

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

The Brevard County Planning & Zoning Board, and Local Planning Agency, met in regular session on **Monday, January 5, 2015**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair; Andy Barber; Clyde Thodey; Bruce Moia; Bill Cannon; Robert LaMarr; Ron McLellan; Rochelle Lawandales; Peter Aydelotte; John Stone; and Ron Bartcher

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

The 10 regular members present voted throughout the meeting.

Henry Minneboo – This is the Planning and Zoning Board meeting, which is an advisory board to the Board of County Commissioners, and they'll ultimately make the final decision on every and all items we have today. Everything that's heard today will be on February 5<sup>th</sup> at 5:00 p.m. back in this meeting room. I think we've got a full quorum today, off to a good start. Let me make a little announcement. We've lost Aneta, she has resigned, and she put in many, many years here and did a great job, so we'll miss her. Her replacement is Rochelle Lawandales, so welcome aboard. Pretty much everybody came back, so it's good to see everybody. Did everybody have an opportunity to see the P&Z minutes from the November 10<sup>th</sup> meeting?

Robert LaMarr – Mr. Chairman, I make a motion to approve.

Ron McLellan – Second.

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

Henry Minneboo – One of the first things we need to do to start off 2015 is to establish a Chair and Vice Chair.

Ron McLellan – Mr. Chairman, I'd like to leave it like it is. I nominate Henry Minneboo for the Chair. He's done a fine job for many, many years for us, and I'd like to see him stay if that's at all possible.

Rochelle Lawandales – Second.

Henry Minneboo – I have a motion and a second. Are there any other applicants? Seeing none I'll call for a vote.

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

Henry Minneboo – We need a Vice Chair. Are there any suggestions?

Ron McLellan – Can I do it again?

Henry Minneboo – Yes, sir.

Ron McLellan – I nominate Mr. Bruce Moia.

Rochelle Lawandales – Second.

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

**III.B.1. (14PZ-00111) – DEE SMITH** – (Polly Hall) - requests a change of classification from AU to RU-2-4 on 1.73 acres +/-, located on the south side of LaGrange Rd., approx. 260 ft. west of U.S. 1. (2425 LaGrange Rd., Titusville)

**P&Z Recommendation: Barber/LaMarr – Approved with a BDP limited to 4 units. Vote was unanimous.**

Polly Hall – My name is Polly Hall, and I'm speaking for my sister, Dee Smith, and I gave them the paperwork stating that. I live at 431 Kettle Avenue, Titusville. I've never done this, so bear with me if I make some mistakes.

Henry Minneboo – We haven't either, so we have a lot in common.

Polly Hall – From the paperwork, and from talking to Paul, I'll just explain to you why we're requesting this. My sister has lived at this address for 45 years. She and her husband built their home there. There was an adjacent building, and for many years in the building she had made it into a guest place so that my mother and my brothers and even myself could come and go and have a place to stay. That went on for quite some time. In time, my brothers moved away and my mother passed away. Her husband became ill, so they started renting those three little tiny apartments to single, usually, gentlemen to live there, just for the extra income. So, that's how it's been now for a number of years. At this time, we found out that it needed to be rezoned, so we started checking into it and found out that the two homes directly across the street from her have already been rezoned. One of them is a bed and breakfast, and the other one is a multiple use, like an apartment building. There's 18 acres behind her and on the east side of her, which is owned by Temple Baptist Church, and the only other place where there is a dwelling is on the far west corner, and no one has lived there for many, many years. So, that's the only people around there. What else do I need here?

Henry Minneboo – I think you've got it pretty well covered.

Polly Hall – She just wants to get it rezoned so she can legally use it to rent to these people?

Henry Minneboo – Ms. Smith has had that for 45 years?

Polly Hall – Yes.

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

Andy Barber – I move to approve with a condition that no more than three units maximum on the subject property.

Polly Hall – That's what is there.

Robert LaMarr – I'll second it.

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

Cindy Fox – Just for clarification, did you want to go ahead and do a Binding Development Plan on that, limited to three units?

Henry Minneboo – Yes, ma'am. Everybody understand?

