – We need an LPA side.

Rochelle Lawandales – Approve.

Ron McLellan – Second.

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

III.B.2. (15PZ00026) DARRELL & TRACI FREEMAN, AND KATHLEEN HOLCOMB – request a change of classification from GU to AU(L), on 1.55 acres, located on the east side of Osprey Ave., approx. 325 ft. south of Cangro St. (4755 Osprey Ave., Cocoa)

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

Cindy Fox – We need to pause for a minute to verify the voting members versus the alternate members for voting.

Christine Lepore – It looks like Mr. Bartcher, the alternate for D1, is not voting today. Everybody else is voting.

Darrell Freeman – My name is Darrell Freeman, 4755 Osprey Ave. We are trying to change it from GU to AU(L). We are proposing to put a three-stall garage on this property and next year hopefully get a horse for our small daughter.

Ron McLellan – Do you live on the property?

Darrell Freeman – Yes, sir.

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

Bill Cannon – Motion to approve.

Ron McLellan – Second.

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

III.B.5. (15PZ00022) – LINDA E. SPAIN, TRUSTEE – (Lisa Frazier) - requests a change of classification from SEU to AU, on 4.08 acres, located on the west side of N. Tropical Trail, approx. 460 ft. south of Indianola Dr. (2105 N. Tropical Trail, Merritt Island)

P&Z Recommendation: Reed/Thodey – Tabled to the July 20th LPA meeting in order to give the applicant time to prepare a Binding Development Plan stipulating the type of livestock on the property and the commercial aspect of fruit and nursery sales. Vote was unanimous.

Lisa Frazier – Good afternoon, Lisa Frazier, Frazier Consulting. Thank you for having us this afternoon. I am the agent for the applicant, but also Mr. David Spain is here. Linda Spain has a physical disability and she's actually with a family member this afternoon, so we apologize she is not here in attendance, but Mr. Spain and I are here to answer any of your concerns or questions. What we're looking at is the Spain's retirement dream. I'm going to paint the picture because who wouldn't want to move back to North [sic] Merritt Island and spread your wings on four acres of land. The Spain's currently live in Cocoa Beach and this is their retirement property. Mr. Spain kind of wants to go back to his roots of agriculture and so that is why we are asking for this request. Currently on the property there are two historic buildings – not registered, but they are older. Unfortunately, the primary resident home has been modified in a manner that is really not very compatible with the look and the feel of the land any longer and of course with Mrs. Spain's physical disabilities it is really not accommodating to a person with physical disabilities. The second building is an old garage with a guest home that they are hoping to keep, which dates back to the late 1800's and it's kind of cute. I'm telling you all of this in order to give you the two main reasons why they're asking for this rezoning. The AU zoning classification is the only zoning classification that does not tie accessory building size to the primary structure, and the Spain's do not desire to build a McMansion in their retirement years, nor can they really build something that does not accommodate Mrs. Spain's physical disabilities and limitations. Therefore, they are asking for that relief in order to be able to house their mobile homes and agricultural equipment that they're hoping to utilize on the piece of property. In addition, they would like the freedom to be able to commercially sell anything that's produced on the property. This does not mean they want a retail operation. Again, they are in retirement mode and they have no desire to have a 9 to 5, 7-day a week operation on their property, but should they grow citrus and/or vegetation, they would like the freedom to be able to sell those items that are produced on the property. Those are the two main reasons why they are looking for this relief in zoning. We believe this zoning request is compatible with the neighborhood. As we know, its historic use in North [sic] Merritt Island has been agricultural. In fact, just two properties south and across the street they are still doing groves and nurseries in

that area, and many individuals keeps bees or fowl, or things of that nature. So, we believe it is very compatible with the area. I believe in your package there are aeriels that you will see that the surrounding area has that use and also there was a small study conducted back in 2007 where the whole area requested that the County down-zoned the ability for density in that area. They went from Res 1 – this is in the Future Land Use category of the Comp Plan – they went from Res 15 to Res 1, and what the Spain's are requesting is very compatible with that request. They will be going from the potential of being able to put four units on that piece of property – with access and setbacks – to only one unit on that property. So, therefore, that's their big request and we're hoping that if you have any questions we will have the opportunity to answer them.

Ron McLellan – Is there a home on there now?

Lisa Frazier – No, sir, it's vacant; however, there is an old home that is there, but it has been added-on, and not added-on well.

Henry Minneboo – If they go to AU they can put a trailer on there, can't they?

Cindy Fox – No. You have to have 10 acres and you have to be 200 ft. back from all of the property lines in AU zoning.

Clyde Thodey – Again, we can't hear you over here.

Cindy Fox – I'm sorry. In AU you would have to have 10 acres and you'd have to be a minimum of 200 ft. from every property line for a mobile home.

Rochelle Lawandales – I'd like clarification on the accessory structures that you referred to, because I thought I heard you say trailer or RV or something in your comments. So, if you could clarify that for me.

