

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, April 6, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:02 PM

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

C. PLEDGE OF ALLEGIANCE

Commissioner Goodson led the assembly in the Pledge of Allegiance.

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for 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.

F.1. Acceptance, Re: Binding Development Plan with Jerry W. and Violet Shirley Solomon

The Board executed Binding Development Plan Agreement with Jerry W. Solomon and Violet Shirley Solomon for Tax Parcel 774, as recorded in ORB 7657, Pages 2771-2773, of the Public Records of Brevard County, Florida, located in Section 06, Township 21, and Range 35.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

F.2. Acceptance, Re: Binding Development Plan with Ronald Abbott

The Board executed Binding Development Plan Agreement with Ronald Abbott for property located from part of Government Lots 2 and 3, Section 11, Township 30 South, Range 38 East, Brevard County, Florida, lying South of ORB 4303, Page 3589, Public Records of Brevard County, Florida, east of the right-of-way line of the Florida East Coast Railroad right-of-way and north of the north right-of-way line of Barefoot Boulevard.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, and Feltner

H.1. Bobby Jo Thomas Requests a Change of Zoning Classification from GU to RRMH-1 (23Z00002) (Tax Account 3029907)

Chair Pritchett called for a public hearing to consider a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), as requested by Bobby Jo Thomas.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Bobby Jo Thomas requesting a change of zoning classification from GU to RRMH-1; the application number is 23Z00002; Tax Account number is 3029907; and this is located in District 1.

Chair Pritchett advised she has a speaker card from the applicant; she is going to ask the Board to approve it because she does not have an issue with this; and this is in her District.

There being no comments or objections, the Board approved the request of Bobby Jo Thomas for a change of zoning classification from GU to RRMH-1 (23Z00002) (Tax Account 3029907), for property located on the east side of Blounts Ridge Road, south of Patty Lane, in Mims.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, and Feltner

H.2. Louise Julia Goloversic Requests a Change of Zoning Classification from GU and ARR to AU (23Z00005) (Tax Account 2406379)

Chair Pritchett called for a public hearing to consider a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential), as requested by Louise Julia Goloversic.

Jeffrey Ball, Planning and Zoning Manager, stated Louise Julia Goloversic requests a change of zoning classification from GU and ARR to AU; the application number is 23Z00005; the Tax Account number is 2406379; and this is located in District 1.

Chair Pritchett advised this is in her District, and it fits.

There being no comments or objections, the Board approved the request of Louise Julia Goloversic for a change of zoning classification from GU and ARR to AU (23Z00005) (Tax Account 2406379), for property located on the north side of Soggy Bottom Avenue, west of Satellite Boulevard, in Cocoa.

Result: Approved
Mover: John Tobia
Second: Tom Goodson
Ayes: Pritchett, Goodson, Tobia, and Feltner

H.3. IR Tiki 2, LLC (Sandeep Patel), Requests a Small Scale Comprehensive Plan Amendment (22S.18) to Change the Future Land Use Designation from NC to CC (22SS00015) (Tax Account 2611662)

Chair Pritchett called for a public hearing to consider a request for a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), as requested by IR Tiki 2, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated IR Tiki 2, LLC requests a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC to CC; the application number is 22SS00015; the Tax Account number is 2611662; and this is located in District 4.

Steve Monroe, President of Monroe Engineering, and the Engineer of Record for the project, stated this project is located at 4263 Highway 1, Melbourne; it is also known as the Old Captain Katanna's Project; the restaurant has been there for about 45 years; the new owners purchased the property in 2020; and it is now the new home of the Marker 99 Restaurant. He went on by saying since that time, the owners have maintained their occupational license even through the COVID times; they have done some improvements since they have been there; the first thing they did was to take the existing septic system offline and they installed a new lift station and force main; this project is abutting the Indian River; and it is a win for the River. He added the second item they are looking at doing is taking the existing dirt parking lot, gravel parking lot, and turn it into a pervious paver parking lot, which will capture 100 percent of the stormwater runoff, so that will be another win for the River; instead of draining to the River as it is right now, it will be captured at 100 percent; and during the site plan review, it was discovered that this project needed a Future Land Use change, that the restaurant was actually non-conforming, so that is why they are here this evening.

There being no further comments, the Board adopted Ordinance No. 23-05, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the Nineteenth Small Scale Plan Amendment of 2022, 22S.18, 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 provision which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rob Feltner

Seconded: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.4. Chelsey L. Cobb Requests a Change of Zoning Classification from RR-1 to AU (23Z00004) (Tax Account 2405118)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), as requested by Chelsey L. Cobb.

Jeffrey Ball, Planning and Zoning Manager, stated Chelsey L. Cobb is requesting a change of zoning classification from RR-1 to AU; the application number is 23Z00004; the Tax Account number is 2405118; and it is located in District 1.

Chelsey Cobb stated they are trying to change their RR-1 to AU; they have a bull, and they would like to keep the livestock in Code; they also have a barn in their backyard, which they are trying to fix their Code violation with that as well; and they would also like to have a small family garden.

Chair Pritchett asked if Ms. Cobb is planning a nursery in the paperwork, or is she just wanting to have a family garden.

Ms. Cobb replied they have some Palm Trees that they plan on having; they are going to be planting corn as well; and it is going to be more than a tub-sized garden.

Chair Pritchett inquired if it is for her family and not for business.

Ms. Cobb responded affirmatively.

Chair Pritchett asked if they just did that garden for their family would AU(L) zoning work for that.