Andy Barber – Is that going to cost them more money?

Henry Minneboo – No.

Cindy Fox – Let me just clarify one thing. How many units are on the property currently?

Polly Hall – Three.

Cindy Fox – Does that include the single-family home?

Polly Hall – No, the single-family home is apart from that.

Cindy Fox – Ok, so then there would be four total living units.

Polly Hall – Four, with my sister's home.

Cindy Fox – So, we would want the BDP to reflect that, whoever made the motion.

Andy Barber – So moved.

Henry Minneboo – Motion by Andy.

Robert LaMarr – Second.

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

Polly Hall – Do we just need to come back for the Commission meeting?

Henry Minneboo – Yes, ma'am, on February 5<sup>th</sup> at 5:00 p.m.

**III.B.2. (14PZ-00112) – SHANTI GOTAMI AND XEM THI NGUYEN** – request a change of classification from GU to IN(L), on 3.48 acres, located on the north side of S.R. 524, approx. 390 ft. northeast of Friday Rd. (4840 S.R. 524, Cocoa)

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

Bob Harris – I'm Bob Harris, and I'm a friend. This lady is a Vietnamese nun and is interested in rezoning property so it can be used for religious purposes.

Henry Minneboo – Is that the parcel that's next to the park there on 524?

Bob Harris – Is that on the other side of the road?

Henry Minneboo – No, it's on the north side of 524, east of Friday Road.

Bob Harris – I'm not really familiar with the area, I live in Oviedo.

Bill Cannon – Henry, the facility looks like a compound from the road, maybe, an oriental-style building.

Bob Harris – There was a single-family house on the property. There's a small pond. It's just past the gas station.

Henry Minneboo – Do you know it, Bill?

Bill Cannon – Yes, sir.

Henry Minneboo – I was looking at Friday Road.

Ron McLellan – It's east of Friday Road.

Henry Minneboo – Anybody have questions for the applicant? Anybody in the audience who would like to speak for or against this item? Yes, sir, please come up.

Steve LaMountain – My name is Steve LaMountain, I live on the property adjacent to this property. My concern is basically traffic. It's a small little road off of 524, and we're on the other side. There's a right-of-way for our property and their property. If they rezone that, it seems to me like there's going to be more traffic, more stuff, and I'd like to try to see actually what they're getting into and what they're trying to do.

Henry Minneboo – Can the applicant come up here? Are they open on Sundays only?

Bob Harris – Predominantly on Sundays.

Henry Minneboo – Ok, you're not going to have a Monday, Tuesday, Wednesday, none of that, just on Sunday?

Bob Harris – Yes.

Henry Minneboo – Does that help?

Steve LaMountain – A little bit.

Henry Minneboo – So for six days you're probably not going to have much activity, but on Sunday you're going to have?

Steve LaMountain – That's what we're saying. How do we know that's going to happen, and how do we know how much traffic is going to be on that little road off of 524, where if you come off of 524 that's right where the exit is – you guys probably know exactly where it is – the trucks and the traffic that come off that road, that's my concern, that area there.

Henry Minneboo – They are going to have to go through the site plan process, and all those issues will be taken into consideration. This is step one of 25.

Steve LaMountain – My next concern is if this is zoned like that, does that mean they can put another building on the property? There's enough room in the front to do that.

Henry Minneboo – Yes. They're going to pick that up all under site planning, aren't they?

Cindy Fox – Yes, they'll be reviewed under the change of use ordinance. It is going from single-family to institutional use.

Henry Minneboo – Yes, there will be a lot of issues they will have to address.

Cindy Fox – This is not for the highest intensity institutional use, this is for the lower intensity, and they are required, for buildings of public assemblage, to be setback 50 feet, and from the drawings and things they've submitted so far to the County, it appears they do meet those setbacks.

Henry Minneboo – Did you get that information?

Ron McLellan – So, they won't be able to put in schools and stuff like that?

Cindy Fox – The way that the IN(L) zoning classification is structured is that it is really based on the number of trips that you can generate for the property to keep it in character in size of the neighborhood. So, the overall size of the property will be limited over time of what they can expand to.