Lisa Frazier – I'm not even sure I added in my comments or not. What I was requesting was that the accessory building not be tied to the primary structure's square footage, because this is the only zoning classification that allows for that type of relief. So then, if you want a – for instance – a 2,500 square-foot accessory building you need to build a 5,000 square-foot home; or if you want 5,000 square feet of total accessory buildings you're going to have to build a 10,000 square-foot home; and that is in the SEU and EU zoning, so that's why they would like this relief. Yes, they have a mobile home and they would prefer to have it housed and not out in the open, but they want to have that relief from being tied to the primary resident.

Rochelle Lawandales – So, they want to be able to garage the mobile home – motor home – in a structure that would currently exceed the size of the house.

Lisa Frazier – Possibly, yes. In addition, there will be other things, like a tractor or riding lawn mower, and things of that nature. So, without really outlining a.....yes, they're going to put a 10,000 square-foot barn on there – which I'm not saying they are – I'm just saying they want that relief and that ability prior to them starting to plan what the main house looks like. Do you understand what I'm saying? Before they can go through a site planning process and really design the primary structure, they've got to know what can be allowed on the rest of the property.

Rochelle Lawandales – This is more of a question for staff, but if those structures are attached to and part of a home, are they then considered part of the home and not an accessory, and then it wouldn't have to be rezoned to AU?

Cindy Fox – There's a possibility to do that. I'm getting the impression they don't want the home that's there, and they want to build a new one; therefore, any of the structures that are on the property, if they were bigger

than 50% in the existing zoning, then they would be non-conforming if we could prove that they were there before. There are a lot of different things that can be done about the structures, but I was under the impression there was some agricultural pursuits.

Lisa Frazier – Yes, and that's the second reason why they would like the AU zoning.

Henry Minneboo – There's a piece of land just to the north that's SEU, isn't there?

Cindy Fox – There's SEU primarily on the west side of Tropical.

Henry Minneboo – I'm going to abstain because I own the property to the north.

Pat Reed – Presently, there are two residential structures on the property?

Lisa Frazier – There's the primary structure, that is correct; and then the second one is a garage; and then there is a guesthouse that was up on top.

Pat Reed – And you intend to demolish both of those before you build a new residence?

Lisa Frazier – No, I believe the Spain's are thinking of keeping the grandfathered-in garage and guesthouse for the time being so that they would have some type of residence as they demolish the main house and then start building on the property.

Pat Reed – There was mention of a mobile home, and then a motor home. Which is going to be housed?

Lisa Frazier – A motor home. There is no mobile home.

Pat Reed – Is this a reduction in density intensity?

Cindy Fox – Essentially it is.

Richard Charbonneau – You mentioned commercial vegetables or fruit, or something along that line. I'm imagining some kind of vegetable or fruit stand on the road out there.

Henry Minneboo – That's not going to happen. I'll answer that real quickly.

Lisa Frazier – You have to come back in and ask.....

Henry Minneboo – The reason I'm abstaining is we've owned that property north of them for 45 years, or 50. I didn't even know this was coming, to be very candid with everybody. You won't be selling fruit out there.

Lisa Frazier – That's correct, it's a conditional use, so they would have to come back in if they would like a roadside stand or anything of that nature. However, the commercial activity wouldn't be conducted onsite. This is to sell to possible growers, landscapers, and things of that nature.

Richard Charbonneau – I saw the idea of a roadside stand there being a major interest.

Lisa Frazier – That is not in the cards, no.

Christine Lepore – Yes, the AU zoning would allow....the applicant may not intend to sell from the property, but the AU zoning would allow sales from the property, so that's an issue you need to keep in mind in your discussions and decision.

Lisa Frazier – What you're stating is that they cannot have a retail center, or retail operation; however, if they grew palm trees people could come and grab the palm trees and exchange dollars on the property, but this would not be a retail operation, as in 9 to 5, five days a week, with an 'open' sign. Correct?

Cindy Fox – Let's back up a minute. The AU zoning allows anything that you raise and graze on your property to be sold from your property.

Lisa Frazier – That's correct.

Cindy Fox – That's an agricultural pursuit. They don't have to sell these things; they can just be on the property for their own personal use. So, AU would allow that type of sales activity on the property.

Andy Barber – Would they be allowed to build a structure to sell whatever they raise and graze?

Cindy Fox – If it's part of the agricultural pursuit, I believe they are.

Andy Barber – So, if they had a bunch of orange trees they could have an orange stand, or an air conditioned building with a parking lot, like a commercial operation.

Cindy Fox – Yes, I believe there would be some County Land Development regulations that would come into play.

Henry Minneboo – Can't they split-zone that?

Cindy Fox – I have not examined the property to really know for sure.

Henry Minneboo – Everything in the front is SEU, and then all of a sudden you're going to put an ag in the center? Does that make sense?

Cindy Fox – What you're saying is correct.

Lisa Frazier – We do have, in the audience, one of the neighbors and they have signed a letter stating that they have no objections.

Henry Minneboo – Which neighbor?

Lisa Frazier – Jacquilyn Eusanio, and she's just south of the Spain's. Should I submit this, or just hang on to it?

Henry Minneboo – You didn't have the one that was contiguous to you, did you, to the north side?

Lisa Frazier – This one is contiguous to the south side.