Tad Calkins, Planning and Development Director, responded yes, AU(L) would work for personal agricultural-type uses; and it is when getting into commercial activities or if they are selling the plants to individuals off of that site, then it would not be allowed under the zoning classification.

Carie Exline stated first of all, they are only on three acres; the zoning approved an AU(L), not an AU, so she just wanted to make sure the County has that correction, that is what they wanted to do; first, the barn in question has been built, and has been in violation for over one year; in talking with staff, Ms. Cobb has been in violation, they have been told they are in violation, and they have been ignoring them; and from what she understands, the County is getting ready to take them to court. She went on by saying another thing is what they have underneath that pole barn is an awful lot of industrial equipment; at the Zoning meeting, the individuals were asked if they have a business there; they said no; that is a lie; and she has the information that says that Lightholder Land Solutions, LLC's principal address is 4475 James Road, so they are conducting a business on that three-acre land. She advised in her opinion, the Board needs to table this; staff needs to go out there and find out what is really going on, because they have also noticed some tanks; they are not sure what is in those tanks; there could be some diesel fuel, but they are huge tanks; and they have been tearing down all of the trees back there, which is also in violation with the County. She reiterated she would prefer the Board table this, and get some County people out there, because they will not let anyone go on their land to find out what is going on; they are really conducting a business out there; and she thinks it is an illegal business for that area.

Carl Exline stated Ms. Exline covered everything; his biggest concern is the AU versus the AU(L); he wants to make sure if they do it, that they do it with non-commercial intent; if they want to grow a garden, he does not think they need a permit for that no matter how big it is; but if they start selling it to other people, then that is commercial; and that is why he made the recommendation at the Zoning Board meeting. He noted staff was supposed to give that recommendation to the Board that what was recommended is AU(L); and he thinks that is the more appropriate way to go down-the-path.

Sandra Ake stated she lives right next door to Ms. Cobb; she does have photos, but they are on her phone; she did not have a chance to print them out unfortunately; she does not want a business next to her; that is almost what they are doing; and they have had their employees there. She went on to say there are mounds of dirt; it is not to add more dirt to bring their land up; there are different types of dirt; they do not need that if they are going to raise their land up;

and they are already 10 inches above her property in the front. She stated right now she gets flooded tremendously, because the people who had the property before and built the house hauled in truckloads of fill dirt; when they got done leveling it all out, and they measured it, it was 10 inches above them; they left no swale and no ditch to drain; that is why she believes her friends sold her husband the property; if they raise the back of the property up, she will flood even worse; and she has a pond on her property with a PVC pipe going from the pond to the stormwater drain, and from there into the ditch. She pointed out it never flooded until those folks built their land up; she will flood all the way out to the road; she is almost one-half of an acre in; from the back of her house all the way to her pasture, which is almost two and one-half acres, it floods; and she has to put rubber boots on to walk out to the gate. She stated she cannot take people building up anymore; she also cannot take the noise from his commercial vehicles, and they are commercial; there are dump trucks, frontend loaders, and fork lifts; they have added lights to their pole barn that are very bright; and she would prefer they stay at RR-1 just like they are. She asked the Board if it allows anything for it to be AU(L), because that is what was agreed upon at the first meeting.

Chair Pritchett asked if Ms. Ake is on the property to the east or west side.

Ms. Ake replied she is on the west side.

Chair Pritchett asked if she came to the Board a little while ago and the County redid her property changing it from RR-1 to AU.

Ms. Ake responded no, she is not zoned AU.

Ms. Cobb stated Ms. Ake's property does flood, but she actually flooded during the hurricane that poured tons of rain and everybody flooded; Ms. Ake's flooding occurred before they bought the house; as far as she knows, machinery can be parked in the yard; it is in the backyard, under the barn; they do have an employee who comes and gets their dump trucks; and she asked if that is not allowed.

Chair Pritchett asked Ms. Cobb if she has the Code Enforcement case in the process of getting cleared up.

Ms. Cobb replied affirmatively; she stated this was to clear this up; she talked to Code Enforcement, and they said to hold off with anything until this was finalized; she was going to pay for the permit to clear the barn; and she has engineering and everything.

Chair Pritchett asked if Ms. Cobb is comfortable with AU(L) on here.

Ms. Cobb responded yes.

Commissioner Goodson asked if there is a requirement that RR-1 lots have swales to drain their water to their ditches or a pond, or are they allowed to fill four-foot higher than their neighbors, and flood their neighbors.

Mr. Calkins replied when staff looks at a residential permit, staff does a review on how they are to grade the lot to get the stormwater to either the right-of-way or a stormwater system that is able to accept that stormwater.

Commissioner Goodson inquired if that is true and a resident gets their home built, grades their swales, and then 10 years later fills up all of the property, does the County go out to check to see if they have maintained their swales.

Mr. Calkins responded it is on the property owner to make sure they maintain the drainage and provide for that historic drainage flow.

Commissioner Goodson asked if their only recourse is Code Enforcement.

Mr. Calkins advised they can look at Code Enforcement, and if staff is able to help them, they would; and he does not know that they have many of those types of cases.

Commissioner Goodson stated if a person knows anything about Florida, if they have any water in a swale, they have a homeowner who is willing to buy dirt, he or she will fill about anything they can; and he asked with this AU(L) zoning, how many dwellings can be put on the land that read minimum lot width depth 150, minimum living area 750.

Mr. Calkins responded they would only be able to fit one home on this unless they had like an accessory structure that would provide for a mother-in-law home or something like that.

