

Kimberly Powell

From: Kimberly Powell
Sent: Tuesday, March 20, 2018 4:14 PM
To: Commissioner District 1; Commissioner District 2; Commissioner District 3; Commissioner District 4; Commissioner District 5; Eden Bentley; Sally Lewis; Scott Knox
Subject: 03-01-18 minutes approval
Attachments: 03-01-18 Zoning.doc

Attached are the minutes of March 1, 2018, which will be approved by the Board on April 10,

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MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

5:00 PM

The Board of County Commissioners of Brevard County, Florida, met in regular session on March 1, 2018 at 5:00 PM in the Government Center Commission Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Rita Pritchett	Chair	Present	
Jim Barfield	Commissioner District 2	Present	
John Tobia	Commissioner District 3	Present	
Curt Smith	Commissioner District 4	Remote	
Kristine Isnardi	Vice Chair/Commissioner District 5	Present	

ZONING STATEMENT

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

INVOCATION

Chair Pritchett called for a moment of silence.

PLEDGE OF ALLEGIANCE

Commissioner Barfield led the assembly in the Pledge of Allegiance.

ITEM III., PUBLIC COMMENTS

Eden Bentley, Deputy County Attorney, inquired if Commissioner Smith is watching the meeting live.

Commissioner Smith responded affirmatively. He stated he has about a 30-second delay.

Ms. Bentley inquired if he could see the screen behind the Board of County Commissioners.

Commissioner Smith replied he could.

Ms. Bentley informed the members of the public that if attending for rezoning Items and they have a document that has not previously been provided to the Board in advance, that they will need to put the document on the projector next to the podium; the document will be shown on the screen behind the Board so that Commissioner Smith can see it; and if someone has a document to submit, she asked that the individual let the Board know when they come to the podium so staff can help with the projector.

Charles Tovey thanked Commissioners Barfield and Smith for sacrificing their public lives to serve for the country and the County; he thanked all of the Board for serving the community; and he stated he would like to congratulate Commissioner Barfield on his presentation tomorrow evening. He went on to say his card is on property rights and about zoning; he afforded himself to have a home, a family, and a life; he spent half of his life to do this and it seems that he is spending more time trying to have that life, than he did to get that life; he inquired if he has to ask his neighbor, who is destroying his property, what he is allowed to do or have since they have the authority; he has a video of them doing their damage, as Sheriff Ivey and his deputies allowed them to; and they threatened him with being shot, baker acted, or arrested if he did anything. He continued it has been a continuous cycle, whether the people are beating on him, shooting their guns, or killing his cats, and he always seems to be the culprit; and he only bought a piece of land because he wanted a family, life, and liberty. He added this is supposed to be a constitutional country with constitutional rights, but he wants to know who he is supposed to ask permission from to do things on his own property; he has tried to ask in advance several times, and last time it was all cleaned out and he paid the fine; and when he finally got to see his stuff, it was all stacked up and ready for the scrap pile just like it was the first day it was taken; they had no intention of returning anything; and he mentioned there are protected palmettos at the end of his property. He noted he bought his property for numerous reasons; there are protected species; and he mentioned the Gopher Turtles, Bald Eagles, Sandhill Cranes, and Black Indigo Snakes. He inquired who he is to ask for permission from, whether it is Sheriff Ivey or the Board, since it all stemmed from here and his neighbor.

ITEM II.D.1., APPOINTMENTS/REAPPOINTMENTS, RE: CITIZEN ADVISORY BOARDS

The Board appointed **Michael Rowland** to the Marine Advisory Council, with term expiring December 31, 2018.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Jim Barfield, Commissioner District 2
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

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ITEM IV.A., ALEX B. AND MELISSA ALTMAN (LAURA MINTON YOUNG) REQUESTS A CHANGE OF CLASSIFICATION FROM EU TO RR-1, AND REMOVAL OF TWO BINDING DEVELOPMENT PLANS (BDP). THE PROPERTY IS 2.58 ACRES, LOCATED AT 6555 N. US HIGHWAY 1, MELBOURNE. (17PZ00152)

Chair Pritchett called for public hearing on a request to change classification from EU to RR-1 and to remove two Binding Development Plans (BDP) on property located at 6555 N. U.S. Highway 1, Melbourne.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by Alex B. and Melissa Altman, who are represented by Laura Young, for a request to change a zoning classification from EU to RR-1 and the removal of two BDPs on 2.58 acres and located off the east side of U.S. 1 in Melbourne, north of Pineda Causeway; they recently have received a proposed BDP so they are actually proposing to replace the existing BDPs with a new one; and the applicants are in attendance.

Chair Pritchett asked Commissioner Smith if he would like to hear the comments first.

Commissioner Smith replied affirmatively. He disclosed that he met with Melissa Altman and Laura Young in his office.

Chair Pritchett stated she also had a phone call and it was turned in as a disclosure for the Board.

Commissioner Barfield stated on February 26 he met with the Altmans and their attorney.

Laura Young, attorney for the Altmans, stated in the Board's packet are several items; there is a property map displaying the Altman's property; it is currently zoned as Estate Use and the petitioners are asking to rezone it to RR-1; the sole purpose is so their daughter can have a pony on the property; the Altmans spent a lot of time accumulating the lots that encompass their single lot; it was two foreclosed homes that they purchased; they tore them both down and built the one that is currently there; and they have combined the lots to be one single lot. She noted the property is a little over two and a half acres; they have done quite a bit of improvements in the area to increase the values of the properties around it; the property really was an eyesore about five years ago; she mentioned on the map to the left there is BU-2, commercial property; the properties adjacent and closer to the river are all currently zoned EU as is the Altman property; across U.S. 1 there is Agricultural Use as well as TI Uses and Commercial Uses; to the north there is County-owned property that has a lot of vegetation and is General Use; and the property below is also General Use. She went on to say the Altmans are primarily seeking to have their daughter's pony on the property; the zoning category they chose was the one with which the least amount of changes that could be done in the area; they are not asking to be zoned as Agricultural, only to be a higher residential category that is actually more restrictive in some cases; it allows for the pony and the current zoning does not; it is much more in line with the character of the area; and she pointed out the property adjacent to the property and the Altman's property are not part of an established neighborhood, they are single large lots abutting U.S. 1 and the Indian River, with no shared entrances to a neighborhood. She noted there is a lot of space between the homes; the location where they would propose to house the pony is in the farthest west quadrant closes to their house and closest to U.S. 1; and that is to alleviate any site concerns that the neighbors might have. She mentioned she did walk the property to get a layout of where everything would go, and the only time the neighbors to the north are going to see the pony is if it is in the back yard, not where it will be kept a majority of the time. She stated they do know the neighbors have concerns, and the objections are located in the Board's package; she feels there is a feasible way to mitigate those concerns; the threshold to determine whether a rezoning is appropriate is if the rezoning is going to cause a

