

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, April 4, 2024

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:03 PM

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Jason Steele

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use Permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and 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, inspection, 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 for 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.

C. PLEDGE OF ALLEGIANCE

Commissioner Tobia led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the January 9, 2024, Regular meeting minutes.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

**F.1. Final Plat and Contract Approval, Re: Del Webb at Viera, Phase 4
Developer: Pulte Home Company, LLC**

The Board executed and granted final plat approval for Del Webb at Viera Phase 4 – Developer: Pulte Home Company, LLC, subject to minor changes, if necessary, receipt of all documents required for recording, and developer responsible for obtaining all other necessary jurisdictional permits: and executed and approved Subdivision Infrastructure Contract.

Result: Approved

Mover: Rita Pritchett

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

F.2. Proposed Revisions to Board Policy BCC-50, “Fee Waivers,” and Rescission of Board Policies BCC-39 through BCC-42

The Board approved the proposed revisions to Board Policy BCC-50, “Fee Waivers”; and authorized rescinding Board Policies BCC-39, “Waiver of Fee” for Not-For-Profit Organization for Special Events Permits”, BCC-40, “Waiver of Board of Adjustment Application Fees”, BCC-41, “Waiver of Development Review and Permit Fee”, and BCC-42, “Waiver of Fees during a period of the Local Declaration of Emergency”.

Result: Approved

Mover: Rita Pritchett

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.1. Transmittal of the Water Supply Facilities Work Plan and Related Amendments to the Comprehensive Plan to the Florida Department of Commerce

Chair Steele called for a public hearing to consider transmittal of the Water Supply Facilities Work Plan and related amendments to the Comprehensive Plan to the Florida Department of Commerce.

Jeffrey Ball, Planning and Zoning Director, stated Item G.1. is the transmittal of the water supply facilities work plan and related amendments to the Comprehensive Plan to the Florida Department of Commerce and it encompasses all districts; to comply with the statutory requirements, the attached ordinance amends the potable water element of the Comprehensive Plan to append and update the 2035 Water Supply Facilities Work Plan (WSFWP) and amends various policies within the Conservation, Potable Water, Sanitary Sewer, Intergovernmental Coordination, and the Capital Improvements elements of the Comprehensive Plan for consistency with the WSFWP; and the WSFWP and related amendments are anticipated to be brought back to the Board for adoption in the fall of 2024. He further stated on March 13, 2024, the Building Construction Advisory Committee heard the request and unanimously recommended approval; and on March 18, 2024, the Local Planning Agency heard the request and unanimously recommended approval.

Chair Steele asked if there was any discussion in regards to this Item; and hearing none, asked for a motion.

There being no comments or objections, the Board recommended transmittal of the Water Supply Facilities Work Plan (WSFWP) and related Comprehensive Plan Amendments to the Florida Department of Commerce.

Result: Approved

Mover: Rita Pritchett

Seconders: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.2. Quality RV Florida, LLC Requests a Small-Scale Comprehensive Plan Amendment (23S.24) from Res 6 to CC (23SS00024) (Tax Account 2702826)

Chair Steele called for a public hearing to consider a small scale Comprehensive Plan amendment (23S.24).

Jeffrey Ball, Planning and Zoning Director, stated Items G.2. and G.3. are companion applications and he will read them into the record together; the Board can have the same discussion but it will need to have a separate motion for each; Item G.2. is a request from Quality RV Florida, LLC for a small scale Comprehensive Plan amendment (23S.24) from RES 6 to CC; application number is 23SS00024, tax account number is 2702826; and it is located in District 5. He added Item G.3. is a request from Quality RV Florida, LLC for a change of zoning classification from RU 1 7 and TR 1 to all BU 2, with a Binding Development Plan (BDP); application number is 23Z00083, and tax account number is 2702826; it is located in District 5; and the proposed BDP limits the use of the property to all BU 1 uses and only BU 2 uses for the third party storage of recreational vehicles (RV) and boats.

There being no comments or objections, the Board conducted the public hearing and adopted Ordinance No. 24 05, setting forth the sixteenth small scale Plan Amendment of 2023 (23S.24) to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled the Future Land Use Map Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Approved

Mover: Rob Feltner

Second: Rita Pritchett

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.3. Quality RV Florida, LLC Requests a Change of Zoning Classification from RU-1-7 and TR-1 to all BU-2 with a BDP (23Z00083) (Tax Account 2702826)

Chair Steele called for a public hearing to consider a change of zoning classification from RU-1-7 and TR-1 to all BU-2 with a Binding Development Plan (BDP).

There being no comments or objections, the Board conducted the public hearing and approved the request for a change of zoning classification from RU-1-7 and TR-1 to all BU-2 with a BDP, limiting the use of the property to all BU-1 uses and only the BU-2 uses for third-party storage of RVs and boats.