Henry Minneboo – The south side?

Lisa Frazier – Correct. Mr. Nimmo is to the north, I believe.

Henry Minneboo – Minneboo.

Lisa Frazier – Actually, the one just north contiguous is.....

Henry Minneboo – That piece is contiguous.

Lisa Frazier – I understand, but there's a Mr. Nimmo.....

Henry Minneboo – The one that's been there the longest, you haven't got a letter from them.

Lisa Frazier – Okay.

Henry Minneboo – Is there anybody in the audience who would like to speak for or against? Mr. Spain?

Dave Spain – My wife and I purchased this property in order to have a retirement home in order to do some of the things that in the hotel business I've never been able to do. I've had to work seven days a week. I can tell you we purchased it in January; the property has not looked as good as it looks now in a long time. We intend to make it a show place. I understand Mr. Minneboo's objection, and I would have the same objection if someone wanted to put something that was incompatible with my property. I'm more than happy to sign a binding development agreement because hopefully, I'll have another 25 years, but at the end of that 25 years when I'm dead and gone somebody else is going to own it, and I would hate to think that I put a lot of effort into making it into a really nice property and building good relations with all my neighbors, which I have in Cocoa Beach, both commercially and residentially, and then have something that I did turn into a nightmare for my neighbors. We're not looking to have a big commercial enterprise there. I'm looking to be able to justify spending some of the money I want to spend to beautify that property. I have no intention of opening a fruit stand, no intention of selling product off that property, but I would certainly hope that at some point in time, like many places along the Trail, that we'd be able to harvest the fruit or the trees and at some point have some income that we could offset some of the expenses with, but also to enjoy the utilization of the property. I in no way want to do anything that is incompatible with the enjoyment of my neighbors and with the value of their properties. I assure you at the end of the day, my property is going to go up in value and it's going to look very nice. I don't mind answering any kind of question or objection that someone has because I wouldn't want somebody doing that to me.

Henry Minneboo – Can we do a BDP?

Cindy Fox – Yes, if you work out the wording and stipulations.

Henry Minneboo – Well, he's expressed them all, and he has to be in agreement.

Cindy Fox – The board needs to know what they're voting on.

Jacquilyn Eusanio – (inaudible)

Henry Minneboo – Come on up, we need your name and address.

Jacquilyn Eusanio – My name is Jacquilyn Eusanio and I live at 2075 N. Tropical Trail. I bought the piece of property next to him. I would like to eventually like to go to AU, too. I mean, I have 14 – 16 Mango trees in my yard. I have all kinds of fruit trees in my yard. I'm not saying I want to have a stand, either, but I would like to have a couple of chickens and bees and some other stuff. I mean, not goats or anything like that, but I mean, I'm just saying, how did the guy next door to us get a grove? There's a grove down the street, and how did they get the zoning for that?

Henry Minneboo – That grove has been there since 1952.

Jacquilyn Eusanio – So, how are we supposed to get it, then? I mean, there are things on the grove.

Henry Minneboo – I understand.

Jacquilyn Eusanio – I have over a million dollar piece of property. Now the people next door are selling that property, too, and that's over a million dollars.

Henry Minneboo – I appreciate it. Anybody have a question for the lady? Anybody else? Seeing none, I bring it back to the board.

Rochelle Lawandales – I have a question for staff. In the SEU, are there any preclusions from having a garden for growing things/consumables?

Cindy Fox – No, there's no preclusion for growing a garden. The issue would be that if they wanted to apply for an agricultural exemption and produce fruit and have that as income, then they would have to be rezoned. They have to have the agricultural zoning for that purpose. SEU won't do it for them. There is a conditional use permit available in SEU that allows for horses, mules, and barns. I don't know that that would address all the issues, but some of the other neighbors that have SEU could go that route rather than rezoning to AU.

Andy Barber – It sounds to me like the best thing to do is create a binding development plan where you can identify what it is you want to do, and I think that would make everybody happier. To be able to build another structure larger than the 50% that you want, that's going to require you to have the zoning that you want, and I think that's paramount to you. To have the grove operation is probably secondary – you're probably doing it more for 'sport' farming than you are for anything else. I don't think this board can sit here right now and create the language for you. You'd have to go back to staff and get a binding development plan, or have Lisa do it, and come back to us.

Cindy Fox – The binding development plan is voluntary on the applicant. This board just needs to understand what kind of things they would like to see in the BDP so that they can make a recommendation for the Board's approval. So, some sort of discussion, or offered up from the applicant voluntarily, stipulations.....

Andy Barber – Personally, for me, whatever he said sounded really fine. The type of operations that he envisions is fine, but I think that the neighbors don't want a big grove operation and they don't want stands out front, so clearly don't do that, but just identify what your plans are and that probably would work. That's my opinion.