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significantly diminishing enjoyment or materially reduce the value of the abutting lands; they do not believe there will be material reduction in the lands; and she noted in fact there is a property that the Board rezoned a couple years ago from Suburban Estate Use to Agricultural with a BDP restricting certain Agricultural Uses, but allows for up to six livestock. She continued the Altmans are asking for two horses; they have discussed a BDP that could alleviate the concerns the neighbors have; if they get approval for the zoning, they could have up to four horses per acre, which is not what anyone wants; they are willing to limit this to two horses and if necessary to one pony and one horse; they are willing to put up additional landscape buffers; and they will agree to and abide by the best management practices that have been issued by the Florida Department of Environmental Protection (FDEP) for non-commercial small scale horse properties. She stated there is a ton of scientific evidence on how to keep the waste from leaking into the Indian River; the key factor is to have a 50-foot buffer between the river and where the horse is going to be located; there is a natural overflow on the land that is there before it gets to the Indian River Lagoon, so it is technically considered clean once it gets there; and that is just one thing the Altmans can do to prevent concerns of the Indian River being polluted. She added she knows there are additional objections that were sent in today, and she would like to go over them; Mr. Bockman is concerned that she is comparing the property to something that is not comparable; the property that was previously rezoned by the Board to allow for the Agricultural Use was not an RR-1 use that allows for horses; there are at least 15 or 16 properties up and down the east and west coast of the Indian River between Pineda and 520 that are zoned AU that can and probably do have horses on them and there does not appear to be any issues with those properties; she checked with Code Enforcement and there has been no complaints on the property she mentioned earlier that was rezoned to AU; and she knows there was a concern about property valuation decreases. She stated the property to the south of the previous rezone was valued at \$1.1 million in 2014, and \$1.15 million in 2017; she spoke with the Property Appraiser about the decrease in the value of the rezoned property going down \$100,000 and she was told the reason was the dilapidation of the property, and the value of the property had not decreased; there is no real evidence presented that there will be a significant decrease in value adjacent to the property; and some could argue there could be an increase in value depending on how one views the aesthetic of having a horse on the property. She went on to mention there were some other allegations in Mr. Bockman's second letter; he is concerned that there is a lengthy BDP; she can assure him and the Board it is not lengthy, it is on one of the forms provided by the County Attorney's Office and it has language in there that is required to be in there; the purpose of the BDP is to solely eliminate and mitigate the concerns of the neighbors; and as she understands it, the neighbors will not agree to anything, but the Altmans will. She went on to say the Altmans have agreed to reduce it to a pony and a horse; significant solid landscaping if that is what is needed; and they agree to comply with all Statutes and regulations. She informed the Board the Altmans are in attendance and have documents to be placed on the projector.

Chair Pritchett inquired if the Board had any questions.

Alex Altman stated in 2014 they had purchased this home; the bubble hit the economy and he does not know what hit the previous landowners; the home was hollowed out, everything from air conditioners, to stairways, to doors, and windows were removed; it was a pretty depressed property; the home that did not come with the property was right next door and had sat for so long that the roof and trusses were rotting through and ready to collapse; he purchased that property, tore down the structure, and improved the property; and he commented they tried to be good neighbors. He continued they are trying to make every concession with the constraints of the property they have; the horses stable will be about 30 feet from the house and 200 feet from the nearest neighbor's house; any by-product from the horses will be almost directly in front of his house, furthest from the river as possible; and they will make every effort as humanly possible to not be detrimental to the neighbors they have. He mentioned horseflies and stated that the horse is more the victim than the cause.

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Melissa Altman stated she has pictures of the home that was on the property for five years. She provided pictures for the Board to see the changes in the property. She commented there is a buffer; however, they are willing to place a wall on the property so the neighbors do not have to see the horse and pony.

Marissa Altman stated she has a horse named Mr. Dixie; she wants him home because after school it is too much to go to the boarding place to see the horse; it would be easier to have the horse on her property; she asked the Board to imagine having a loved one and only being able to see that loved one once a week; and she commented that is how she feels about Mr. Dixie and the reason she wants him home.

Sam Bockman stated he is the neighbor to the immediate south of the property; he and his wife purchased six acres 15 years ago; they came before the Board and they were successful in dividing the six acres into four lots; the developer that purchased the property that the Altmans now live on got into the real estate bubble, paid too much for the property, and long story short, it became a distressed property; they were very fortunate and happy to have the Altmans buy the property and fix it up; they have been excellent neighbors; and they have a cute little daughter who they know when she turns 15 or 16 she will be more interested in boys than ponies, so the novelty will wear off. He noted the principle of this matter is the Planning and Zoning Board rejected the rezoning because it would be unprecedented because there is not a single estate lot fronting on the IRL from 192 all the way to Cocoa that possess this zoning. He went on to say he hopes the Board would consider their objections make more common sense than the Commission overruling the P&Z that does all the homework, the due diligence, and basically stated this is an unreasonable request; he knows the Altmans would do everything they could, but it is the principle of the matter that these properties, with the values of these homes, do not want to have horses; they have chickens and a lot of other things going on, which are fine; however, they feel this is stretching it a little too much. He noted they love the Altmans as neighbors and it is unfortunate that it has come down to this where those who object do not feel it is necessary to get an attorney, have a secret meeting with Commissioner Smith, or that politics get involved with this. He added everyone knows the Altman name is huge in this County; they just lost a father yesterday; everyone knows Thad Altman; he asked the Board to use common sense and look at what the P&Z is recommending; and he suggested the Board do the right thing by rejecting this rezoning request.

Gerald Bieringer stated he is a neighbor to the Altmans; he has about 400 feet of adjoining property line with the Altmans and Ron Lewis; like Mr. Bockman said it is interesting that the P&Z board rejected the proposal, and now it is here in front of the Board of County Commissioners; the Altmans have come up with a plan to mitigate things to cause this from being objectionable; and he feels this is an environmental hazard. He commented that his wife is very susceptible to odors so she will go out of her way to drive around areas where livestock is raised so she does not have to smell it; he has an adopted son who is highly allergic to insect bites, to the point where they have an Epi-Pen both at school and at home to keep him from having seizures; and all in all there are lots of reasons he objects to this. He went on to say the property values have increased significantly just by cleaning up the area; the horses themselves would not be attractive to anybody he knows; it never crossed his mind that someone would come along and want to put horses into the property next to him; and his only plea is for the Board to go along with the P&Z recommendation, and not approve the zoning request. He noted the neighbors have been able to enjoy the weather the past few months by leaving the doors and windows open; and no matter what they do with the horses, they will not be able to get rid of the odors involved or the flies.