Commissioner Goodson asked if it would be better if the zoning was AU rather than AU(L), which would be more in tune with everything out there that is one-acre or larger.

Mr. Calkins pointed out the difference between it is really that AU has a commercial aspect to it and the AU(L) is more of for individuals who are going to have farm animals just for their own personal use, and not a commercial aspect of it; there has been conversation today about the home business aspect of this; there is a pre-emption in Florida Statutes that pre-empts staff from regulating home occupations; and that would be looked at by the State, it would not be a County function to enforce it.

There being no further comments or objections, the Board approved the request of Chelsey L. Cobb for a change of zoning classification from RR-1 to AU-L (23Z00004), for property located on the south side of James Road, east of Friday Road, in Cocoa.

Result: Approved

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Tobia, and Feltner

Nay: Goodson

H.5. Timothy Shane and Debra Jane Kelley (Don Human) Request a Change of Zoning Classification from AU to RU-1-11 (22Z00074) (Tax Account 2113314)

Chair Pritchett called for a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), as requested by Timothy Shane and Debra Jane Kelley.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is Timothy Shane and Debra Jane Kelley requesting a change of zoning classification from AU to RU-1-11; the application number is 22Z00074; the Tax Account number is 2113314; and the property is in District 1.

There being no further comments or objections, the Board approved the request of Timothy Shane and Debra Jane Kelley for a change of zoning classification from AU to RU-1-11 on property located on the west side of Old Dixie Highway, north of Diamond Road, in Titusville.

Result: Approved
Mover: John Tobia
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, and Feltner

H.6. Half Halt Stables, LLP (Toni Pastermack) Requests a Change of Zoning Classification from AU to RU-1-9 (22Z00068) (Tax Account 2407648)

Chair Pritchett called for a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), as requested by Half Halt Stables, LLP.

Jeffrey Ball, Planning and Zoning Manager, stated Half Halt Stables, LLP requests a change of zoning classification from AU to RU-1-9; the application number is 22Z00068; the Tax Account number is 2407648; and it is in District 2.

Toni Pastermack stated they have surveyed a piece of the property, about one-third of an acre, that has a house on it, which is now part of Half Halt Stables; and they have surveyed it out to change the zoning and to sell the house.

There being no further comments or objections, the Board approved the request of Half Halt Stables, LLP for a change of zoning classification from AU to RU-1-9 on property located on the east side of Burnett Road, north of Lake Drive, in Cocoa.

Result: Approved
Mover: Tom Goodson
Second: Rob Feltner
Ayes: Pritchett, Goodson, Tobia, and Feltner

H.7. Wendy Kleefisch Requests a Change of Zoning Classification from RU-1-11 to RU-2-12 (22Z00067) (Tax Account 2731680)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), as requested by Wendy Kleefisch.

Jeffrey Ball, Planning and Zoning Manager, stated Wendy Kleefisch requests a change of zoning classification from RU-1-11 to RU-2-12; the application number 22Z00067; the Tax Account number is 2731680; and this is located in District 5.

Wendy Kleefisch stated she is here today to see if they can go from an RU-1-11 to an RU-2-12, multi-family place.

Chair Pritchett pointed out Ms. Kleefisch looks familiar; and she asked if she has been before the Board recently.

Ms. Kleefisch replied she has been there recently, and she has been inspired; and she is doing this because a quote from the Board that in America a person can decide whatever he or she wants to do with their property as long as there is approval.

Commissioner Tobia noted Ms. Kleefisch was here six months ago, and she said maybe they can stay even with the RU-1-11 and keep Franklyn Avenue a very nice and peaceful residential place; and he asked if she no longer cares about Franklyn Avenue being a nice and peaceful place.

Ms. Kleefisch responded she cares about it, but respectfully, she has another residence in Indialantic and she is very excited for that, and knowing that her neighbor to the east of her was approved for the rezoning.

Commissioner Tobia asked if she is moving.

Ms. Kleefisch replied she already has.

Commissioner Tobia stated she said at that meeting, with tears in her eyes, that if her neighbor was approved, "What I lose the most is my home"; she then stated she would have no backyard for the rest of her life, it will be duplexes; and he asked if this is rezoned, and it was so painful for her, if she does not care about her neighbors.

Ms. Kleefisch advised she cares about herself more than anything; and she cares about her disease, which is Multiple Sclerosis; it was shocking what happened before; but it did pass.

Commissioner Tobia advised he is not a doctor, and knows nothing about Multiple Sclerosis; he asked if changing her mind is an outcome from Multiple Sclerosis from being adamantly opposed to something and saying, "It is going to end a peaceful, residential place" to all of a sudden six months later saying she only cares about herself.

Ms. Kleefisch explained it has already been a parking lot, and has been very busy next door; there is no peace; with the construction, she just thinks it was time for her to go; it is her choice to want to move and not have a wall of people in her backyard; and she had to think of it as a business.

Alena Knoepfler stated she lives next door to Ms. Kleefisch; in front of the Commissioners some months ago Ms. Kleefisch said, "To go from a one story to an aggressive, I feel aggressive RU-2-12 resort unit is a lot. I do realize that real estate is on fire. I am just respectfully asking that maybe we can stay within the RU-1-11 zone, because what I lose most is my home. Please keep Franklyn a nice, peaceful, residential place;" she continued by saying it was one day and then she filed the application to rezone her single-family to said aggressive RU-2-12 resort dwelling; and she said during the Planning and Zoning meeting, "Everything around us is all commercial. Across the street is commercial. Behind me, everywhere I am surrounded by commercial, and if approved, I have great plans for you." She commented the character of the applicant is one thing, but she looks at the true character of the neighborhood; and she would like to show the Board where they live and what the truth is.