Result: Approved

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.4. West Malabar Properties, LLC Requests a Small-Scale Comprehensive Plan Amendment (24S.1) from NC/RES 2 to CC (24SS00001) (Tax Account 2806110, 2806111, 2806115, 2806112)

Chair Steele called for a public hearing to consider a small scale Comprehensive Plan amendment (24S.1) from NC/RES 2 to CC.

Jeffrey Ball, Planning and Zoning Director, stated Items G.4. and G.5. are also companion applications; he will read them into the record together and the Board can discuss them together, but there will need to be a separate motion for each; Item G.4. is a request from West Malabar Properties, LLC for a small-scale Comprehensive Plan amendment (24S.1) from NC and RES 2 to CC; application number is 24SS00001, tax account numbers are 2806110,

2806111, 2806115, and 2806112; and it is located in District 5. He added Item G.5. is a request from West Malabar Properties, LLC for a change of zoning classification from RP and AU to all BU-2 with a Binding Development Plan (BDP); application number is 24Z00004, tax account numbers are 2806110, 2806111, 2806115, and 2806112; it is located in District 5; and the proposed BDP limits the uses to BU-1 uses, and the BU-2 uses for indoor climate-controlled mini-storage use.

Cole Oliver, applicant, stated he would give a brief history of the property and the requests that are being brought to the Board tonight; originally, he started with this property with attempting to annex into the City of Palm Bay with the idea to do three commercial out-parcels along the frontage of Minton Road, with a Starbucks letter of intent on the hard corner; in order to do so, he needed the Palm Bay Utilities to handle that level of service that would have been generated; throughout that process in talking with Palm Bay, he hosted three community meetings with the Hield Road neighborhood and went through a series of iterations of plans trying to accommodate the concerns that were brought up; and the primary ones were traffic and safety concerns. He added in order to mitigate the traffic concerns, he agreed to take two of the out-parcels out of the general BU-1 type usage, for whatever would come in the future, and proposed a climate-controlled self-storage because it is the lowest traffic generation project in the traffic handbooks; he was trying to take a vast majority of the project into a low traffic category; the neighbor to its south, which was the contiguous parcel to Palm Bay, was denied annexation by Palm Bay, so it never heard his item; he continued and brought the same project here; at this point, he is not proposing a Starbucks on the corner; he is proposing, similar to the prior application, a BU-2 zoning, but with a Binding Development Plan (BDP) limiting the uses to only BU-1 uses, plus self-storage under BU-2, due to a quirk in the Code where in the County, self-storage is allowed in BU-1 but it is limited to the height of the lowest building next to the property; and in this situation, it is limited to the one-story flat roof house to the west. He went on to say BU-2 does not have the same height restriction, so he is basically seeking BU-1 plus, but for technical reasons it is BU-2 with a BDP; he believes, because of the limited draw on the water and sewer demands, the self-storage can be done without the utilities and he would have to figure out what the use would be, in the future, for the hard corner which he is proposing in the BU-1 uses; at this time, Starbucks has decided that they are looking elsewhere for now; if they came back, they would be welcome; but he cannot promise them when or if he would be able to develop the property sufficiently to meet their needs. He stated he does not know what will go there at this time; that is why he left that as a blank spot on the BDP that is being proposed; the other issues that will be heard tonight are a lot of the traffic and safety concerns; in order to get people more comfortable with that, he went ahead and conducted a traffic study that shows that the built-out condition that the intersection would operate at an acceptable level of service, per the engineers that study it; and the intersection is under design and he believes the plans have been approved by the County and bonded for the improvements to be put in there, related to the multi-family apartment complex that was built across the street in the City of West Melbourne. He continued to say the other major issues that are discussed a lot are the safety factors of Hield Road and Minton Road; as it stands, there is only one access in and out of Hield Road; no one is denying that; at least the property, as is it proposed, would allow a chance for a bypass of emergency vehicles in the event that there is an accident that blocks the intersection; at least the neighborhood residents and emergency vehicles could cut through the parking lot to service anyone's needs; and the rest of the emergency concerns, he does not have the ability to address what happens further down Hield Road in the Palm Bay section. He advised his traffic engineer is present if there are any questions for him; he is available for any questions; and he would like to reserve the rest of his time for rebuttal if necessary.

Chair Steele noted he would have 10 minutes for rebuttal; and he asked Mr. Ball what happened with Planning and Zoning for this project, and what was the vote.

Tad Calkins, Planning and Development Director, replied the vote for the land use was 7:2 recommending the approval; and for the zoning application, it was 7:2 as well, recommending approval.

Chair Steele commented he has not done this in the past and he needs to do it from now on at every meeting; he noted there are policies that the Board likes to try to put into effect for the votes; he asked please that there be no applause or things of that nature, as it would be very helpful to get through this since there are a lot of cards; additionally, speakers are to address the County Commission, not to turn towards the audience; and if the public would follow those policies, he would very much appreciate it.