Commissioner Smith stated he is curious as to what the rest of the Board thinks; he has a lot of thoughts on this; he would like to see the little girl have her horse; he does not think it would be overly obtrusive to neighbors; the one problem he has is going back a few months when the

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Board was discussing rental properties and homeowners deciding to rent out their properties as vacation rentals in the middle of residential neighborhoods, he thinks they should buy properties in areas where it is zoned for rental; and that is kind of where he is going with this. He went on to say he originally thought it would be nice to let this child have her pony, however, he thinks mom and dad would have been better served had they purchased the property in Lake Washington or Post Road that was zoned for horses.

Commissioner Isnardi stated she was checking and the vote was not unanimous; there was one member who had voted yes; for her it is a property rights issue; she thinks this is an adequate size; she does not care who they are, she thinks they are being responsible property owners; she thinks the Board should allow it; she cannot see how a pony would devalue it; if she was looking for property to buy or rent she would see that as a positive, especially given the fact that the property is pristine; and she mentioned she did not have a secret meeting with anybody. She went on to say she thinks it is a stretch to say that occurred especially when the Commissioners that did meet with the applicants disclosed it; and she stated she would support this.

Chair Pritchett inquired how big the barn or stall would be, because this is right off the main road and if she has a pony she is going to want to ride it.

Ms. Young stated it is just for boarding purposes; she has training and lessons elsewhere; and she has pictures of what the barn would look like, it is a 10 by 10 little shed.

Chair Pritchett inquired if she would be loading the pony up and taking it out somewhere else, and it would not be ridden on the property.

Ms. Young stated she will probably walk the pony around, but not close to the Indian River for contamination and safety purposes; and she believes the intent is to have riding lessons somewhere else.

Chair Pritchett stated if the pony is in one spot it is not as intrusive as if it were utilizing the entire property; same with the river, the County is working hard to make sure it does not have problems with nitrogen loads and these items going into the river; and she stated jokingly that it is hard to get a horse to comply.

Ms. Young stated there are provisions that talk about how to eliminate or reduce any type of runoff.

Chair Pritchett stated she heard Ms. Young say that, but a horse cannot be told to wait until they get back.

Ms. Young stated they will not be walking the horse past 50 feet.

Chair Pritchett inquired if that would be in the BDP.

Ms. Young replied affirmatively. She stated she would be working with council to make sure it is acceptable; the things she spoke to Eden Bentley, Deputy County Attorney, about that were in the draft provided was there would be only two horses; they would agree to the best management practices that are issued by FDEP; and any additional landscaping.

Chair Pritchett inquired since this is for the love of the little girls pony, if they would be willing to do it for only one pony instead of increasing the stress on the neighbors.

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Ms. Young stated of course if that would keep it from being approved; and the reason for the two was that the pony will get lonely, and when their daughter grows out of the size for a pony, she would probably need to get a larger horse, whether it is kept on the property or not.

Chair Pritchett stated there is definitely a difference between a pony and a horse.

Ms. Young responded that is why they are limiting it to one pony and one horse. She stated they do not plan on having a second horse there in the near future; and she does not know if they will want one, but they did not want to close that out knowing they could alleviate all the other concerns.

Commissioner Barfield stated he takes exception to anyone saying there were secret meetings; to be clear, the way this works is that every constituent has the opportunity to speak with any individual County Commissioner; the Commissioner has to declare when they talk to them; and anyone else has that right to talk to them as well, it is free, open, and transparent. He added there is something that the Board approved on Merritt Island for this; the distance they are maintaining away from the river is sufficient; however, when looking at the land use and the classifications around there, they are not compatible, so it is a tough decision. He noted he would have to vote against this because of the compatibility.

Commissioner Smith stated this is a difficult emotional issue; he sympathizes with the Altman family and their desire to bring that joy of a pony into the life of their daughter, but he tries to make a steadfast rule when making decisions, to base them on facts rather than emotion; and factually he does not believe this is a compatible use.

Commissioner Barfield pointed out that property rights goes both ways; when these people built their houses there, they were in the understanding that there would not be horses because of the classification; and he has to lean towards the other property owners because the compatibility is not there, and that is just not fair.

Commissioner Isnardi stated she would agree with him if the Board did not make those decisions on a bi-weekly basis; the reason she is in agreement with this is because there are similar properties up and down the County and how can it say yes to one and no to another; and she disagrees. She went on to say she believes there are similar properties, the applicants have gone out of their way to appease the neighbors, and she does not see it as a de-value, she sees it as the Altmans being responsible; if they wanted a farm with a bunch of goats and a herd of cattle she would be concerned; however, this is something that is taken off the property for training, and she thinks that is being responsible homeowners. She added even though this does not factor into the decision of the rezoning request, the applicants have already increased the value of this land enormously, given what was on it before; she thinks the last thing they want to do is de-value their neighbor's or their own property; and she will be supporting this.

Eden Bentley, Deputy County Attorney, stated she needs to disclose to the Board that the BDP runs with the land and is not tied to ownership; therefore, even though the intent is good to tie it to the ownership, it really does run with the land, so it is permanent.

Chair Pritchett inquired if it could be removed.

Ms. Bentley stated not until the applicant comes in and asks for it to be removed; therefore, the concept of them terminating the pony at the sale of the property does not work.

Commissioner Smith inquired if it would be possible to place a sunset on the BDP.

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Ms. Bentley stated the real question would be whether or not it is an appropriate and compatible land use; the BDP is supposed to mitigate aspects of the use which do not fit with the neighborhood; for example, to have an entrance to a neighborhood, the driveways can be configured so it does not impact the neighborhood; it is not supposed to be an alteration of the use; and she clarified it is not a time issue it is a use issue.

Commissioner Isnardi stated she will make a motion to approve with a BDP for a maximum of a pony and a horse, with a landscape buffer with the location of the shed at the west end of the property.

Ms. Bentley asked if she wanted to add the best management practices.

Commissioner Isnardi replied affirmatively.

Motion fails for lack of a second.

Commissioner Tobia stated he would like to make a motion that is similar to the one by Commissioner Isnardi; he is afraid of setting a precedent with his daughter, the fact that she can have a pony and a horse is a scary proposition for a father; he thinks the compromise that she suggested, a horse or a pony, lend to something closer to the middle; and he would like to make a motion with the change for with it being only one horse or one pony.

Commissioner Isnardi seconded the motion; and she stated she wished Commissioner Tobia would have spoken up before she made her motion because she may have changed her motion.

Motion was defeated 2:3 with Commissioners Barfield, Smith, and Chair Pritchett voting nay.