Rochelle Lawandales – I would agree in terms of a BDP being the next best alternative. I think that most of the stipulations that I heard from Mr. Spain would probably be fruitful – pardon the pun – but I really do have very strong concerns about slapping AU in the middle of this SEU area. We have EU and SEU all the way down on the waterfront, and so if we don't have a good BDP I would not be able to support this rezoning application for that reason. This is prime, beautiful waterfront, North [sic] Merritt Island property all up and down there. I think there are ways for you to get your buildings, even under SEU. I think the issue is the sale of trees, fruit, and all of that and how that would be accomplished. So, if you're going to be selling stuff, for me you'd have to take it somewhere else. I can't see people being able to come to your property. I think that has an effect on the character of that west side of the road and could potentially be negative on everybody over there. So, if that's something you can consider that you would take things offsite and not have people come there, that might be something to appease some of the issues. That's all I've got.

Henry Minneboo – Any other questions for Lisa?

Pat Reed – I'm kind of hesitant. I guess I come from a heavily agricultural area and it was very common on State highways to see fruit stands. Speed limits were 60 and 65, people would be flying by and pulling off and selling fruit. The question that comes to my mind, and I'm not that familiar with that area, but do we want to preserve the agricultural type of atmosphere, or do we want to push for big homes on the water? I guess I'm of the feeling that I would like to see, like many of the areas of Brevard, stay more rural looking. I just came through the nightmare of Viera, and that's why I was late, trying to fight my way through the traffic. If we want that all through the County, fine. I've been up there once or twice in my 15 years and it is kind of laid back, and it's more rural than metropolitan. As long as something can be worked out I would support either tabling this, or postponing it, or whatever the wording is, so that something can be done between the requester and the administrative and brought back here. I agree with the rezoning, I'm 100% behind it, but on the other hand I'd also like to allay the fears that might come with it.

Lisa Frazier – I hear everything that you're saying, and this is something that Mr. Spain and I have discussed and we were prepared to offer up any kind of compromise with your concerns. We were told by staff that this was the proper model to go through, that we come before you and make our request and then the board provides us with their concerns so that we can put it within a binding development that goes along with the rezoning. They have no problem, you've heard it from Mr. Spain. They have no problem with putting conditions on any kind of commercial (TAPE CHANGE) as Mr. Spain has expressed, he will be gone one day and what then will the property be reverted to if this is not a condition of the zoning? So, we are very comfortable with doing that. They're comfortable with putting limits on whatever livestock. Again, you have to come back in for a conditional use for many of these items that you're concerned with as far as a roadside stand, or hog farm, or things of that nature. I mean, you have to come in for a conditional use, and we are not requesting any of those items. As far as the waterfront, the setbacks dictate, and are already in place, where the ag operation or the large accessory building would be so it would not interfere with the ambience of the riverside homes that are there. We feel that their request is not out of line with the neighborhood and we would be more than willing to put conditions on the zoning today.

Robert LaMarr – If we were to approve an AU zoning with stipulations, would the AU zoning stay with the applicant, or stay with the property?

Cindy Fox – It would stay with the property, and the binding development plan that was approved with that would also run with the property, so it does not change with the owners.

Robert LaMarr – So, it would stay with the property?

Cindy Fox – Yes.

Pat Reed – Mr. Chairman, would it be appropriate to make a motion to table this for an appropriate length of time, depending on what staff needs, and come back to us with a binding development plan?

Henry Minneboo – It could be. Let me ask the applicant if that's going to mess you all up in any way?

Lisa Frazier – Mr. Spain is holding back on any kind of design, again, until he knows about the accessory buildings, and this is the only zoning classification where you can get relief from these accessory buildings.

Henry Minneboo - Can staff work this out and be first on the agenda.....or can we do it under LPA? We're done with LPA for this month, aren't we?

Cindy Fox – No, there will be an LPA on the 20th. If you want to table this until the 20th you could do that with the stipulation that the applicant submit a binding development plan for review.

Pat Reed – Mr. Chairman, so moved.

Henry Minneboo – Hold on, we need to get the owners. Mr. Spain, would you come up?

Lisa Frazier – Would that set us back on the Board of County Commissioners?

Cindy Fox – No, you'd stay on schedule.

Henry Minneboo – Is that satisfactory?

Dave Spain – It's fine, but the only thing I would ask is that I would really like to have everybody's objections, what they are, because I'm very fluid and flexible, and I just want to be able to move forward at some point, because neither one of us, my wife and I, are not getting any younger.

Loretta Goggin – Perhaps I'm missing something, but I'm not getting from my colleagues here on the board that there's any one of you that are actually against this, and I haven't heard anyone in the audience say they were against anything. So, why are we holding back on making a motion or taking any action?

Andy Barber – I can try to answer that, because I made some comments. We just don't want to give them the AU zoning, because it opens up a whole can of worms, and I think a binding development plan is a clear solution that kind of limits the activities and will make everybody happy, and that's all they want. So, I think that's why we should not approve the AU zoning without a BDP. We will approve it, but with a binding development plan.

Lisa Frazier – All we're requesting is that we have a clear delineation as to what you would like in that binding development plan. For Mr. Barber and for Rochelle, they are saying they are concerned about the commercial operations and people coming and going on the property. So, again, these people are in retirement stage and they have no desire to sit on the property and maintain or manage a roadside stand, but knowing that and knowing that this goes with the property, the future people may want to do that, so what type of limitations are you looking at, or are you going to leave it up to us to bring that forward to you?