John Connelly stated his concerns are the safety issues on Hield Road; he is trying to preserve his lifestyle on Hield Road; it was zoned, and it went to Comprehensive Plan in the early 90's, to keep them at two and one-half acres in that area; it is a dead-end road and Palm Bay and the County use it; his issue is with the intersection at Hield Road getting in and out of it; being proposed is to put an entrance on Hield Road to accommodate this project; and he is worried about tractor trailers and fire safety. He added he is worried about fire issues as there have been forestry helicopters land on properties to accommodate fires down Hield Road and the back sides of the area; he has water concerns, as with the flow of water right now; the County is changing some of that around with what it has done on Hield Road with the traffic signals and all that; and there is a double-line going down there now so that indicates there is a lot of traffic coming in and out of there. He went on to say he does not have the problem of moving along with a structure being put out or commercial, but to add more traffic to Hield Road or a tractor-trailer or any of that; the community has animals that graze, chickens, and farm life out there; everything is high density and moving closer and closer in; they are trying to preserve their way of life and the way they live; he is asking to keep that entry off of Hield Road; and everything can be serviced off of Minton, as there is enough room to do that. He stated what he would like to be done is to consider not having an entrance onto Hield Road; when he went to the Zoning meeting, they did not want to hear about their lifestyles, they do not want to hear about traffic, or anything; they were in a hurry to get out of that meeting and told him to bring it to the Commission; he noted they were simple people with fish farms and other things; and there are people from different areas that bring their kids out to look, pet, and visit the animals. He added that is what they are trying to preserve; if he can get the Board to buy-in to no-entry on Hield Road, that is what he is asking for as a citizen; he has been out there for 30 years and it is moving in closer and closer; there are more issues and he is going to be back in front of this Board because people want to make commercial use out of Hield Road; and there has already been commercial use out of Hield Road and he reported it to Code Enforcement. He went on to say there is encroachment and people are saying to go ahead and do it and then ask for forgiveness; he cannot stand the pressure out on Hield Road with the traffic; that is what he is asking for from the Board, to help them out and preserve their lifestyle; it is going and once it is gone, they have lost it; houses and apartments keep being built closer and closer together; it went to the Comprehensive Plan and people that have lived there 30 and 40 years wanted two and one-half acres minimum and it is slowly being done away with; and if that could be considered, it would be fine with him.

Chair Steele asked the audience to please try not to repeat the same issue back and forth; he understands they all want to say what they need to say and they will be given that opportunity; it would help if there is not much repeating on the traffic issue; and say what is needed to say and go from there.

Judith Kuhman stated her house is off a road that is off of the main road, Hield Road; as Mr. Connelly said, she also wants to maintain her lifestyle; she feels her property value out there is unique to other people who live in Palm Bay and West Melbourne; it gives a sense of country living not living on top of each other; she does realize that commercial property is going to come to Minton Road but when meeting with Mr. Oliver, she only fortunately met with him once because the other two meetings were for the people who live in the area of his proposed property and not all of the residents who live off Hield Road, so she will clarify that, he said that he would be fighting to maintain his lifestyle where he lives as well; she does not want a high traffic business, or as Mr. Connelly said, an entrance and exit off of Hield Road; and his present site plan is still not going to alleviate traffic, in her opinion. She added it is still going to back up going northbound on Palm Bay Road to merge into the de-acceleration lane to go into his properties; she does not see what a storage unit benefits her lifestyle or anyone that lives around in that area either; she is present to ask the Board to think about their lifestyles, as they are taxpayers and enjoy their big properties; and they want to maintain their lifestyle out there.

Sarah Lee stated she lives at the second left off of Hield Road; she knows traffic is horrible, bumper to bumper during the peak time; she is also concerned about the ingress/egress onto Hield Road; there are all kinds of plans in place to improve everything, "it is going to be fine"; meanwhile, traffic is going to get worse and construction of all these improvements are going to make it impossible for emergency vehicles to get out onto Hield Road; her number one concern is safety; and she would ask the Board to consider the fact that the Mayor of Palm Bay would not approve this venture because of safety concerns. She asked if the Board was going to let that go by the wayside, the safety of the people out there; she noted it is lovely and beautiful, as she has two acres at the end of a dead-end street, and she loves it; but, by golly, she does not want her neighbors to die or their house burned down because an emergency vehicle could not get to them in time.