RESULT:	DEFEATED [2 TO 3]
MOVER:	John Tobia, Commissioner District 3
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	John Tobia, Kristine Isnardi
NAYS:	Rita Pritchett, Jim Barfield, Curt Smith

There being no further comments, the Board denied Alex B. and Melissa Altman's request for change of zoning classification from EU to RR-1, and the removal of two BDPs located on 2.58 acres located at 6555 N. U.S. 1, Melbourne, Florida.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Jim Barfield, Curt Smith
NAYS:	John Tobia, Kristine Isnardi

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ITEM IV.B., SOUTHERN SELF STORAGE, LLC (JAKE WISE) REQUESTS A CHANGE OF CLASSIFICATION FROM RU-2-15 TO BU-2, AND REMOVAL OF AN EXISTING BINDING DEVELOPMENT PLAN (BDP). THE PROPERTY IS 1.10 ACRES, LOCATED AT 6 20TH STREET, COCOA BEACH. (17PZ00148)

Chair Pritchett called for public hearing on a request by Southern Self Storage, LLC. for change of zoning classification from RU-2-15 to BU-2 with removal of the existing Binding Development Plan (BDP) for the property located at 6 20th Street, Cocoa Beach, Florida.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal by Southern Self Storage LLC., represented by Jake Wise, requesting a change of zoning classification from RU-2-15 to BU-2, and proposing to remove the existing BDP and replacing it with the one included in the Board's package; the proposal is on 1.1 acres, located at 6 20th Street, Cocoa Beach, District 2; and Planning and Zoning's recommendation was to approve with the BDP.

Mason Williams stated he represents River Falls Homeowners Association (HOA) and he also lives in River Falls which is adjacent to the property of Southern South Storage; and he has no objection to the request, provided the BDP has been provided to the Board, discussed with the County Attorney, and that the modification is acceptable.

Jake Wise stated this is a unique piece of property in Cocoa Beach; it was an old run down trailer park; it has commercial zoning that backs up to the north; it has a mini storage which has the same use he is applying for, directly to the east across southbound A1A; it has Single Family to the west; it has a large condominium to the south with a public right-of-way in between there; they have had dozens of meetings with the neighbors, both HOAs, the condos, and the residents; and they did come to an agreement on the BDP while working with County staff.

Chair Pritchett stated she knows they want a wall waiver because there is already a wall there and there is no reason to place a wall behind a wall.

Ms. Sterk stated the BDP is clarifying the intent to come in the future.

Mr. Wise commented they did not want two walls next to each other; and they have agreed to some enhanced landscaping.

Eden Bentley, Deputy County Attorney, stated there was a discussion of another change to the BDP; it is a simple change, in paragraph two, page five, there is some language about what happens after a vacating and they are deleting that language because it happens by operation of law; and they are taking out the additional language because it is not necessary.

Mr. Wise commented that both HOAs have seen that and they are all in agreement with it.

Commissioner Barfield declared he has looked at the property and he does not see a problem with it; he stated he is glad they worked with the neighbors, because that is very important; and he made the motion.

There being no further comments or objections, the Board granted Southern Self Storage, LLC's request for a change in zoning classification from RU-2-15 to BU-2; removed the existing BDP; and approved an amended BDP on 1.10 acres located at 6 20th Street, Cocoa Beach, Florida.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jim Barfield, Commissioner District 2
SECONDER:	Kristine Isnardi, Vice Chair/Commissioner District 5
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.C., ORDINANCE, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI - MINIMUM HOTEL ROOM SIZE (FIRST HEARING)

Chair Pritchett called for public hearing on an ordinance for Code revision to Chapter 62, Article VI, Minimum Hotel Room Size.

Erin Sterk, Interim Planning and Zoning Manager, stated this is a proposal for a Code revision to Chapter 62, Article VI, regarding the minimum hotel room size; this came before the Board for legislative intent on January 9, and the Board voted to implement a green light at that time; and this is the first of two public hearings on this Item.

Bruce Moia stated he is there to answer any questions and is in support of this ordinance.

There being no further comments or objections, the Board conducted the first public hearing, and continued consideration of an ordinance revising Chapter 62, Article VI, Division 4, Subdivision VII, Tourist Commercial and transient Tourist Use, to remove the minimum floor area requirement for hotel and motel rooms, to the second public hearing on March 20, 2018.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

ITEM IV.D., ORDINANCE, RE: CODE AMENDMENT TO CHAPTER 62, ARTICLE VI. ZONING REGULATIONS - OVERNIGHT COMMERCIAL PARKING (FIRST HEARING)

Chair Pritchett called for public hearing of an ordinance for Code Amendment to Chapter 62, Article VI, Zoning Regulations for overnight commercial parking.

Erin Sterk, Interim Planning and Zoning Manager, stated this Item is a proposed ordinance for Code amendment to Chapter 62, Article VI, Zoning regulations for overnight commercial parking; this is the first hearing; on December 19, they initiated legislative intent and permission to advertise; the proposal is asking to remove the permitted use of parking commercial from several zoning classifications; to add back in non-overnight commercial parking to the same zoning classifications as the permitted use and add the new use of overnight commercial parking lot as a conditional use; and there are several conditions outlined in the ordinance. She continued P&Z saw this Item on February 19 and they made a motion to approve the ordinance with the recommendation of additional landscape provisions and a methodology for reducing the amount of pavement be considered by the Board.

Commissioner Barfield stated he would like to give some background on this; the Ordinance that has been used does not really address the conditional use for long-term overnight parking;

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this ordinance will not take away any property rights for the cruise parking, it just helps address the safety issues and other impacts; when there are 700 to 1,000 cars parked, or all coming in at the same time, or leaving as others are coming in at the same time, along with the bus traffic it really is a problem for the area especially when it sits right next to a neighborhood, during school times, or if it is on Courtenay Parkway when Kennedy Space Center is letting out; and there are places being looked at to add more, that could impact 528 because they are looking at placing one right next to the drawbridge. He added all this does is cause a permit to be issued. He continued to issue a permit, a study must be completed to find out what the damage would be to the community, the public safety, and to the traffic, which is the most important because it is peak time traffic.

John Schantzen stated right now Merritt Island has three overnight parking lots for the cruise ships; there is one on N. Banana River Drive, one at Sea Ray Drive, and one at W. Furman Drive, right across from the County's annex building; and now there will be three more on just the other side of the bridge, within a quarter of a mile of the Barge Canal. He noted that adds traffic at the Smith Road traffic light; right now it is a nightmare when Sea Ray and all the boat manufacturers are getting out because they are making U-turns right before Smith Road which blocks the Cape traffic who are getting out at the same time; he mentioned the traffic there is already terrible and now they want to add peak loads of comings and goings of the ships; the parking lots will be shifting patrons to go to the ship and come back from the ship with buses; and these people do not know the area which will add to the confusion. He noted his basic objection is this is the welcome area to his community; within a quarter mile of the Welcome to Merritt Island sign there will be three parking lots; this is a flood prone area as everyone knows; and to put impervious material for cars to park on, the water is going to go to everyone else's property; the one parking lot that has already started clearing has mountains of asphalt piled up and it already looks bad; he is really worried about the aesthetics of the area and the traffic; and he appreciates the Commissioner for putting forth the ordinance to give some rights to the property owners and places the responsibility on those who own the parking lots, to retain their own water.