Rochelle Lawandales – I'd be very concerned about interjecting various livestock. I'd be very concerned about having people come to this property to purchase things.

Lisa Frazier – However, going back to the nursery scenario, which is allowed in the AU, should a landscaper want to come and dig up a palm tree – the Spain's aren't going to dig it up – they can come to the property and dig it up. Do you see what I'm saying? So, I just don't want to say no one can come to the property.

Rochelle Lawandales – I think that's a very slippery slope and once you open that can of worms.....I apologize, because I think what you want to do is great, just not on this piece of property in this location. So, I think that's a very slippery slope and if you open it up for me to come and dig up a plant, then maybe I can come there and buy a jar of jam. So, that's what concerns me about the request. I don't know that you can say, "Yes, I can come buy a tree, but no, I can't come buy a Mango". So, I don't know how you're going to dig up the tree and get it there, but it's something you're going to have to address in the language, and I'm just telling you what my issues are.

Clyde Thodey – Henry, I disagree with Rochelle on her points. I think once this comes back with a binding development plan we can vote on it and debate it at that particular time. I think we're getting way off track here, and I think we just need to move on.

Ron McLellan – We're digging way too deep, I think.

Lisa Frazier – I agree, but if we're going to go this route I need to have a little direction.

Ron McLellan – Your main thing is you want to have a nice retirement home for him and his wife that can do some agricultural pursuits, but your main thing is you want a detachable barn to put tractors in and motor homes in – the same thing I've got at my place. There's no way, staff, that we can do that in any way, shape, or form under SEU?

Cindy Fox – No; however, there is the variance process where they could apply to the Board of Adjustment for relief from the restriction to the maximum size of the structure. That's another option. They have to meet the six criteria for a hardship, and one of those is that the circumstance cannot be created by the applicant, and I think that would be a difficult process to go through for a variance.

Lisa Frazier – I don't know if you heard Mr. Spain state this, but he's going to be putting a great deal of dollars into the property, so in order to recoup some of the loss it would be nice to be able to sell some of the product. Which, again, in this area of.....I know you keep going back to that it's SEU on the river, but not all the way through, and there are agricultural activities going on now that were grandfathered in and they certainly have not brought down the value of the neighborhood as in this type of rural activity wouldn't be bringing down the value of the neighborhood. Quite frankly, as a Planner, this is where our society is moving back to, which I think is a positive movement. I mean, we're really looking into urban agriculture, we're looking more into trying to grow native, local, and those types of commercial pursuits, and I, for one, have been supportive of that, but I leave it up to the board to make their own determination.

Andy Barber – You have a retail operation and a commercial operation, and I can see where you have a bunch of trees and palms and you want to grow them up to a size and then sell them to a wholesale operator. I know if you get busy doing that – I've been to a lot of nursery operations – then the next thing is you've got to have a little building for them to come and write checks and where you keep your potting soil and equipment, so you end up creating a commercial operation with some structures. If it was to be more low key, just simply having trees so you've got 50 Foxtail Palms and you're going to sell 20 of them to some guy, he comes out with a spade and it's done in three hours and you're done, that's real simple, and if you can figure out a way to do that I would be supportive of that real easy.

Lisa Frazier – There is the AU(L) and we looked at AU(L); however, in AU(L) you cannot sell your personal non-commercial nature. I'm not sure that's clearly defined, but it's our understanding from staff that there's no sales whatsoever, but if it's a personal, non-commercial nature, that's almost what you're saying, Mr. Barber. I think that's a question for Mr. Spain to answer because we have discussed this and his whole contention was that in his retirement.....again, think of a woodworker, you retire from your 9 to 5 job at the desk, you go home, you're retired now and you take up your hobby and lifetime love of woodworking, and now you're making bird houses like crazy, people are coming to your house and buying the birdhouses. Is it any different from what we're requesting today? If this can occur under AU(L) and get it done today, then maybe we just move on. In AU(L) we get the relief for the accessory buildings and we are allowed agricultural pursuits, it's just personal, non-commercial.

Cindy Fox – It's non-commercial, so there is no sales from the property. That was written into the AU zoning classification to eliminate the possibility of the property expanding to such an extent agriculturally that it ends up being more commercial. So, AU(L) is very specific, nothing commercial, there's no change of money on the property, and everything grown on the property stays on the property and is consumed on the property. So, AU(L) won't do it for you. What I've heard Mr. Spain say is that he does not want to do a fruit stand, and if he could articulate that and perhaps the types of livestock that he wants to have on the property be limited to. Any other direction to them would help us work out this binding development plan that we seem to be going towards.

Loretta Goggin – Cindy, on that last AU(L), did I hear you say that everything had to be consumed there, but is he able to move anything and sell it at another location?

Cindy Fox – No, it's really not even that lenient, it's very specific to non-commercial.

Henry Minneboo – This is probably the best, what they're applying for, it just needs a BDP.

Loretta Goggin – So then he can't recoup any of his costs that he's put into developing the property.