Ronald Thompson stated he has been on Hield Road for 20 years, but that has nothing to do with what the Board is doing today; he thinks the Board knows that traffic is a problem, regardless of what everybody else has already said; traffic has grown tremendously throughout the County, not only on Hield Road, Palm Bay Road, or Minton Road, it is all over; the reason it is all over is because the government has failed to keep with building the roads that are needed to handle the progress, people live on progress, and love progress; but there is a time and place for all of it. He added he has seven items he would like to discuss and he feels that staff should consider, at least the procedures and statutes say so; he reduced his time not to repeat each of the items, so if there is a question about one, he will be glad to share his paper that states exactly what he is saying; the first item, BU-2 zoning classification is not consistent with RES 2 and MH zoning, so first of all, it should stop right here, it is not consistent according to the County plans, not his; number 2, states staff shall analyze consistency and compliance, they shall visit the site, they shall evaluate when what is proposed on the proposal, it says the staff shall evaluate the worst case adverse impact; he questioned whether or not staff has done that or not because in the zoning meeting, all that could be talked about was zoning; and speakers were reduced from three minutes to two minutes, which he did not feel was appropriate. He stated he asked a question, staff is also to evaluate noise level, traffic, et cetera, diminished lifestyle, all these things that affect the quality of life; staff stated there has not been any approved development within the last three years within this project; this is stated right here in bold print, but if anyone visited that site, there are four major projects already going on that have been there for three years - the 244-unit apartment directly across the street, the 52- unit subdivision that Mr. Oliver has presented 2,600 feet up the road that is now ready for development according to his statement, and there is a 400-unit complex apartment this side of Interstate 95 which is within a half mile of residents; and there is also a project on Palm Bay Road, a coffee shop plus he does not what else. He implored the Board, when it has

the opportunity, to question the staff and ask how they come up with this idea that there is nothing there; he asked how that could be; a letter was sent to Commissioner Steele on June 2nd, 2023, from Corrina Gumm, Traffic Operations Manager, which stated any increase in traffic flow on Minton Road would cause a significant decline of service on Palm Bay Road; he asked why this is; he stated it is because there is continued approval of all these projects and nothing has been done to affect the traffic; and as a result, it has brought all these traffics into Minton Road, Hield Road, and Palm Bay Road, and believe it or not, that is a safety issue. He went on to say Mr. Oliver has a traffic study, but the last official study that he has seen was dated January of 2020; he does not know what his says, but he does not think it is official or if it has been published, or for the Board to review; he asked what has happened since then, and if the Board could tell him how much traffic has increased the last four years in any part of the County, as it is tremendous; and he stated those are the facts he can present. He begged the Board not to approve this because, once it is approved to be BU-1 and BU-2, the residents no longer have any say-so to deny Mr. Oliver's desire to put a Starbucks at that corner; if this is approved tonight, he cannot say without reservation, but he would believe Mr. Oliver would be on the phone to Starbucks in the morning saying it was approved and to start the process all over; that is his opinion; one of the requests is to change from RU-2, residential, to BU-1 and BU-2, which sets a precedent; and what if the adjacent owner wishes to have his home reclassified to BU-1, the Board would have nothing to say about it because it already presented the precedent. He concluded by saying he hopes the Board takes this into consideration and does not approve this.

Michele Smith stated she did send a letter to all the Commissioners on March 31st and hopefully some or all of the Board has had a chance to read that; she wanted to highlight some of the points in that letter; it does include a traffic flow diagram and she wants to emphasize some points that have not been covered in some of the other presentations; everyone knows that traffic is congested at the entrance to Minton Road and Hield Road already; and it is the only access point for emergency services. She added it is an approximately two and one-half mile long dead-end road and there are roughly 250 homes and over 750 acres with no fire hydrants at all; when a fire breaks out, the only thing they have is the tanker trucks to bring water in for the fires; if anyone is familiar with this community, there are a lot of mature trees; they have lived in the neighborhood for over 30 years and have seen several fires break out that, within minutes, flames can be shooting 15 to 20 feet over the treetops; it is extremely scary; and she had to evacuate her home at one point when her children were young because they thought they were going to lose their house. She went on to say thankfully, the fire department was able to get there in time, stayed all night, and worked diligently to put the fire out and make sure it did not come back, which saved her home and many others; when a fire like that breaks out, seconds matter, and what she sees happening is several people trying to exit Hield Road, backing up traffic; in front of that commercial property, there will be people trying to come into Hield Road to access that commercial property that will not be able to turn into the commercial property because it is being blocked by people exiting Hield Road; it is also going to back up traffic in the southbound lane of Minton Road, which is already extremely congested and backed up most of the time; and this is not a viable traffic flow to have ingress and egress off of Hield Road. She noted at a September 2023 meeting with Mr. Oliver, the only community meeting they were invited to, she asked Mr. Oliver directly why the developer would not be considering an option to remove ingress and egress off of Hield Road when it is putting an entire community at risk for emergency and fire services; he could not answer that question, stating the developer will not move forward without ingress and egress off Hield Road; she suspects that has to do with the developer's concern about additional revenue streams; there are many other options for access off of Minton Road without involving Hield Road; and she does not understand why the developer insists on having access off of Hield Road and putting her community at risk. She asked the County to consider the fact that there

are no sidewalks on Hield Road all the way down to Powell Road, probably about a mile and one-quarter, with steep ditches on both sides; even though they proposed a left turn lane, as Mr. Oliver noted a while ago to handle the emergency traffic, it is not going to help; traffic will still back up and there is nowhere for emergency vehicles to get around with the ditches on both sides, and they will be blocked from access to the road; she asked the Commissioners to consider those points and alternatives to access off of Hield Road for the safety of the community; and she asked if this is approved, to remove the option of the ingress and egress from Hield Road.