Jack Ratterman stated he is representing the North Merritt Island Homeowners Association; the homeowners association is 100 percent compliant in backing Commissioner Barfield's new ordinance to help protect the community; they have concerns about the setbacks from the adjacent properties, storm water retention, the lights and noise problem, traffic problems, draw bridge problems, and the proposed site does not have any facilities for a restroom; he inquired if there would be any covered areas for inclement weather, if the parking will meet the American Disability Act (ADA), and if this would be a seven percent tax or like the Tourist Tax; and he inquired what the parking lots are charging.

Commissioner Barfield stated Tourist Tax does not apply to that.

Mr. Ratterman stated he had hoped that applied to the friends from up north; Smith Road is a dirt road so a new road will have to be built to replace it; it might be odd to have impact fees, but there will still be an impact from the water, sheriff, fire and Rescue, and all of those things should be taken into consideration; and he would suggest people go to Mitchell Ellington Park in N. Merritt Island, because their parking areas are blocks with holes so the grass grows through and it is stable but the water can go through, it does not run off. He went on to say he hopes the Board will think about this and take Commissioner Barfield's ordinance to heart.

Bruce Moia stated he is confused about a couple items; the last gentleman stated he was concerned about paving and that there should be grass so the water can go through; the proposed ordinance actually requires all the parking be paved; a couple years ago when the Port talked about expanding, a lot of people got together and decided to support the outside parking, and staff put together an ordinance at that time; some of these people have made

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substantial financial commitments to acquire property, hire engineers to do the design, and put these facilities in place; currently he is working on the one at the corner of Smith Road and State Road 3; it is in the system for review; they started on this project in May of last year; and the owner started on it probably a year before that. He noted and now that he is waiting for approval, the rules are changing and it could put a significant financial burden on the applicant; from what he is hearing, there is a lot of talk about traffic but no science to back it up; he stated if they were to place an industrial site on this property traffic would be worse and it would all be the same time as peak hour traffic; and this parking is not just for tourist it is for people who live in Brevard County. He went on to say maybe there is some work that needs to be done on this.

Michael Hikala stated he is in agreement with Commissioner Barfield; he noticed lately there is more traffic on all of Courtenay Parkway; he would like to see the Board figure out the differences between N. Merritt Island and the rest of the County; there has to be some common sense going on; the Board is going to see some big headaches come to fruition; Courtenay is getting so crowded that it is going to need three lanes and the bridge is going to need to be rebuilt; and the more that is put into that area the more problems that will arise. He commented the Board is putting the citizens in a position to where it is easier for them to go to Titusville than to go down 520 to do any shopping or other things; the access to the bridge is messed up just by the one development next to Tingley; if the cars want to come in or out of there, they have to go up to the turnaround just to go one direction or the other; all this Board is doing is creating problems; and he would appreciate any help or common sense from the Board.

William Langston stated he knows the Space Center was occupied by many employees before the shuttle program ended, the numbers were astronomical; he witnessed the traffic go back and forth; this is really not going to get any better except for what the Board is trying to do now; he is in compliance and is working with these people's concerns; he has ordered his engineer to reduce the amount of cars, so instead of the entire six acres, it will be reduced back; he does not want to be an eyesore; and the designs and inspections ordered to his engineer met the specifications. He mentioned the Port is going to have freight, cruise ships, and an increased space center; he knows what kind of work the County has ahead of it; and he designed his parking lot with the Conditional Use Permit (CUP). He continued it is already paved; he does have a sub-based foundation and he knows it is a semi-pervious product; he has designed it for stormwater to tie in with the existing County facilities; he has designed it with landscape; and he went way above to make it look more like a Disney Attraction with pavilions, with sidewalks, with handicap accessibility, and he even placed it to the back with the largest amount of the water to be retained in the front where there will be a fountain. He went on to say everyone is trying to make a living and then retire; that is the goal; he has respect for the people in the community so he made his provisions to do what he can to accommodate the community; his only confusion is the extent of the CUP; and he inquired if this is it in its entirety. He stated he would communicate more and will be asking for allowances that he has already turned in; he has a lot of money in this project; and he apologized for the road millings that are piled up, because he got involved with a contractor that was doing the Port and 528 area, so he had to get it done now or it would not happen. He added it reduced his cost; he knows it has bothered some people, but it will go away; people will see the landscape is extensive; he even included buffers between industrial homes to the south; he has made provisions to include a wall in the back; and he is trying his best so that people are not uncomfortable with what they see and what will exist there. He went on to say the gentleman was right about peak hours; the ships will not let people come until after 10:00 a.m.; it is an all-day boarding facility type schedule; if he goes to a larger transport where there is more people at one given time as opposed to three or four, that helps; he plans on including this along with the Board's plan so he can work with the County to accommodate it; he mentioned this is at a point of no return for him because he has most of his retirement in that table; and he supports the Ordinance and is looking forward to see how they can work it out. He noted he hopes there are no hidden costs.

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Commissioner Tobia inquired where this stands with the local planning agency.

Tad Calkins, Planning and Development Director, stated the local planning agency heard the Item on February 19; however, he did not attend the meeting so he would like Ms. Sterk to provide the feedback.

Ms. Sterk stated the motion from the LPA was for approval, but recommending additional landscape provisions above and beyond the Code which were not proposed in the ordinance yet; and reducing the pavement on a reasonable basis, but they did not direct them specifically with language about how that should occur; and she stated she thinks they were seeking Board direction on some accommodation of impervious service.

Commissioner Tobia asked if removing a permitted use from zoning Code negatively affects these commercial property values within the County or will it improve them.

Mr. Calkins stated changing it from a conditional use to a permitted use is simply saying they have to have these conditions to satisfy.

Commissioner Tobia stated he is very familiar, his question is any time a use is taken from a piece of property, as is happening there, does it increase or decrease the value of that property.

Mr. Calkins stated he does not know that he would be able to say that it would increase or decrease, he is not an appraiser.

Commissioner Tobia stated this is taking an ability to do something from a piece of property that property owners currently have; and he inquired if that will take away that right.

Mr. Calkins replied it will as a permitted use, but it also provides a provision for conditional use.

Commissioner Tobia inquired if Mr. Calkin knows if concentrating commercial parking lots into a particular area improves traffic flow during peak times.