Lisa Frazier – It's not just developing the property, it's pursuing a hobby, and hobbies cost money, so it's nice when you get payback from that. Is there any way that we can do the zoning with the thought that there will be a binding development plan, or do we have to come back?

Henry Minneboo – I think you have to come back on the 20th, but you're still scheduled for the Board of County Commissioners on the 6th, because we're tabling the item.

Lisa Frazier – Good, we don't want to lose any time.

Henry Minneboo – You're going to have more fun with the Board of County Commissioners than you had with us.

Lisa Frazier – What is the date of this?

Cindy Fox – July 20th.

Lisa Frazier – I'll be in California, but Mr. Spain will be there.

Henry Minneboo – You'd like to make that motion?

Pat Reed – I already made it, and I would like to see in a binding development plan the quantity of livestock. In other words, are you going to raise 100 pigs, or are you going to have a pet pig running around?

Henry Minneboo – Is there a second?

Clyde Thodey – I second it.

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

Staff asked the board to repeat the motion.

Henry Minneboo – The motion basically said that they want them to address the kind of animals they're going to have on premises and the commercial aspect of maybe fruit sales.

Andy Barber – And nursery sales.

Henry Minneboo – Right, and that should be clear enough. And show me abstained.

III.B.6. (15PZ00028) – 1322 CLEARLAKE LLC – (Scott Widerman and Mason Williams) – Requests removal of a BDP in a BU-2 zoning classification, on 1.21 acres, located on the east side of Clearlake Rd., between Melrose St. and Furnari St. (1322 Clearlake Rd., Cocoa)

Scott Widerman – My name is Scott Widerman, 1990 W. New Haven Avenue, Melbourne. My client is 1322 Clearlake LLC. We've got a just over 5,000 square-foot commercial building that was originally the Hostess building in the past. There was originally a binding development plan that came out when Hostess did their building because it was all vacant land at the time. We are BU-2 all around our property with a residential component directly to the east. It's our understanding that they did a binding development plan originally because I guess back in the day no one thought Hostess Cupcakes would go out of business, not by the amount of them I ate as a kid, anyway, in order to make sure that a couple of things didn't happen. One access from Clearlake Road was required in the binding development plan. There was also a six-foot buffer wall that we had to put up, or that the original owners put up, to give a buffer between the residential. Our original request was to remove the binding development plan in total. We have changed that and provided you all with a copy of the binding development plan that's before you. All we have done is, when it was Hostess – and again, it's our understanding when Hostess did it, it was for a single use, for a bakery/retail and only for that purpose – again, I don't think anybody contemplated that Hostess would go out of business and had the problems they had. What we've done is added the same binding development plan, still with one access point, and we'll maintain and keep the wall, all those things, but our client has now taken over the building and a document shredding company wants to lease the building. We've added in our binding development plan all of the requirements that were in the old one; however, we've broadened the scope so that if the document shredding company fails and we need to lease it to somebody else, we don't have to come back every year or every six months when they default and ask for a new binding development plan for one purpose. We have gone through the list, and I believe we've taken out everything that could be considered a higher use in BU-2. There's one that needs to be taken out that I just saw while sitting here and it was a fish cleaning plant outside of 300 feet of any residential. We're way too close to do that one and it just got by me when we wrote it originally. We're asking the board to – I don't know if I want to call it, 'amend' the binding development plan – or if you want to vote on it as removal of the old one which just allowed for a bakery and put this one in that allows for BU-2 uses within the scope of what we've developed, that would be our preference.

Henry Minneboo – That was originally set up for Hostess and it was a binding development plan that that's all the people, as I remember, wanted there. So, keeping that in mind, now you're going to a shredding process – I'm not sure about the noise, that's something we're probably not going to discuss – but why can't we just do exactly the same thing, that it's only good for a shredding operation?

Scott Widerman – The only problem we have with the shredding company is we've got a short-term lease with this company at the moment. So, the question is if that business going to be viable. My property owner is an older gentleman who, at some point if he passes away, his kids get it and try to sell it. Now I'm selling something with one use that I have to come back for every time it changes owners. The big issue for us is, let's say the document shredding company can't compete with Iron Mountain, can't compete with any of the others that are out there, and he defaults on his lease in six months and I have another company coming in. It's how much prejudice do we have to the client to come back every time something changes like that, in that we don't have a long-term lease with this company. So, what we have done to try to alleviate that concern of the size, or noise, or other issues, is create the list that was broad enough to allow for other type uses that would not add more intensity than Hostess did. As you can recall, Hostess had all of their ovens and plants, and trucks, and loading docks. With the shredding company, the noise is not going to be an issue. I know that's been a concern – we have trucks that pick up stuff from various businesses and take it inside their building and shred it, then take it offsite. I think from an intensity perspective it is a lot less. I don't believe anything on our list would add any intensity that would be anywhere near what the bakery was.

Henry Minneboo – Has the board looked at the proposed BDP? As you all know, when we go to BU-2 we can do anything. You can have things you don't want there.

Rochelle Lawandales – I would question major/minor automobile repairs – I mean, this is just on a first cut – sharpening and grinding shops, ship chandlery – I'm not even sure what that is –

Pat Reed – Dry cleaning plants.