Michael Bramlett stated he is probably the most-impacted by anything that happens with this property, as he is right next door to it, literally; he has been there 62 years, as his dad built the house in 1961; he moved there when he was six years-old and there was nothing on Hield Road, it was a quiet neighborhood; since then, it has grown-up, but unless this is approved, it is still a fairly quiet neighborhood; and everybody enjoys living there, they all get along, and everything is fine. He advised he understands things change; he understands the developer's predicament, as he has invested a lot of money in this property and needs to get a return on it; if he had the money, he would give him his money and turn it into a park; that is not feasible yet, as he has not won the lottery; some things to consider, from his standpoint, the biggest problem he had with a Starbucks being there was the noise, lights, and speakers; it is literally right in his bedroom window; and as it stands, what Mr. Oliver is proposing with the turn lane into the entrance off of Hield Road, is only hurting the progress that is being made with the problem with the work that is supposed to be done with the D.R. Horton thing, for that project. He went on to say yes, they are going to get another right turn lane which would be a big help; if the left turn lane that Mr. Oliver is proposing goes in, it will restrict that and it is all going to just be worthless; he is glad to see they are putting in a turn lane off of Minton Road to get to this property for the northbound traffic; as far as he is concerned, that is all that is needed; there is an ingress and egress off of Minton Road so he sees no reason for that road onto Hield Road; and with that being said, the only thing he can do is ask the Board to consider it and do something to stop it.

Jerry Freese stated the one section that Mr. Oliver is trying to get into is the BU-1 and BU-2; he asked if anyone was aware of how many there are west of Interstate 95; there are three, one is an antenna from the 70's, one is a County barn that is basically storage and adjacent across the street, and the third is a trailer sales adjacent on the other side; his thought is that the BU-1 and BU-2's keep getting passed and pushed into their homes; and he wants to know when is when. He continued to say it is going to involve Hield Road but the biggest part to look at is there are a lot of people coming into what is being proposed; a nice dental office, doctor's office, or realtor office is okay; but for a place that has 5,000 people coming in and out daily, it is not just going to affect Hield Road, it is going to affect the second biggest city in the State. He asked if that was true; he is pretty sure it is the second biggest city in the State; it is a very populated State; and he thinks it would be a huge, huge situation in the long run.

James Sondej stated these people that are trying to get the zoning changed are investors; the people that lived there for years are gone; these people are only interested in making a buck; there are some very serious problems with traffic, as the Board knows, and does not want the speakers to talk about it; the fire department must get through the traffic congestion; and it is really bad and people can tell by them standing on their air horns trying to get through. He added anything allowed in this commercial tract should be something that does not generate a whole lot of traffic; this is a problem; he did not give his address, but his property is adjacent to this property; he does not like the fact that he is going to have to put up with fumes from all the

cars coming in and the lighting; he is a person that enjoys the night and this is going to take the night away from him; having an exit onto Hield Road is ridiculous; and something has to be done to control all of this stuff.

Susan Shepherd stated she wanted to clarify that even though she lives in the City of Palm Bay section, and Mr. Oliver made a remark that she is not quoting, but that is Palm Bay and he went on to the County, even though she lives in the City of Palm Bay, they are still Brevard County residents; they still pay taxes to Brevard County so this applies to everyone on Hield Road; the way it sounded, correct her if she is wrong, when Mr. Oliver was talking about improvements and that they are bonded and approved, she wants to be clear those original improvements are not his; and they are not being designed to accommodate his proposal. She noted the only improvement, which is not an improvement, is his intended proposed left turn lane; she absolutely agrees with the zoning to please vote no to the zoning of the second property facing Hield Road only; only access to Hield Road, it is residential and surrounded by residential; if the vote is yes, it will set a huge precedent; and she thinks everyone knows by now about the improvements that have been discussed at that intersection. She went on to say she has an agreement, if the Board has not seen it, between the City of West Melbourne, the County, and D.R. Horton; her understanding is that those improvements were supposed to be completed on or around the time the Certificate of Occupancy (CO) was provided to the apartment buildings; the CO was provided and no improvements were done, whatsoever; there is nothing that is guaranteeing those improvements to be done should Mr. Oliver's proposals be approved, let alone putting in the left turn lane; and those improvements are nothing more than a Band-Aid, but it will help a little. She added she also has a letter that Mr. Thompson referred to and she is repeating Corrina Gumm, stating "however, during the peak hour, traffic backs up significantly westbound on Palm Bay Road and southbound on Minton Road. Improving traffic flow on Minton Road would cause a significant decline on Palm Bay Road and vice-versa." She stated regarding the ingress/egress on Hield Road, at the Planning and Zoning board meeting, Mr. Oliver was asked a question and he made some kind of comment indicating that the access to his corner property would allow residents to have better access to Minton Road and they could go through on the drive that he is proposing to go all the way to the mini storage; it is her understanding that to go through other properties to get through to a main road is illegal, number one; and number two, the mini storage has two accesses or has an access to and from Minton Road and there would be no reason whatsoever that ingress would be necessary to accommodate that min storage. She asked how any reasonable person just stand by and accept and watch the developers destroy and infuse unnecessary further hardship; she stated there must be a time where Brevard County should put their resident's safety and undo hardships first; honestly, Mr. Oliver's plans for this corner is to have another high-traffic type business like maybe a drive-thru; and this intersection, with the improvements currently slated, cannot sustain that kind of a high-traffic business. She asked to please not approve the rezoning of that property, the residential, as it will set a precedent; please have any proposed changes to be examined by Code Enforcement for compliance during any subsequent site plan applications; she asked the Board to please have Mr. Oliver provide a very current traffic impact analysis with the site plan; and to have Mr. Oliver provide a wetland delineation, as it should be required since there is an indicator that wetlands are there.