Henry Minneboo – Anybody else like to speak for or against?

Rochelle Lawandales – Mr. Chairman, I have a question about what Cindy said.

Henry Minneboo – Okay, this next lady is coming up.

Jean Peavy – My name is Jean Peavy and I have a little piece of property that is adjacent to that.

Henry Minneboo – Are you west of there or east?

Jean Peavy – I'm on the west side of where their driveway is, and it's a little triangular acre that has BU-1-A on it. I'm simply interested in knowing what type of restrictions would be placed on a small business should I have the opportunity to sell my property to a small business, like Family Dollar. I know that's speculation for future, but I do need to know those things?

Ron McLellan – So, ma'am, when you're standing on 524 looking at the property, you're on the right?

Henry Minneboo – Cindy, can you answer her, if we give her your phone number? It would be better, because if she has one, she may have 10 questions.

Cindy Fox – Sure. Much of this area is already in the City of Cocoa. The property directly to the right.....

Henry Minneboo – Didn't the City of Cocoa take in that corner subdivision? Are you in the City of Cocoa, too?

Jean Peavy – No. There's a road there, so they have to be contiguous, don't they? To annex?

Henry Minneboo – Not necessarily.

Jean Peavy – I was never approached, nor do I pay Cocoa taxes.

Henry Minneboo – The fact you don't pay city taxes is going to help you a lot.

Jean Peavy – Those are my concerns. Am I going to hear them answered later on, or is this an inappropriate time to ask them?

Henry Minneboo – If you've got a bunch, that lady there is sharper than we are.

Cindy Fox – If you're looking to go commercial you will probably have to go through a similar process, like a rezoning.

Jean Peavy – Yes, I realize that, but it's my impression from the little bit of.....I worked as a zoning tech for the City of Cocoa, and I'm related to somebody who worked for the County in Zoning, and my impression was that so many yards from churches you are unable to get licenses for business things.

Cindy Fox – The only thing I can think of would be the on-premises consumption of alcohol.

Henry Minneboo – Yeah, you can't have a bar there.

Jean Peavy – No, but could you.....for example, a Family Dollar store has a small amounts of wine.

Cindy Fox – Package sales would be allowed under a commercial zoning classification.

Jean Peavy – Okay, I'm satisfied.

Henry Minneboo – Okay, I bring it back to the board.

Peter Aydelotte – I make a motion for approval.

Ron McLellan – Second.

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

Andy Barber – To you neighbors, we have a site plan if you've never seen one, that we can share with you, I think. If you're interested in that.

**III.B.4. (14PZ-00106) – JOHN D. HALEY** – (Hassan Kamal, P.E.) – requests a change of classification from RU-1-9 to RU-1-7, with a BDP limited to three (3) lots, on 1.45 acres, located on the east side of U.S. Hwy 1, approx. 700 ft. north of Post Rd. (4131 N. Hwy 1, Melbourne)

**P&Z Recommendation: McLellan/Moia – Approved with BDP limited to 3 lots. Vote was unanimous.**

Hassan Kamal – Good afternoon, my name is Hassan Kamal, I'm representing John Haley. Our request today is pretty straight forward, it's to rezone a 1.5 acre parcel on U.S. 1, from RU-1-9 to RU-1-7. The applicant recently purchased this property and is proposing to redevelop it. The previous owner had developed the site with the four single-family structures on it, and as the staff report mentions, that's non-conforming based upon the current zoning. The current applicant is proposing to redevelop the site as three single-family lots, meeting the lot width and depth criteria in the RU-1-7 zoning category. The proposed development will remove the non-conforming use and allow for the development consistent with the zoning that we're requesting. As indicated in the staff reports, there's no adverse impacts to existing infrastructure, traffic, schools, or any environmental issues through that. So, we request that the board consider this and move forward with a positive recommendation. If there's any questions, I'd be glad to answer them.

Henry Minneboo – Hassan, does that go up to what we used to call, "Gizmos".

Hassan Kamal – I'm not familiar with the term "Gizmos".