Mr. Calkins asked Commissioner Tobia to repeat the question.

Commissioner Tobia stated it is his understanding that this will concentrate the commercial parking into a smaller area; and he inquired if that would improve the traffic flow.

Mr. Calkins stated he does not think it would have an effect from traffic flow, the concern is the movement from on-site to off-site; and what happens with the improvements, is that it may not be adequate to support the cueing and stacking in allowing it to occur on the site.

Commissioner Tobia asked if the County requires traffic studies for the parking lots.

Mr. Calkins stated in the Site-Plan Code there is a provision to get traffic statements and reports from people; he does not know if they have received any from the existing ones; and the last one the County approved was in 2016.

Commissioner Tobia inquired if the County requires it, but does not check for it.

Mr. Calkins stated no, there is a provision to request it through the Site-Plan process if it is deemed necessary; he does not know if they have or have not received them in the past.

Commissioner Tobia inquired if it would be possible to add that as a requirement as this moves forward, instead of going through all this Code change.

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Mr. Calkins stated it would be a different Code section; the legislative intent was to modify the Zoning Code; and they would have to go back in and look at the Site-Plan Code.

Commissioner Tobia stated usually when the County changes any type of Code, his understanding is the property owner is contacted; and he inquired if the more than 3,000 property owners, that will lose their rights should this pass, have been contacted.

Mr. Calkins stated he is not sure what contact he is referring to, they advertise in the paper as required by Statute.

Commissioner Tobia inquired what the effects of an existing commercial parking lot becoming non-conforming use would be.

Mr. Calkins stated if it is a non-conforming use then there are provisions in the Code which would allow it to expand or allow for certain improvements. He noted it would be allowed to exist as long as the use of it was not changed; it is just if additional parking or any expansion were to come in, it would have to meet the new Code or go through the provisions of the non-conforming use Code.

Commissioner Tobia inquired if he owned a two-acre parking lot and with the way Code is written, if he wanted to expand, would he have the ability to expand those two acres to three acres without coming to the Board.

Mr. Calkins stated he would probably not be able to do that without coming to the Board.

Commissioner Tobia inquired if that means currently.

Mr. Calkins stated currently he would.

Commissioner Tobia stated to be clear if he has two acres, and this ordinance has not passed, would he have the ability to expand his parking lot.

Mr. Calkins replied affirmatively.

Commissioner Tobia inquired should this pass, and he has two acres, would he have to come to the Board to expand his property.

Mr. Calkins stated he would be subject to the criteria set forth in a non-conforming use; and there are provisions in there that regulate the expansion of such uses.

Commissioner Tobia requested Mr. Calkins to provide an example. He inquired if the owner would have to pave all of the lot in order to expand.

Mr. Calkins responded the Code requires that the parking is paved; the parking requirements are for paved parking; there are provisions in the existing Code to allow for alternative surfaces which may be gravel or grass under certain circumstances; and he explained if someone had a two-acre site and it was unpaved, they would have to pave it and meet the requirements of the Code.

Commissioner Tobia asked hypothetically if he wanted to add two acres, would he have to pave the additional two acres or would he have to pave all four acres.

Mr. Calkins explained if he was adding the acreage, it would then be four acres, and he would no longer be non-conforming, he would be under the Code of the three-acre provision as a

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CUP; he would then have to make the case of where he wanted to pave and where he did not want to pave; and that would be the Boards consideration because it would be non-conforming and coming in to compliance with the conditional use process.

Commissioner Tobia stated he knows Mr. Calkins is not a property appraiser, but he inquired if Mr. Calkins thought having come to the Board and potentially having to pave the entire lot is going to have no impact on the value of the property in that scenario or if he thinks in that scenario there would be a direct detrimental effect on that business owner.

Mr. Calkins stated he thinks it would increase the cost of construction for them; he does not know that he can speak to the value.

Commissioner Barfield stated the Merritt Island Redevelopment Agency (MIRA) reviewed this and expressed concern over the potential for vacant commercial properties to be utilized for this purpose, harming existing businesses by increased transient traffic with little or no benefit to the commercial corridor; and they voted unanimously to support the overnight parking ordinance that would create a CUP for appropriate review and consideration. He went on to say this is an ordinance change to address the cruise parking lots; it is not eliminating the use of property; it is taking into consideration the impacts; they are using the ordinance for storage of boats and campers that does not address the impact of cruise parking or overnight commercial parking; it does not address the traffic impacts, the lot size, does not comply with commercial site-plan and approval process, the minimum conditions and the citizen process for transparency, and it does not look at compatibility; and this offers an amendment to the traffic study, to read, "A traffic study, statement, or report of the traffic patterns, in-going or out-going, should be provided to the Board to review and assist in determining if additional roadway improvements are warranted. A.) The applicant shall be responsible for the design permitting its construction of all necessary roadway improvements, and B.) The site plan shall be designed and the site constructed to facilitate all peak hour trips on site so there is no cueing in and public right-of-way." He continued the problem they will see is the studies usually done are on average use per road, it does not take into consideration the part where cars are coming in and cueing up on the side of the road, which does happen on Sea Ray right now; when looking at large numbers, especially when there is a drawbridge that opens, like Courtenay Parkway, and does not always close, and is the only access into North Merritt Island other than Nasa Causeway, looking at emergency situations, the egress out of that area, and impacting all that with the other traffic, the County needs to see what the impacts are, and that is part of the conditional use permitting; without this ordinance the County does not have the option for this information; and when Mr. Moia talked about it being the same as an industrial area, he would disagree because he believes it is intense at certain times. He stated the construction impacts the roads and the County is going to have to pay for that, there is no mechanism coming from anywhere else to help with that; looking at it from a standpoint of a seven-day cruise schedule, he inquired what that would impact; and that a three-day and three-day is that turn over and it is twice a week. He noted adding all of that together with the cruise schedule, the infrastructure has not been designed to be prepared for dealing with all the traffic coming through there.

Chair Pritchett stated she would prefer to not require paved lots; she works in a very large building and they kept it grassy because it is better for stormwater runoff and it is a beautiful parking lot; and she inquired if someone in District 1 wanted to develop this, would they be able to come in and get a CUP to do this in District 1.

Ms. Sterk replied yes and commented if they are continuing some of the uses that they have today, they could still do that under permitted use, if they do not stay beyond 24 hours.

Chair Pritchett inquired if they wanted to build parking lots for cruise terminals in District 1 and they do not have a traffic issue for that type of business.

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Ms. Sterk stated it should be fairly easy to demonstrate that if the traffic is fairly standard, but they would have to go through the conditional use process.

Chair Pritchett stated she had spoken with Mr. Calkins earlier; she requested a list of those who have already started the process; and she received a list with three names.