Chair Steele asked Ms. Shepherd if the Hield Road residents have a homeowner's association.

Ms. Shepherd replied most of Hield Road does not; but there are some side roads that do.

Debbie Boutin stated she has lived on Hield Road for 45 years, since it was a dirt road; it was always called their little two and one-half mile country road and they love it still; the city has encroached upon them, but thankfully, they have been able to keep their road; she does not call her road a high traffic area, because they have been able to keep it just the residents on and off and up and down Hield Road, but not other people from Palm Bay or West Melbourne;

she likes the fact that it is still just Hield Road residents and people who live along there because they do have cows, deer in her yard, horses, and peacocks; and they love the fact that they still have that homey feel. She added now it is paved and there have been a lot of changes, but that is okay; where she draws the line is the entrance and exit off of a business that will connect to Hield Road; she knows that Mr. Oliver and the mayor did say to bring the plan back without the entrance and exit onto Hield Road and it might be approved, but instead of doing that, he has gone to different committees; and now people are here again today, still trying to protect the integrity of their road without the heavy traffic pattern that a Starbucks or another high-traffic business that Mr. Oliver will try to put in on that corner once he gets the inroad to this storage unit that he wants to do. She asked to please say no entrance and exit onto Hield Road; she stated she sent photos of all the traffic up and down Minton Road from Hield Road looking both directions; and she is just trying to protect the little bit of heaven that they still have.

Dennis Foster stated he wanted to cut to the nitty-gritty; Mr. Oliver referred to the blank spot, which is the key to this whole discussion, he thinks; the corner lot that he is proposing with an exit and an exit onto Hield Road is the issue here; he is really not opposed to a storage unit on the corner, as he knows that corner will be developed into something; what that something is, is key, and that blank spot that is on the corner is the key to the whole thing; and that is a big question mark right now. He added Mr. Oliver has said that he would like to get Starbucks back in that position; he has a feeling that if this particular layout with the entrance and exit onto Hield Road is approved, there will be a Starbucks in there or something very much like it; and as the Board knows, this whole thing was proposed once already to Palm Bay and the City Council rejected it, but the Mayor of Palm Bay drove that intersection in rush hour traffic and stated, "In all good conscience, I cannot vote for a high-volume business on that corner. The County is very much aware of the traffic bottlenecks there. We want to go on record right now as being completely against the proposal to allow an entrance and exit onto Hield Road." He noted that is the issue here, not what he is putting there or anything else, really, about the zoning; there is one issue about the zoning that most of the residents take exception to, and that is the creep up Hield Road to BU zoning; the house to the immediate west of the property proposed is not on Minton Road, it is on Hield Road, and Mr. Oliver is asking that be changed to BU; he is asking the Board what stops the next house up Hield Road from petitioning to get BU as well; he asked when does the creep stop coming up Hield Road; and he is very much opposed to that. He noted everybody has talked about their lifestyles up Hield Road, so the Board is very much aware of that; the entrance and exit onto Hield Road is the issue here; and he would have no issue with that property being developed if that entrance and egress were taken out of the equation.