Henry Minneboo – Maybe I shouldn't bring that up. Is there anybody who would like to speak for or against this in the audience? Seeing none, I bring it back to the board.

Ron McLellan – I move for approval.

Bruce Moia – Second.

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

**III.B.5. (14PZ-00107) – CHARLES F. POSESS** – (Philip Nohrr) – requests a Small Scale Plan Amendment (14S.08) to change the Future Land Use from CC, NC, and Residential 4, to all CC, and a change of classification from RU-1-7 and BU-1 to all BU-1 on the north 455 ft., on 3.44 acres, located on the south side of New Haven Ave., approx. 315 ft. east of Commodore St. (3535 W. New Haven Ave., Melbourne)

**LPA Recommendation: Lawandales/Moia – Approved. Vote was unanimous.**

**P&Z Recommendation: Lawandales/Moia – Approved with BDP limited to no adult entertainment. Vote was unanimous.**

Cindy Fox – I just want to remind the board that we need two motions because this is accompanied by a small scale plan amendment.

Henry Minneboo – Is the applicant here?

Phil Nohrr – Good afternoon, members of the Planning and Zoning Board, my name is Philip Nohrr, and my business address is 1795 W. Nasa Blvd., Melbourne. As staff has told you, today we're here for a small scale amendment going to CC, Community Commercial, as well as a BU-1 designation, to a depth of 445 ft. on vacant property that's approximately 3.44 acres on the south side of U.S. 192. By way of a more specific location, for those of you who may be familiar with Northern Tractor, that is our immediate neighbor to our west, and to our east are two commercial business buildings, which also enjoy BU-1 zoning classification. Also, as you look at the maps you'll see what we're asking for lines up with almost exactly what our neighbor to the east has, which is a depth of 445 feet. The depth of BU-1 to the west is a little less than that, but when you see their retention pond, they get basically the same area we have. The property is undeveloped. We do not have a specific use, so I can't talk to you about setbacks or the use, but your system will take that into account when the time for development comes. I'm here to answer any questions.

Henry Minneboo – Anybody on the board have a question for Mr. Nohrr? Seeing none, I'll go out to the audience. Is there anybody in the audience who would like to speak for or against this item?

Rochelle Lawandales – Motion to approve the small scale land use amendment.

Bruce Moia – Second.

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

Henry Minneboo – Now we have to do the P&Z side.

Rochelle Lawandales – I'd like to make a motion to approve with one caveat. Actually, I have a question for the board. Staff, in their notes, suggested that we consider a Binding Development Plan to limit some of the uses. I'm not particularly inclined to do that. I think the zoning will take care of it, and the setbacks and land development regulations will take care of it. I just wanted to see if that's consistent with the board's thoughts. I'm going to make a motion to approve the zoning as submitted.

Bruce Moia – I'll make a second, but I want to make some comments. We were the engineers and the representatives to the property to the west when we rezoned that property, and I know some of the neighbors had some concerns in that area. Not knowing what the use is going to be, I'm not sure about removing the

Binding Development Plan as an option. I don't know if you've met with the neighbors, if they've had anything to say. Obviously, after they find out what the use is going to be....it's unusual these days to get a rezoning on a piece of vacant property without a use, so I'm not sure about the binding development plan, it might be appropriate.

Cindy Fox – The background I can give you is that when this property has come up in the past, both in 2000 and in 2006, there were objectors and concerns in that area and did result in their approvals with binding development plans. I think that given this is an unspecified commercial use request, that the board should probably consider a binding development plan that limits some of the more egregious uses, considering the area and they're abutting single-family zoning.

Henry Minneboo – Mr. Nohrr?

Phil Nohrr – First of all, I have not met with the neighbors. Second of all, notices did go out and no one is here. I did read the report and I am familiar with the fact that it's out there. The property to the west has residential developed behind it. Our property really doesn't, and the property to the east doesn't. Well, it has one house next to it, but there is no binding development plan on the property to the east. However, we have no real objection to a binding development plan if we could limit it to adult education [sic] entertainment.