Mr. Calkins explained there are two that already started the process; the third one was the last one they had approved; and it was thrown in for comparison of how it would line up with the Code that is being proposed.

Chair Pritchett stated she has a question on the two that are in the process. She inquired how far along they are, if they will still be able to do their projects, and what the unforeseen impacts would be on the two entities that are already in the middle of their project.

Mr. Calkins stated those applications were just received this week; the way the site plan works is a two-step process; they were submitted for pre-application conference, and one they have the pre-application conference, that is the date where they are reviewed by the Code that is in effect at that time; if this were to go forward, the second reading of this Code would be after that date unless the Board took some other consideration this evening; there is two readings; and this is scheduled to come back on March 20, the pre-application date for those projects are scheduled for March 8.

Chair Pritchett asked for clarification that there would be another reading and that will be when the Board approves the ordinance.

Commissioner Tobia pointed out either 3,000 parcels will be effectively banned from conducting overnight parking or they will have to come to the Board for a CUP; any existing overnight lots will be especially impacted because they will not be able to expand or modify their businesses without coming to the Board for permission; and as Mr. Calkins mentioned, the costs of businesses would be increased. He went on to say this ordinance will not help traffic in the area but make it worse by artificially forcing concentration in areas that this does not apply to, such as Cocoa Beach; what this will do is disrupt the free market in favor of certain hoteliers by raising rates because of reduced competition; coincidentally some of the individuals and groups who will directly and measurable benefit from this ordinance have donated to the sponsor of this campaign; and that includes David Kaboord who has two lots, Cocoa Beach Park and Cruise, Robert Baugher who has the Radisson Resort at the Port in Cape Canaveral, the Radisson Resort itself, Cocoa Beach Hotel and Motel Association, the Ocean Partners Association that has the Hampton Inn in Cocoa Beach which offers park and cruise packages for the duration of the cruise, and Oceans Partners Hospitality which is the Days Inn in Cocoa Beach and also offers cruise packages for the duration of the cruise. He stated if parking is really the issue, and it comes down to traffic, the County should just mandate that any new parking lots get parking studies that deal with the issues, that the Board just discussed, during peak times; he was informed that it costs anywhere from \$3,500 to \$10,000 to get a competent study that deals with peak times; it should deal directly with traffic, otherwise this offsite parking charging \$10 per day is going to increase; the less parking lots available the higher the prices will get, and he does not want to see that happen to the visitors; and there are more than 3,000 properties that have been outlined on the map for a 10 mile radius that will all have their property rights diminished.

Commissioner Isnardi stated she thought Mr. Moia stated the applicant had applied last year.

Mr. Moia stated that was when they started the process to purchase the property, design it, and settled on cruise parking.

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Commissioner Isnardi stated Mr. Moia is an engineer and has been around for many years, so she inquired his thoughts on which would be more responsible for storm water, paved or unpaved lots.

Mr. Moia stated obviously having a non-paved surface allows more infiltration into the ground; and he inquired if it is Code or Policy that states a commercial driveways have to paved but not the parking lots.

Mr. Calkins responded parking is required to be paved; however, there are provisions in the Code for applicants to ask for it not to be paved. He continued on there are some that have been approved as grass surfaces, some have been approved as millings, and some have been approved as paved.

Mr. Moia stated he thought there was a policy or requirement that they did not have to be currently. He mentioned every project that gets submitted to the County gets looked at to determine if a traffic study is required or not; the traffic engineers look at that project and if it trips the threshold to warrant a traffic study, then a traffic study is required; that is for every use not just for conditional use and not just for permitted uses; there are permitted uses for these zonings that the Board does not even see; they could generate two, three, or four times the traffic at peak times and the Board would never see it; and he explained the traffic study is basically already required, to do this is to penalize the guy with a one acre site that did not need a traffic study in the first place. He added in his opinion he thinks requiring this is overstepping what is already required by Code, and implemented by staff.

Commissioner Barfield stated he would like to ask Public Works Director Andrew Holmes about the traffic study requirements.

Mr. Holmes stated he believes the way Code is set up is if a development generates a certain number of trips during a peak hour, then it passes a threshold of requiring a traffic study; that traffic study evaluates the impacts of that development on the public transportation system and identifies improvements to mitigate those negative impacts if they are warranted; however, he does not know exactly what that threshold is.

Commissioner Barfield inquired if in this situation, would have to be done through a CUP.

Mr. Calkins inquired if Commissioner Barfield is asking if that has to be done through the CUP currently.

Commissioner Barfield responded affirmatively.

Mr. Calkins stated when they receive the CUP, one of the things the P&Z board takes into consideration is traffic; it is part of the package that the Board looks at; what the Code says is, "The traffic impact analysis identifying the projected trip generation and the roadway configuration, including impacts to the surrounding roadway infrastructure and proposed improvements to support the intended use of the property;" that is what is in the Code, what Mr. Moia was referring to, and how they currently look at it today; and what the concern is, as he understands it, is as these come through and the Board is looking at it now as a conditional use, is when they would be evaluating the use on that property and one of the things the Board would want to have to take that into consideration whether it is appropriate or not to have that traffic statement at that time. He noted the Board would not want to go through the conditional use process and approve a site and then when it gets to the later steps in the process of reviewing the site plan, then have them determine that there are traffic concerns or issues that would affect the site when establishing the use.

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Commissioner Barfield stated so the County does not get to use the traffic data because they would not have that to issue the permit.

Mr. Calkins responded affirmatively.

Commissioner Barfield stated the Board uses the CUP process on bars; what this does is allows the Board to look at and make that determination instead of it going all the way into the permitted site planning process; and he reiterated it is not impacting property rights, it is protecting the safety of the citizens. He went on to say that is the primary reason he has brought this up; he is really concerned about the safety; all this is doing is assessing it upfront and giving a CUP; all the areas in green on the map provided may be able to do this, if they fall within it and show that the traffic is not impacting the residents, or causing a public safety issue; and he would like to make a motion.

Chair Pritchett asked Commissioner Barfield if he would include in his motion that it is not required for all parking spots to be paved.

Commissioner Barfield stated he thinks that is already covered.

Chair Pritchett stated she does not think so.

Mr. Calkins responded there are provisions in the Site-Plan Code that allow the applicant to request an alternative surface to pavement.

Chair Pritchett stated she just does not know why it is being put in there then.

Mr. Calkins stated if it is the Board's pleasure to rely on the language in the Site-Plan Code, then they can tighten that up, or include some modification to that language, coming back.

Chair Pritchett stated that would make her more comfortable.

Commissioner Smith stated in regards to paving versus non-paving, he does not have the same preference as Chair Pritchett does; he is trying to look at this, and if there is an unpaved lot, with the typical Florida summer rain, then these people will be parking in some very muddy lots; and he inquired if he was missing something.