David Mannes stated he closed down Houser's Zoon in 1989 and he was not able to find homes for a lot of the animals, so he and his wife bought four and one-half acres on Hield Road; it was zoned as AU and they were able to do what was needed to maintain the animals until they got rolling with the new zoo; in the early 90's, there was talk about pushing Hield Road through to the west to take some of the heat off the intersection of Palm Bay Road and Minton Road; they were talking about extending Hield Road to a small residential road and then take a left out to Emerson Drive; and at that time, Scott Ellis and Thad Altman helped them, as it seemed the County had them in one zoning and the State Comprehensive Plan had them zoned differently. He added they petitioned the State to have it changed and at that time it was agreed that anything east of Orange Avenue would be Commercial and anything west of that would stay as AU-1 for the County, but he does not know what the Palm Bay part did; the biggest concern he has is if there is any high traffic business on that corner, it is tough getting in and out of there now; if they could keep the curb cuts to Minton Road, he would be fine with it; but he asked to please not let them turn off of Hield Road.

Brent Wohlenberg stated everyone here has talked about traffic and traffic jams; yesterday he drove by a burning car engulfed in flames on Interstate 95 with police and everyone just standing there; he asked can anyone imagine if it were them inside that car with everyone taking videos; he stated he is a retired welder and he knows when it comes to fires, seconds count; AB foam is very effective against gas; and if it was sprayed on people, to use Dove dishwashing detergent mixed with water. He commented people better have a plan, just like the Boy Scouts who have had a two-word motto forever, Be Prepared; and he suggested people get prepared and not just watch it happen.

Mr. Oliver stated he had a couple of quick points and then he was going to let his Traffic Engineer address any comments or questions; first, there was much heard about traffic and safety as he expected; he reiterated that the traffic study shows that the intersection will work at an acceptable level of service; and on the safety issue, he reiterated that the proposed intersection tying into Hield Road makes it safer by allowing emergency vehicles or emergency access in and out of the neighborhood through those drive isles which would not be there as it currently stands. He added he did not hear any of the residents that are concerned about the present safety ask questions if they could get a secondary access into their neighborhood further down, because they do not want that; they just want the one access point as it is now; the traffic improvements that have been designed do include sidewalks along Hield Road along his property; he learned his lesson on that one; his final point is that the improvements that are being done on Hield Road have not been completed yet, but they have been bonded at around \$1.7 million; and the reason it is not completed is because there was not sufficient space at the intersection to complete the construction. He further stated once he purchased the property, he was requested to donate a corner clip so the traffic light could be installed there, to which he did donate it to the County; and any question for the traffic side, he will have his engineer handle.

Josh Black, Lassiter Transportation Group, recapped some things heard; as Mr. Oliver mentioned, the improvements are approved and funded; the only issue had was when it went to construction, there was not enough right of way due to utility conflict and were able to obtain the corner clip needed; now it is approved and he anticipates completions in about three to four months; and he is happy to answer any questions.

Commissioner Goodson asked about the traffic light, as it was the first he heard of it.

Mr. Black responded there will be an additional left turn lane as well as smart signal and mast arms, so the entire intersection will be greatly improved.

Commissioner Goodson inquired by a traffic light.

Mr. Black responded with the traffic light and a turn lane; right now, everyone has to go through one lane; and now there will be a left turn lane, so the rights can continue while they are waiting on the left turn.

Commissioner Goodson noted he heard that Mr. Oliver had offered to build another access into Hield Road off of Minton Road; and he asked if it was correct.

Mr. Oliver replied it would not be a public road, but the current driveways, which would be available for emergency use if there was some sort of an accident; and the emergency vehicles can utilize it to access Hield Road in the instance of a wreck at the intersection that blocks the road.

Commissioner Goodson asked if the zoning were changed today, up and down Minton Road, would it be to Mr. Oliver's liking as far as the zoning he is requesting.

Mr. Oliver responded the parcel that is immediately south of him is currently BU-1 in the County; to the comments that were made regarding Palm Bay denying this project, they never got a chance to hear this project because they denied his southern neighbors' annexation; and once they were not annexed in, he was no longer contiguous, so he had no option to proceed with Palm Bay.

Commissioner Goodson asked what about West Melbourne going north.

Mr. Oliver replied he believed the County owns a piece just on the north side on the hard corner, which is also BU-1, and there is a mix of residential, professional, and he does not know the complete going north; on the east side of the road, there is a Publix shopping center, daycare, apartments and everything else; but that is in a combination of West Melbourne and Palm Bay, he believes, but he is not positive.

Commissioner Pritchett stated she was looking at the packet and it seems that there are some businesses next to this as well; she just looked up the zoning on it and it is in Palm Bay, so she thinks that is compatible with a business zoning; she knows the traffic there is a little outrageous right now, but he has just come up with the concept plan, not a site plan; and she asked if that was correct.

Mr. Oliver replied that was correct; and he still has to go through the whole site plan approval process.

Commissioner Pritchett remarked she was talking to Mr. Calkins and Mr. Ball yesterday and was told he would have to do a traffic impact analysis with that; this is not the last stop with all the things he is trying to do; all those things are going to have to be consistent with what will protect the residents; and when she was looking at the plan, she is not an engineer, but she thought it was going to need a traffic light there.