Rochelle Lawandales – Welding repairs.

Andy Barber – Recovered metals processing. That could be a very busy operation.

Rochelle Lawandales – And manufacturing, because that could be anything. What does Commercial, Entertainment and Amusement Enterprises include?

Cindy Fox – Race track, motor sports, fairs, things like that, like a rodeo.

Rochelle Lawandales – But not adult entertainment?

Cindy Fox – No, ma'am.

Henry Minneboo – Why do we have to do BU-2 over BU-1?

Cindy Fox – Because I believe this is considered warehousing materials, and they're altering the materials.

Rochelle Lawandales – It's a shredding facility.

Cindy Fox – BU-2 is the existing zoning. We're not putting BU-2 brand new. It is BU-2 with a BDP.

Henry Minneboo – There was a reason they put that on there.

Cindy Fox – Yes, it was an undeveloped piece of property at the time.

Pat Reed – Are they going to shred onsite, or is going to be shredded by truck and hauled in there for compacting? What are the number of trips per day? What are the hours of operation if they are shredding onsite?

Scott Widerman – It will be normal hours of operation; this isn't an all-night affair by any stretch of the imagination. My understanding is the company will have some trucks that can do the processing in the truck and then bring it for the rest of the baling in the facility, and some will also be done onsite.

Pat Reed – So you will have a shredding operation onsite, and the hours are still indeterminate? In other words, it could run until 11:00 p.m.

Scott Widerman – No, it's not an all-night thing, it's regular hours of operation.

Pat Reed – I have concerns with Exhibit B and some of the things that can go in there, as has been mentioned. I'm not sure you'd like an ice plant in your backyard either.

Scott Widerman – All of the stuff that Ms. Lawandales brought up, strike through them. I'm okay with that. The biggest issue that we have is that we have somebody that goes in with an operation and these guys fail, to come back every month, or every two months, or whatever.....I'm looking for the broadest scope. When we

looked at what Hostess did do that would make common sense to be as broad a brush as we could, then that's what we were trying to accomplish so we don't have to come back every time we have a new tenant. That process, unfortunately, takes way too long. Then you have to.....let's say my clients decide to sell the building, I'm still stuck with the same problem that if they have a failure of tenants then we'll be back here again. I have no issue if the ice plant needs to be taken out. I can't imagine why there would be an ice plant there, but at the same time if you look at what Hostess was doing out of that building, the intensity was much greater than anything that's there or on the list, and it was much more intense than a document shredding company. I'm not sure why a document shredding company gets the persona that there's going to be all this grinding and all these things going on. It really doesn't work like that.

Henry Minneboo – When we have TMZ come in here this room fills up with people because they know the compaction noises and shredding cars.

Pat Reed – I've stood about this distance from one of those portable shredding trucks. I don't know what the decibel level was, but it was loud. It wasn't something you couldn't hear. The only business that the Hostess store by where we lived was all the people coming in and buying them. They had one truck a day and they would come in and unload Twinkies and they were gone. Other than the residents coming in and buying Twinkies, other than that it wasn't that busy. No more busy than a regular grocery store.

Cindy Fox – Mr. Chair, may I offer an alternative for the board? Perhaps the board would consider a replacement of the existing BDP and the new BDP limit all of the uses to BU-1, except for the one that they are requesting.

Henry Minneboo – Have you looked at the BU-1?

Scott Widerman – I have in the past.

Henry Minneboo – You want to take a quick look?

Scott Widerman – Sure. The big key for me at the moment is that I've got a document shredding company with a lease. The other uses for BU-1, if lower in intensity – that broadness doesn't bother me because I'm hoping the lease goes forever, but at the same time I say that I've got to give the best use of the client so that I can come back and do it without having to come back to the board every time.

Henry Minneboo – You've got a good point.

Ron McLellan – Why don't we let them talk it over.

Henry Minneboo – You can look at a copy of the BU-1 uses and we'll do the next item and come back to you.

III.B.7. (5PZ00029) – SEBASTIAN INLET MARINA, LLC – (T.P. Kennedy) – requests a CUP for Alcoholic Beverages (beer & wine only) in Conjunction with a Restaurant, in a BU-2 zoning classification, on 2.85 acres, located on the east side of U.S. 1, approx. 425 ft. south of Overlook Dr. (8685 U.S. Hwy 1, Micco)

P&Z Recommendation: Ron McLellan/Rochelle Lawandales – Approved. Vote was unanimous.

Cliff Repperger – Cliff Repperger, 1795 W. Nasa Blvd., I'm an attorney with the law firm of Gray-Robinson, and we represent the applicant, Sebastian Inlet Marina. This is a request for a CUP for on-premises consumption of alcohol. The site is located on the east side of U.S.1 in Micco, and is operated currently as a commercial marina with 256 wet/dry slips. The current site plan for the marina operating onsite was approved in 2007. The building configuration is not changing at all from what was approved by way of the site plan. It's merely

that the restaurant is going in on the first floor. The applicant was approved for the CUP for on-premises consumption of alcohol in 2011; however, that CUP lapsed since it was not utilized within the three-year window following approval. In 2011, the request was to serve a 150-seat restaurant. The application has been modified to provide that it is a 75-seat restaurant that is being sought with regard to this application. We meet all of the criteria as outlined in 62-1901(c)(1) and (2), those are all addressed in the staff report, but I'd be more than happy to walk through those if the board wants me to, otherwise I'll just make myself available for any questions.