Chair Pritchett asked Ms. Knoepfler is she is the person the Board approved this for six months ago.

Ms. Knoepfler replied no, she is not, she opposes this; she opposed the last one, and she opposed this one; she provided the Board with a picture of the neighborhood; she stated the yellow is where the businesses are located; the red is the subject property, which is not surrounded by commercial; and Franklyn Avenue is in blue, which consists of a one-story neighborhood. She added also to the south is the Chalets Atlantique, which is a 55 and older community, and it consists of one-story homes, so it is far away from commercial; the only person who runs a commercial business out of a single-family residence is Ms. Kleefisch herself; she is right by saying that she is surrounded by commercial when she refers to her own limousine business in front of her house and the backyard; she is wondering if her great plans are continuing to operate the limousine business from a multi-family business; she did not move away; and two homesteads are there. She went on to say in order to get her rezoning approval, Ms. Kleefisch compared her single-family residence to a way bigger vacant land formerly zoned as commercial; however, there is not one property that was rezoned and

developed in the last 10 years with a 750-foot radius, not one; there is no 'me too' rezoning Ms. Kleefisch can refer to; the residential neighborhood consists of one-story homes only; some of these homes are over 50 years old; and it is true that multi-family is part of this neighborhood as well, but for over 50 years the character of the neighborhood is one-story homes only. She stated from east to west it consists of all single-family, one story; and she fully-supports Mrs. Kleefisch's wish to develop a duplex with one driveway to Franklyn and one to Gross Point, but limited to one story.

Sandra Sullivan asked the Board if it was amenable to the County Attorney answering a question; she advised last week the Governor signed Senate Bill 102, basically it relaxes rules on density and height, offers tax breaks for developers, and it is about affordable housing; there is going to be increasing pressure on single-family homes next to a commercial area being acquired; she asked, in the instance of this property, for example, if this is going to be combined with the commercial properties next to it; and are they going to want to put in a mixed-use business and residential and say there is 10 percent of affordable housing in here. She pointed out with SB 102, they can go to the highest density in one mile; the Barrier Island is a critical evacuation deficiency, like the Keys, which is an area of critical concern in the sense that if there is a Category 4 or Category 5 hurricane, the County is under six to nine-plus feet of water according to the National Oceanic and Atmospheric Administration (NOAA) Search Map; central beaches were capped by Brevard County in density; she asked if the County is grandfathered in with SB 102; and as it relates to this property, if this is rezoned, then presumably she is thinking there is a developer that wants to buy it and rezone it much bigger due to SB 102, so it is very prudent to understand if the Barrier Island is protected or are the citizens lives expendable, because it would take 60 hours to get everyone off of the Barrier Island. She stated a fast moving hurricane like Andrew or one that changes directions, Brevard County could be like Fort Myers; and people are going to die, because like the Keys, Brevard is under nine-plus feet of water in a Category 5 hurricane. She asked that the Board humor her on this, as it is a very important question; and she noted she would like to see what the County Attorney has to say.

James Preece stated he thinks the Board has seen the information he provided to Jennifer Jones, Special Projects Coordinator, Planning and Zoning; and he will read his comments to the Board. "I'm the owner of 117 Franklyn Avenue. I fully-support Wendy Kleefisch's request to change the property located at 107 Franklyn Avenue to RU-2-12 zoning without any use restrictions. I've attached the relevant zoning map and multi-family comparison. 107 Franklyn is adjacent to multi-family on all sides, including a 48-unit plus, a 28-unit multi-family complex adjacent to the south boundary, while the west boundary property, 109 Franklyn, is zoned RA-2-6, which allows for fee simple ownership of individual attached units, essentially multi-family. In addition, 107 Franklyn Avenue property boundaries are within 500 feet of a 97, 50, 30, seven, and six unit condominiums. The 97-unit has the height of 10 floors, the seven-unit has a height of eight floors, and the 30-unit has the height of six floors. Of the 22 parcels located on the 100-block of Franklyn Avenue, only three would remain RU-1-11, and all three are adjacent to multi-family on two or more sides. 115 Franklyn Avenue, adjacent to multi-family RU-2-12 and RU-2-10, plus a 28-unit complex on the south side. 113 Franklyn is adjacent to multi-family RU-2-10, plus a 28-unit complex on the south side. 111 Franklyn Avenue is adjacent to multi-family RU-2-10 and RU-2-6, plus a 28-unit complex on its south side. In addition, short-term rentals are now being done directly across from 107 Franklyn, at 104 and 106 Franklyn. In addition, two more are in process at 119 and 121 Franklyn. Therefore, it would not be reasonable to restrict 107 Franklyn from this use allowed in RU-2-10 and RU-2-12 zoning. During the Planning and Zoning Board, someone got up and made a comment about traffic being increased by the zoning change. In my opinion this zoning change increases the traffic count by about four vehicles a day, which would be, in my opinion, less than one percent increase in traffic." He stated the person who got up before and used this diagram is actually stuff he did, and they removed a lot of the multi-units off the thing to modify

that all over the place there is multi-family; for example, he pointed to eight units of a six-plex; and right across the street, directly on Nieman, there is a seven-plex, so these comments about there being single-family everywhere. He noted houses that are 50 years old are harder to get insurance on, so they are already getting demoed and replaced on Nieman; there is no difference between height between an RU-1-11 and RU-2-12, that is just what the County's zoning is; and he does not agree with the comments of the previous person about the heights.