Cindy Fox – You mean prohibit?

Phil Nohrr – I did speak to the client about adult entertainment because as I looked at what the restrictions were, it just seemed to me that that was the glaring one. The other stuff are just uses that are not all that objectionable. I don't know why a muffler shop next to a tractor store may be objectionable. I also think, and Bruce, you know better than I, it looked like there was some concern about improvement of Commodore, and that may be part of what was going on back then. Of course, that's not a road that abuts us. If that would be helpful, we would be glad to do a binding development plan restricting, or eliminating, adult entertainment.

Rochelle Lawandales – As the make of the motion I would include that, but I don't find daycare centers or bowling alleys egregious.

Clyde Thodey – You need to pull your microphone down so we can hear you over here.

Rochelle Lawandales – What I had said is I would be glad to include, as part of my motion, the restriction on adult entertainment.

Bruce Moia – I'll amend my second to agree with that.

Henry Minneboo – Cindy?

Cindy Fox – That's fine.

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

**III.B.6. (14PZ-00108) – MOHAMMAD H. MALIK** – (Jose Cardoso) – requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant, in a TU-2 zoning classification, on the north 180 ft., on 1.1 acres, located on the south side of W. New Haven Ave., approx. .13 mile east of Coastal Lane. (4455 W. New Haven Ave., Melbourne)

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

Marco Rosado – This is the gentleman that owns the restaurant. He asked me if I would speak on his behalf. This is not going to be anything like a bar or anything like that. It's just casual dining.

Henry Minneboo – How many seats do you have now?

Marco Rosado – He's got 144. It's what used to be the old Ihop on 192.

Henry Minneboo – Does anybody have any questions of the applicant. Seeing none, would anybody in the audience like to speak for or against this item?

Bruce Moia – Motion to approve.

Ron McLellan – Second.

Rochelle Lawandales – I have a question. I just want to make sure for the record, the CUP requires 150 seats, and he just stated there are 144 seats.

Marco Rosado – He's got 144, but in actuality I believe it is in excess of that. In total, I believe it's 160 or 163, but to be on the safe side I left it at 144 because I believe the original Ihop was listed at a seating of 175 capacity.

Rochelle Lawandales – Okay, I'm good with that, thank you.

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

**III.B.7. (14PZ-00092) – JASON A. AND STACI S. WALDEN** – request a change of classification from GU (General Use) to AU (Agricultural Residential) on property described as Tax Parcel 761, as recorded in ORB 6940, Page 1101, Public Records, Brevard County, Florida. **Section 17, Township 28, Range 37.** (8.48 acres) Located on the south side of Eber Blvd., approx. 0.23 mile west of Dairy Rd. (No assigned address. In the W. Melbourne area.)

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

Jason Walden – I'm Jason Walden, 2405 W. New Haven Ave. I'm looking to split the area in two to sell one and keep one. That's essentially what I'm doing.

Henry Minneboo – Anybody have a question for the applicant? Seeing none, is there anybody in the audience who would like to speak for or against this item? Seeing none, I bring it back to the board.

Bruce Moia – Motion to approve.

Ron McLellan – Second.

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

**III.B.8. (14PZ-00082) – EAGLE PROPERTIES OF VIERA, LLC** – (Jake Wise, P.E.) – requests a change of classification from PIP to PUD and removal of existing BCP's, on 45.37 acres +/-, located on the south side of Viera Blvd., approx. 0.15 mile west of U.S. Hwy 1. (No assigned address. In the Viera area)

**P&Z Recommendation: Lawandales/McLellan – Tabled to the 02/09/15 P&Z meeting. Vote was unanimous.**

Cindy Fox – We would like to request tabling of this item. We're still working out some re-advertising issues and access management issues with the property as we process the PUD zoning and the PDP.

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

Rochelle Lawandales – So moved.

Cindy Fox – February 9<sup>th</sup>.

Ron McLellan – Second.

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

Henry Minneboo – When will that come back?

Cindy Fox – February 9<sup>th</sup>.

Upon consensus, the meeting was adjourned at 3:34 p.m.