Henry Minneboo – Anybody have any questions?

Ron McLellan – Does Doug still own that? When are you going to open the restaurant?

Cliff Repperger – As soon as possible.

Ron McLellan – But you were working on it three years ago. I move for approval.

Andy Barber – Are you sure you need to sell alcohol at a marina?

Pat Reed – You have about 97 parking spots, correct?

Cliff Repperger – I believe, correct, something in that neighborhood.

Pat Reed – You have 200 wet/dry slips.

Cliff Repperger – Correct.

Pat Reed – And you're adding a 75-seat restaurant?

Cliff Repperger – Correct.

Pat Reed – Where do you suppose parking all these folks?

Cliff Repperger – We do meet all the code parking requirements.

Pat Reed – I live down there, and frequently, driving up and down U.S. 1, there are tons of cars parked on the median and along the shoulder of the road. It's been an issue and we've had enough problems with traffic down there. I'd like to see the speed limit reduced, but that's another story. Where are you going to stack all the cars without causing problems in the road? Where is the sign for the restaurant going to be? Right now, besides your regular sign, which I think looks nice even though it leans a bit, you've got three signs out along the road.

Henry Minneboo – They're going to answer it, but it's not part of the application.

Cliff Repperger – This is T.P. Kennedy, he's the owner.

T.P. Kennedy – With the cars parked along the road, I think that's the marina to the north of the Sebastian River Marina, because even on our busiest weekends we never have anybody park on the road. If we do, we tell them to go inside.

Pat Reed – You had an open house a couple of times down there.

T.P. Kennedy – In the beginning, yes, but we're full now, so we don't need any open houses. For the sign, we're going to take down what's on the sign now and replace it with a restaurant sign.

Pat Reed - A big one?

T.P. Kennedy – Yes.

Pat Reed – You're going to get rid of the other sign?

T.P. Kennedy – Yes.

Henry Minneboo – We're not going to require that. Let me go out to the audience. Seeing none, I bring it back.

Ron McLellan – I move for approval.

Rochelle Lawandales -- Second.

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

(CONTINUED)

III.B.6. (15PZ00028) – 1322 CLEARLAKE LLC – (Scott Widerman and Mason Williams) – Requests removal of a BDP in a BU-2 zoning classification, on 1.21 acres, located on the east side of Clearlake Rd., between Melrose St. and Furnari St. (1322 Clearlake Rd., Cocoa)

P&Z Recommendation: Lawandales/McLellan – Approved with a BDP limited to BU-1 uses, except to allow a document shredding company. Vote was unanimous.

Scott Widerman – No issues with BU-1.

Rochelle Lawandales – Motion to approve BU-2 with a BDP limited to BU-1 uses, with the exception of a document shredding company and the provisions of the loading docks and access.

Ron McLellan – Second.

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

CHAIRMAN REPORT

Henry Minneboo – One thing for the group here. For a long time we've been going at 3:00 p.m. Is that good for everybody? Would we like to go to maybe 4:00 p.m.? I'm just throwing that out. You know, some people still work and it just messes them up. I just didn't know what the thoughts were. Does anybody want to comment, or is everyone happy the way it is?

Ron McLellan – I'd like to comment because I'm from way down south and it's hard for me to get here, and it ruins the whole afternoon. I'd like to go to 4:00 p.m., but that's just me.

Rochelle Lawandales – I have no problem with going to 4:00 p.m.

Pat Reed – I agree.

Henry Minneboo – Staff, if the board wants to do that, is that going to mess you up? We've been working hard to get them out of here within an hour, and all year long I think we've been able to accomplish that except for today, but we didn't meet in June, so we could have reduced our.....

Cindy Fox – I anticipated a re-evaluation of that when some new members were appointed. What I will tell you is that there have been probably three or four meetings where you've gone right up to the 5:00 p.m. mark, so when there is an agenda where you might have 7, 8, or 9 items, you will probably take a two hour meeting. Staff, we're here no matter what.

Henry Minneboo – Yeah, but we don't want to drag you guys to 7:00 p.m. if you're only getting paid until 5:00 p.m.

Cindy Fox – We're here.

Clyde Thodey – Henry, you could maybe make it 3:30 p.m. instead of 4:00 p.m. and then that way those who are driving have that extra half hour.

Pat Reed – I agree with that.

Ron McLellan – Anything would help where we come from.

Henry Minneboo – Is anybody else working that this messes them up?

Cindy Fox – Why don't you think about it and consider the items on the 20th.

Henry Minneboo – Okay, just put some thought into it. We've got four or five working people. We'll bring it up on the 20th.

Upon consensus, the meeting was adjourned at 4:22 p.m.