Commissioner Feltner asked if Ms. Kleefisch is amenable to a Binding Development Plan (BDP); and he stated he thinks she had a conversation with staff earlier for the property limiting to one story.

Ms. Kleefisch provided the Board with a flier; and she stated she thinks the confusion, if she is being honest, is this went to 100 people in their mailboxes, it has the assumption, and that is why people are visiting.

Chair Pritchett advised the Board Members did not see that paper.

Ms. Kleefisch noted people are coming up to her house that she has never even met, even over in Melbourne, asking her why she is building a resort.

Chair Pritchett stated it will not affect the Board's opinion, because the Board does not know about it, if that helps.

Ms. Kleefisch commented a lot of people seem to think all of a sudden she is going six-feet high, but she does not intend on doing anything but the multi-family duplex.

Commissioner Feltner stated he does not think the zoning would possibly allow that; and he asked if Ms. Kleefisch is open to a possible BDP that would stipulate that it would be limited density to two duplexes, no resort dwelling, and a single-story.

Ms. Kleefisch stated she will do whatever the Board says; she was told four units, no more than 35-foot high, which she was fine with; and that is all she has so far from Melissa and Jennifer; and she agreed to that at the last zoning meeting

Commissioner Feltner asked if she talked to Planning and Zoning staff today about a BDP.

Ms. Kleefisch stated she talked to one of Commissioner Feltner's staff members, a very nice gentleman, yesterday; and she told him she would do exactly what the Board says.

Commissioner Feltner explained for clarification the Board can let Mr. Ball speak to what the BDP would be.

Chair Pritchett mentioned she agrees with Commissioner Feltner, she would be comfortable with that, otherwise she has some hesitation; but as Commissioner Feltner just stated, if Ms. Kleefisch would be willing to do a BDP saying it will be a single-story, a duplex, limit the resort, and she thinks maybe two driveways would have to be there coming out of both of the properties, because she will be renting this out; it is fine with her; and she is not going to chastise her for bad behavior last time, because she thinks it could be a fit on the property.

Ms. Kleefisch pointed out for safety purposes, they thought it was best to leave the driveway on Franklyn where it is, but they will do whatever the Board wants.

Mr. Ball stated some of the possible conditions for a BDP would be limit the building height to one story, the vertical distance measured from the average elevation of the finished

development grade of the building site to the highest bearing point of the roof, joist, or truss; number two is to limit the density to two duplexes, which would be four units; number three would be no resort dwellings; and number four, access shall be limited to one duplex having access to Franklyn Avenue, and one having access to Gross Point Avenue. He explained just for clarification, he did have a conversation with Ms. Kleefisch yesterday, and they only talked about limiting the height and the two duplexes, they did not discuss the access.

Commissioner Feltner asked if that is acceptable.

Ms. Kleefisch replied affirmatively.

Commissioner Feltner made the motion to approve with the BDP.

Chair Pritchett passed the gavel to Vice Chair Goodson.

Chair Pritchett seconded the motion.

Vice Chair Goodson called for a vote on the motion. Motion was denied. Commissioners Goodson and Tobia voted nay.

There being no further comments, the Board denied the request of Wendy Kleefisch for a change of zoning classification from RU-1-11 to RU-2-12 on property located between Franklyn Avenue and Grosse Pointe, west of Highway A1A, in Indian Shores.

Result: Denied

Mover: Rob Feltner

Seconded: Rita Pritchett

Ayes: Pritchett and Feltner

Nay: Goodson and Tobia

Vice Chair Goodson passed the gavel back to Chair Pritchett.

Morris Richardson, County Attorney, stated he thinks the applicant believed her item passed, but it failed by a 2:2 vote.

Chair Pritchett noted she does not think Ms. Kleefisch thought that; and Ms. Kleefisch could come back with a different proposal later.

H.8. Morris M. Taylor Revocable Living Trust (Chelsea Anderson) Requests a Change of Zoning Classification from SEU, EA, and BU-1-A to AU and BU-1-A (23Z00001) (Tax Account 3008434)

Chair Pritchett called for a public hearing to consider a change of zoning classification from SEU (Suburban Estate Use), EA (Environmental Areas), and BU-1-A (Restricted Neighborhood Commercial) to AU (Agricultural Residential) and BU-1-A, as requested by Morris M. Taylor Revocable Living Trust.

Jeffrey Ball, Planning and Zoning Manager, stated this item is Morris M. Taylor Revocable Living Trust requests a zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A; the application number is 23Z00001; the Tax Account number is 3008434; and this is located in District 3.