Mr. Oliver remarked there is a current traffic light but it is not a smart light that ties into the others up and down the road to sequence it correctly to let it flow; and he believes the new light is going to be.

Mr. Black commented there is some coordination existing in the corridor, but with the new technology and the new detection, it is a lot better than what currently exists; as things are brought online, improvements are made, and different phases are added, it will be able to get a lot more traffic through the intersection; and he thinks the big thing is, with the improvement and all the additional trips, it still operates with an acceptable level of service.

Commissioner Pritchett stated legally, the Board has to make decisions not based on emotional decisions, but because of property values and property rights, it has to determine if it is consistent; and then it has to allow the staff to do its thing and make sure that this lines up with all of the laws and regulations; right now, with just the concept plan, she does not know; it is consistent, but she does have a concern about being good neighbors with the community and making sure to do their best to cause no harm; and that is going to come with the site plan. She advised she understands the project, but it is tough right there with all the traffic; they really do need to start looking at making some traffic improvements there; years ago, she had a friend tell her that capacity on the roads was the number one thing that really bothers them right now; and she thinks that is something that has to be looked at.

Chair Steele stated he will ask a few questions of staff; for those who do not know this, he has been in the real estate business for 50 years and he testifies in court on cases just like this; one of his biggest concerns is that in the event that the Board did not vote to approve this, that it would end up in court; it would be very difficult, in his opinion as an expert in these areas, to tell the jury that Minton Road is not one of the biggest, most active, commercial real estate roads that there is; and that is one of the things that are a problem here. He added there is Minton Road, which is a major commercial road, and he has more friends that live on Hield Road than one could shake a stick at; after tonight, he may not have any, but he can say he knows Hield Road and Minton Road like the back of his hand, so he understands it; and he asked Mr. Calkins how many times have they had the opportunity to extend the road and get other access into Hield Road so that some of the traffic could be alleviated.

Mr. Calkins replied there has been three or four times.

Chair Steele noted that three or four times it was decided they did not want a road going through, knowing that is a large growth area; it was also mentioned that there was no homeowner's association and there were no fire hydrants; his suggestion is that they form a homeowner's association and they get the protection they need; this is not a tough situation for him, but it is a tough situation because he has friends there; and he would love to protect it but he does not want to end up in court over it.

Chair Steele passed the gavel to Vice-Chair Pritchett.

The Board conducted the public hearing and adopted Ordinance No. 24-06, setting forth the first Small Scale Plan Amendment of 2024, (24S.01), to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled the Future Land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Approved

Mover: Jason Steele

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

G.5. West Malabar Properties, LLC Requests a Change of Zoning Classification from RP and AU to all BU-2 with a BDP (24Z00004) (Tax Account 2806110, 2806111, 2806115, 2806112)

Chair Steele called for a public hearing to consider a request for a change of zoning classification from RP and AU to all BU-2, with a Binding Development Plan (BDP), limiting the use to BU-1 uses and the BU-2 use to indoor climate controlled mini storage.

Commissioner Pritchett noted since she still had the gavel, this is just approving the zoning; there is still the traffic impact study; they still have to come back with the site plan; this is just baby stages and there is still a long process to go; and there are people watching out for them.

Commissioner Goodson asked Mr. Oliver if he would commit to meeting with these people again on his site plan to try to work the best he can with him.

Cole Oliver, applicant, responded he is happy to meet with them again to work as best he can; and the logger heads he has always come to has been the access onto Hield Road.

Commissioner Goodson reiterated that Mr. Oliver is willing to meet again on his site plan; and once it comes back to the Board, it will vote on it again and maybe it will not like it.

Tad Calkins, Planning and Development Director, stated he wanted to clarify if the Board's motion included the BDP.

Chair Steele replied yes.

The Board conducted the public hearing and approved the request for a change of zoning classification from RP and AU to all BU-2, with a Binding Development Plan, limiting the use to BU-1 uses and the BU-2 use to indoor climate controlled mini storage.

Vice-Chair Pritchett passed the gavel back to Chair Steele.

Result: Approved

Mover: Jason Steele

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

J.6. Rob Feltner, Commissioner District 4, Re: Board Report

Commissioner Feltner stated in each of these meetings, the Board is fortunate to have members of Brevard County Sheriff's Office here to keep it safe; and he would like to recognize Lieutenant Craig Adelman for his 25 years in the Sheriff's Office.

Chair Steele noted he had a report but he will hold it until the next meeting, as there is a lot to talk about from the Brightline station and all kinds of other issue; he does not want to take the time tonight to do it; and he wants to get more information so that he can give a more accurate report at the next meeting.

Upon motion and vote, the meeting adjourned at 6:14 p.m.

Result: Approved

Mover: Tom Goodson

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Steele

ATTEST:

RACHEL M. SADOFF, CLERK



JASON STEELE, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Approved by the Board on May 21, 2024