Chelsea Anderson, agent for the applicant, stated they are here tonight because Morris Taylor's is home to the last privately-owned clam hatchery in Brevard County, and he has been

approached by various organizations to provide clam seed for restoration efforts for the Indian River Lagoon; the property has been used for, going on 30 years, agricultural uses by Mr. Taylor and his family; this is their established, non-conforming uses at the present, so they cannot be enlarged or expanded, which is why this rezoning is being requested today; right now they are at capacity with the buildings that they have; they are old and outdated; and they really need to modernize them in order to be able to produce more clam seed and in order to supply a significant amount towards the restoration efforts. She continued by saying right now pretty much all of the clam seed that they produce onsite is already spoken for by the clam aquaculture industry, and different farmers throughout the State; there are some letters of support in the Board's packet from them on how they are relying on that product, so to produce more, they need a rezoning; she will briefly touch on some things that were in the Agenda Report about the compatibility with existing uses under Administrative Policy 3; and they are asking for the AU zoning district, which is Agricultural Residential, which is consistent with the RES-1 Future Land Use as is currently on the property. She explained the applicant will comply with the performance standards that are in the Land Development Code that are designed to eliminate potential nuisances; this use is regulated by the Florida Department of Agriculture and Consumer Services, so they have to comply with Best Management Practices as part of that licensure; in part, the reason for those Best Management Practices is to eliminate and minimize external impacts of these uses; and there are a few of the Comprehensive Plan Policies that are in direct support of this application. She went on to say Coast Management Element Policy 5.15 says that during rezonings, the County should give immediate shoreline use priority to water dependent uses, such as uses for shellfish production, and that is the top priority for shoreline uses under that Comp Plan Policy; there are various objectives in the Coastal Management about improving the water quality in the Lagoon; recently the Save Our Indian River Lagoon Project Plan update that was just updated earlier this year has a whole section on clam restoration, how it is warranted as a mitigation tool for removing excess nutrients in the Lagoon, and they actually allocate some funding to stimulate some clam aquaculture in the County; again, this is the only privately-owned clam hatchery in the County, so that would be in direct furtherance of that project plan; and that is all she has for her presentation, but she would like to reserve any extra time for rebuttal, if needed.

Commissioner Tobia stated for the rest of the speakers, he received some letters of support that may be interesting; one, from, and this is the South Beaches, which most people are not amenable to changes, the next door neighbor; he received multiple support letters, this has all been disclosed, from the University of Florida on this one, both Whitney Laboratory and the Shellfish Aquaculture Program; he did not hear anything negative on this one; and given the presentation, he is strongly in favor of this unless he hears something different at this point.

Jeff Hill advised he is in support of the project.

Blair Wiggins stated he is in support of this.

Ewan Leighton stated he is in support of this project.

John Robson stated he thinks this is a great situation where people are seeing a private owner of a property work to support what the government is trying to do with regard to cleaning up the Lagoon; and there have been so many things lately where people have cleared all of their lots of everything that should still be there, so when there is someone who has been here over 50 years wanting to preserve the nature of the South Beaches, then he thinks that not only gives him this change, but also to applaud him for doing that.

There being no further comments or objections, the Board approved the request of Morris M. Taylor Revocable Living Trust for a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A on property located on the west side of Highway A1A, north of River Oaks Road, in Melbourne Beach.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.9. Thomas A. Metzger; Alan and Grace Metzger Request a Change of Zoning Classification from RR-1 to AU (22Z00069) (Tax Account 2801827)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), as requested by Thomas A. Metzger, and Alan and Grace Metzger.

Jeffrey Ball, Planning and Zoning Manager, stated this is Thomas A. Metzger, and Alan and Grace Metzger requesting a zoning classification from RR-1 to AU; application number 22Z00069; Tax Account number 2801827; and it is located in District 5.

Chair Pritchett advised she was comfortable with this Item; and she asked if the other Commissioners had any thoughts.

There being no further comments or objections, the Board approved request of Thomas A. Metzger, and Alan and Grace Metzger for a zoning classification from RR-1 to AU on property located on the south side of Chicago Avenue, east of Cavel Street, in Micco.

Result: Approved

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.10. QW Trust Agreement (Carolyn Haslam) Requests a Small Scale Comprehensive Plan Amendment (23S.01) to Change the Future Land Use Designation from RES 15, NC, and CC, to all CC (23SS00001) (Tax Accounts 2407572 & 2407578)

Chair Pritchett called for a public hearing to consider Item H.10., a Small Scale Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, as requested by QW Trust Agreement; and Item H.11., to consider a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), as requested by QW Trust Agreement.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.10. is QW Trust Agreement requests a Small Scale Plan Amendment (23S.01) to change the Future Land Use designation from RES 15, NC, and CC to all CC; the application number is 23SS00001; the Tax Account numbers are 2407572 and 2407578; and it is located in District 2; Item H.11. is QU Trust Agreement requests a change of zoning classification from GU and IU-1 to BU-1; the application number is 23Z00003; Tax Account numbers 2407572 and 2407578; and it is located in District 2.

There being no further comments or objections, the Board adopted Ordinance No. 23-06, amending Article III, Chapter 62, of The Code of Ordinances of Brevard County, entitled "The

1988 Comprehensive Plan", setting forth the first Small Scale Plan Amendment of 2023, 23S.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: Adopted

Mover: Tom Goodson

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.11. QW Trust Agreement (Carolyn Haslam) Requests a Change of Zoning Classification from GU and IU-1 to BU-1 (23Z00003) (Tax Accounts 2407572 & 2407578)

There being no further comments or objections, the Board approved request of QW Trust Agreement for a change of zoning classification from GU and IU-1 to BU-1 on property located on the north side of Lake Drive, east of Cox Road, in Cocoa.

Result: Approved

Mover: Tom Goodson

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.12. Crane View, LLC (Steve Anderson) Requests a Small Scale Comprehensive Plan Amendment (22S.19) to Change the Future Land Use Designation from RES 15 and NC to RES 30 DIR (22SS00016) (Tax Account 2412341)

Chair Pritchett called for a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), as requested by Crane View LLC; and Item H.13., requesting a zoning classification from RU-2-15 (Medium Density Multi-Family Residential), with an existing BDP (Binding Development Plan), to RU-2-30 (High-Density Multi-Family Residential), removal of existing BDP, and adding a new BDP, as requested by Crane View, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.12. is Crane View, LLC requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR; the application number is 22SS00016; the Tax Account number is 2412341; and it is located in District 2. He stated Item H.13. is Crane View, LLC requests a change of zoning classification from RU-2-15, with an existing Binding Development Plan (BDP) to RU-2-30, removal of existing BDP, and adding a new BDP; the application number is 22Z00071; the Tax Account number is 2412341; and it is located in District 2.

Steve Anderson, representing the applicant, stated this property has been in this condition for almost 15 years; it has been a blight on the community; he has lived in Brevard County for 30 years, and recently moved to Orlando, and he is very excited to work on this property with Summit to make it actually happen after so many people have actually tried; due the numbers and current Code violations, it is kind of one of those projects that has not gotten any traction; with the rise in rates, it takes more units to make a project happen than the original BDP of 48 up to the 90; and it was changed to the RU-2-30, they can go to the 120, so that is why they asked to just back it down. He pointed out as every hour clicks, things are not getting better out

there; this is what it takes to really make it work; the neighbors to the north have the RU-2-30; they do have the Future Land Use that maybe with the neighborhood commercial that maybe the project can be divided in half as a compromise; and maybe two acres in the back with 60 units, and then do 1.94 acres out front. He continued by saying this would be the newest, best place nearest to the Space Center; they are willing to make that building affordable housing; and they have two sponsors on board, depending on if they get the amount of units needed, or if it can be split, they can move forward with this project.

Andrew Jackson stated this parcel is only 3.95 acres for which the petitioner is seeking to construct 90 dwelling units; when subtracting the square footage needed for access roads, retention pond, parking lots, dumpsters, utilities, pads, and maintenance facilities, there remains only a one-acre footprint at most upon which to place 90 dwelling units; the density will be a minimum of 50 units per acre which will necessitate a high rise building tower towering above the neighboring single-family homes and existing two-story apartments to the west and north of the subject parcel; and on this type of extreme residential, density is incompatible with existing improvements surrounding the parcel. He went on to say this zoning of this magnitude is wholly out of place with the character of this location in the heart of Merritt Island; he believes if the separation thing that Mr. Jackson talked about earlier, that it would not be a high rise and not look down on the whole Carlton Groves area; his wife's parents, his brother, his cousin, they all live in that neighborhood; and their concern is it is going to be a giant tower looking down on the entire neighborhood if it goes to the 30 instead of the 15. He noted he would like that getting torn down and completed, as of right now it is an eye sore; but they do not want a high rise next to the neighborhood; he had to go to the opposite side of the neighborhood to find a petition someone put out; he believes they should have been advised; and the only way he found out was someone received something on the opposite side of the neighborhood.

Diana Turnbull stated she was concerned when she saw this; none of her neighbors have talked about this; she knows it has two runs that it has not worked out, the different developments they tried; there is a concern about how high the building will be; it is basically about the neighborhood and runoff water, because they get all the runoff water from North Courtenay Parkway to their drains; and different things need to be factored in. She went on to say she is learning and she is listening; the information she asked for she did not receive via email; she would like to see the eyesore gone as well; she asked if they ever thought about just single-family homes; and she stated it is very valuable right now.

Sandra Sullivan stated she has been coming to these meetings for over four years; she asked if the Board knows what has packed this room more than any other topic; she advised it has been flooding in Merritt Island, development of wetlands, development of property runoff, and flooding by residents; and the County has to be very careful in how it develops in areas that are more susceptible to flooding. She added Senate Bill 102 and the impact on this, she would like to read some of it to the Board and discuss the implications, as follows: "A municipality must authorize multi-family and mixed-use residential as allowable in any area zoned for commercial and industrial or mixed use of at least 40 percent of the residential units are proposed for multi-family rental rates for a period of 30 years . . . a municipality may not require proposed multi-family development to obtain zoning or land use change, special exemption, conditional use approval, variance, or comprehensive amendment for the building height, zoning, and densities authorized under this subsection. For mixed use residential projects at least 65 percent of the total square footage must be residential purposes. A municipality may not restrict the density of a proposed development authorized under this subsection below for the highest allowed density of any land in the municipality where residential development is allowed. A municipality may not restrict a height of a proposed development proposed under the subsection below. The highest currently allowed height for a commercial or residential development located in the jurisdiction within one mile of the proposed development or three stories, whichever is higher." She commented Merritt Island is on the barrier island; barrier

islands are not like the mainland; barrier islands are under a surge according to the National Oceanic and Atmospheric Administration (NOAA) search map, which was updated in 2021, between six and nine-plus feet of water; there is also evacuation issues; I-95 is at capacity in areas; and the County has not updated its transportation impact fees in over 20 years. She pointed out it was supposed to be updated in 2016, but the Commission said no; if this is approved, according to the SB-102, the applicant will not even have to pay property taxes; he can be exempted on impact fees; she asked who is going to pay for the cost of growth; and she stated the funny thing is with the Ordinance written by the County for affordable housing, even if they put in 10 percent of affordable housing, those fees may not even offset the impact fees. She asked again who will pay for this rapid growth for the fifth highest growth rate in the entire nation; she stated Brevard County is the second highest job growth rate; the middle class is going to bear this burden; on Tuesday, the Board approved a 4.41 percent CPI in its sewage rates; and she reiterated that impact fees have not been updated in 23 years.

Chair Pritchett asked Ms. Sullivan to get back on the topic.

Ms. Sullivan advised this is affordable housing, and affordable housing is exemptions on property taxes and exemptions on impact fees; and she asked who is going to pay for infrastructure.

Chair Pritchett stated she knows Merritt Island Redevelopment Agency (MIRA) supported this, which is interesting to her because they do not typically support anything like this; she did have concerns about the height and the density in that area; this is Commissioner Goodson's District, and she will respect it; and he is the one who will have to take all of the hits on it.

Commissioner Goodson stated Mr. Anderson mentioned affordable housing; and he asked if Mr. Anderson is going to do affordable housing, how many units it will be.

Mr. Anderson replied he thinks everyone is confused, because they are at 35-foot maximum height; they are not asking for any height change at all; they can build the building tomorrow with the 48 units; and the views would be the same as if they did 90 units.

Commissioner Goodson asked how many units are going to be affordable housing.

Mr. Anderson responded when the other partners pulled out, and he is the only one representing the applicant, they have two ways to go; Blue Sky Communities and a Diocese are looking at it for 90 units that they would need to be able to add onto that unit, and they would go all to affordable housing, they would do both of them 90; and the other developer would be willing to put back 60 units if they did the RU-2-30 on the back two acres and leave the front 1.94 acres for the future, which is Neighborhood Commercial.

Commissioner Goodson inquired if he could tell this Board what affordable housing is, what the amount is he would charge for affordable housing.

Mr. Anderson advised MIRA has a chart that they would stay within the rents they would be willing to consider affordable housing; they have it for each square foot, one bedroom; he does not have that with him; and they will put it in a BDP.

Commissioner Goodson asked if this is approved if it can be written in there that all 90 units will be affordable housing.

Mr. Anderson stated no other project makes sense; the people he works for have a mission, they do this across the State, and they often tie in with the local Diocese; and there is a need.

Commissioner Goodson noted there are two things he would like; he would like Mr. Anderson to commit to affordable housing; he would like for him to commit to a sidewalk that would leave his property and go south to the crosswalk for children and people to cross State Road 3; and those are what he would like to see.

Mr. Anderson stated he would need all of the Code violations to go away so they can have a reasonable start at that particular point.

Commissioner Goodson advised there is \$150,000 owed in Code violations.

Tad Calkins, Planning and Development Director, stated it is close to that.

Commissioner Goodson asked how many years those violations go back; and he asked when Mr. Anderson bought the property.

Mr. Anderson replied he represents the owner.

Commissioner Goodson inquired when the property was bought.

Mr. Anderson noted the applicant inherited it when his dad died.

Commissioner Goodson asked if he inherited the fines as well.

Mr. Anderson replied affirmatively; and he stated that is why he is asking for grace.

Commissioner Goodson stated he can agree on the two things he brought up, but he cannot agree on that; Mr. Anderson will either have to agree the owner still has the fines, or he will end up with a no vote; and he can go back to Planning and Zoning and talk to them.

Commissioner Tobia asked how long of a sidewalk Commissioner Goodson is proposing.

Commissioner Goodson responded less than 150 feet, maybe 200 feet; the property is just north of Carlton Groves; and the crossover is not even at Carlton Groves.

Mr. Anderson asked if everything goes through, can he get the fines reduced by the cost of the sidewalk.

Chair Pritchett replied no; she stated it was brought up at the Planning and Zoning board meeting about the school being across the street; this is going to be young families; and there will be kids crossing the roads in that traffic.

Commissioner Goodson stated if Mr. Anderson is coming to this Board saying all of them will be affordable homes, he would have brought the rates, because what folks might consider affordable, may not be to other people.

Chair Pritchett stated Commissioner Goodson is being generous with his stipulations; she is with him on this, he is in the area; and if Commissioner Goodson can get the applicant to agree with him, she is with him.

Commissioner Tobia asked if Commissioner Goodson has a definition of affordable housing so Mr. Anderson knows should he apply again if he can meet that; he is going to support Commissioner Goodson either way; but he wants him to be clear to the applicant what definition of affordable housing he needs to meet.

Commissioner Goodson stated he thinks the applicant should have to come back to the Board with what his rates are going to be, because he does not know what is affordable; one guy came before the Board saying he could build affordable housing for \$400,000; and \$400,000 is not affordable.

Chair Pritchett asked if this would be done on what the State considers as affordable housing income as far as rent.

Mr. Anderson advised Larry with MIRA has the rates; he is sorry but at one point the former people did not want to consider that at all; but the new people they know how to make this work; he asked the Board to table this for two weeks and he will come back with all of those numbers; and he can get it over to Commissioner Goodson's office prior to that.

There being no comments or objections, the Board continued Crane View, LLC's request for a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR, to the May 4, 2023, Zoning meeting.

Result: Continued

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.13. Crane View, LLC (Steve Anderson) Requests a Change of Zoning Classification from RU-2-15, with an Existing BDP, to RU-2-30, Removal of Existing BDP, and Adding a New BDP (22Z00071) (Tax Account 24112341)

There being no comments or objections, the Board continued Crane View, LLC's request for a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP, to the May 4, 2023, Zoning meeting.

Result: Continued

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

Upon consensus of the Board, the meeting adjourned at 6:26 p.m.



RACHEL SADOFF, CLERK



RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

As approved by the Board on 7/11/2023.