Chair Pritchett stated she just has a personal preference; they have a 1,200 car parking lot where she works and they never have mud; it is grassy and has been landscaped properly, therefore, the water runs off into the ground; and they do not have as many stormwater issues there, so she loves it.

Commissioner Smith stated he is just trying to think about 700 vehicles coming every two or three days, and leaving, then another 700 cars moving back and forth; that is a lot of traffic on unpaved property; and he is not a traffic engineer, but that concerns him. He inquired how the hoteliers benefit if the lots were not out there.

Commissioner Tobia stated he remembers the supply and demand curve; this is going to have a minimum lot size of three acres; if he is correct someone can open a lot if they have one or two acres prior, and this would no longer be an option; they have outlined 3,000 different pieces of property that would lose the ability to have a lot, without having to come before the Board first; Mr. Calkins mentioned how this would cause business costs to increase, thus there being less of a supply; and when the supply goes up the demand goes up, and the demand would be the rates in which those hoteliers could charge which sits at \$10, the Delta charges \$7 for the Port, as the Port charges \$17. He noted he imagines that would settle somewhere in between the \$10

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and \$17 range depending on what the total number of spaces would be at the Port, either way consumers, tourist, or anyone who goes on a cruise would see higher rates.

Commissioner Smith stated he does not think it is necessary for anyone who wants to open a parking lot to have to come to the Board; and he inquired if what Commissioner Tobia is saying is that if those lots were not developed then the only alternative people will have is to park at the hotel parking lots on the beach.

Commissioner Tobia replied affirmatively. He stated his understanding is that those fall within municipalities so they would not be subject to the onerous regulations that the Board would be placing on parking lots located on County land.

Commissioner Smith stated he understands. He noted just for the record he thinks a certain amount of people are going to want to park and stay at a hotel for the night so they can just leave the car there and get a shuttle out to the Port, like the airports do; people would rather leave their car parked in the safety of a hotel rather than a lot nearby; however, if people want to open up parking lots they should be allowed to do so by just going through the permitting process.

Commissioner Isnardi stated her concern is if in the past staff has used its discretion as to what triggers a traffic study, and now the County is deterring people because of the added expense requiring a traffic study; she does not know that it would wise to remove all the recommendation from County staff; she has a feeling if staff sees that there is an issue, it will trigger staff to require it; and she does not like that it is an automatic thing in the ordinance. She added she believes it is burdensome and unnecessary expense especially if it is not a very large parking lot. She went on to say she disagrees, cruises do not come and go at the same time; the 700 cars coming and going at the same time is not a true statement; most people who park there take busses in and out of there so there is not the traffic coming in and out, at least not individual cars coming and going constantly; and she noted she does not think the parking lot is mainly grass, there are other alternative solutions like milling and gravel that people use, so there is not the mud issue.

Commissioner Smith stated he would leave that up to the County; as far as he is concerned they deal with parking lots a lot more than he does; he think the more parking lots they have the less traffic because then it would not be as concentrated; and if there are busses or shuttles picking up people, that takes the traffic off of the roads.

Commissioner Barfield stated if there are 700 cars coming in at the same time, that is going to be an impact at 528 and Courtenay Parkway where there is a draw bridge then there will be major traffic issues; he would offer to amend the ordinance to say paved surface or alternative surfaces; he is adamant about this because he lives there and he knows; the impact of one minor accident is amazing; and adding another 700 cars at the same time trying to get off 528 onto Courtenay Parkway with multiple lights and a drawbridge, an ambulance or fire truck is not going to get through. He went on to say he is worried about the safety of his residents and he believes if something is not done with this now, there will be major impacts down the road. He pointed out that District 2 is the primary one, and the Board needs to get control of this; Commissioner Smith is correct that it would take the cars off the road, but they are all on the road at the same time when they get there and when they leave; and then to add busses into the mix while rotating them back and forth to the Port it will cause impacts.

Commissioner Smith stated this keeps coming back to the 700 in one parking lot, but if there were more parking lots, there will be a finite number of cars because the number of ships that come and go there because of the small area of the Port; there will never be 20 more ships

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added to the list; he does not know if there will be a larger influx of cruise ship passengers; therefore, if there 20 lots and the same number of cars spread out over a larger area, he thinks that would be like a self-policing type of event; he appreciates Commissioner Barfield's concerns because he is the one who lives there; and he would like to study this a lot more and sit down with Mr. Moia and some other engineers but unfortunately he will be out of town for the next couple of weeks. He commented if the Board votes on this tonight it does not really mean anything because it is only the first public hearing.

There being no further comments or objections, the Board conducted the first public hearing, and continued consideration of an ordinance amending Chapter 62, Article VI, Division 4, Subdivision VI, Commercial, to create conditions for overnight commercial parking lots which will require Board approval through the conditional use permit zoning process, with non-overnight commercial parking lots being adopted as a permitted use within the following commercial and industrial zoning classifications: BU-1, BU-2, PBP, PIP, IU, and IU-1, including new traffic study language to require all applications currently being reviewed to submit a traffic study that follows cruise parking ordinance, not as a part of the CUP process, and paved parking surface to include alternative surfaces, to the second public hearing on March 20, 2018.

RESULT:	ADOPTED [3 TO 2]
MOVER:	Rita Pritchett, Jim Barfield
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Rita Pritchett, Jim Barfield, Curt Smith
NAYS:	John Tobia, Kristine Isnardi

ITEM VIII.D., JOHN TOBIA, DISTRICT 3 COMMISSIONER

Commissioner Tobia stated yesterday the Port Authority held a public meeting with their CEO; besides from receiving a \$14,000 raise to \$364,000, they gave a presentation on the County portion of the land at Jetty Park; this presentation and discussion that followed was very informative as to why there has been no resolution since the lease expired in 2015; there was some suggestions that they would demand that the County put this issue on the Agenda; and he wanted it to be clear that the Port commissioners do not set the County Commissioners' Agenda. He continued first to alleviate the concerns the Port commissioners and CEO expressed on the Board's behalf, he assured them as the tenants at will, County Manager Frank Abbate has studiously kept the Board informed about the negotiations regarding Jetty Park; he has answered all questions that he has had; contrary to popular belief, Mr. Abbate has not gone rogue; despite Port officials repeatedly claiming that they do not require any taxpayer funds, the Port CEO has suggested the Brevard County taxpayers give the Port 9.6 acres of beachfront property with a deed restriction; after that restriction were to expire in 20 years, the Port would then have the ability to sell that property with County taxpayers receiving nothing; meanwhile Mr. Abbate suggested a compromise in which they would all ask the holdover tenants in the amount the County taxpayers have invested for the benefit of the entire park; and it is his understanding that these funds would then stay in the District and within the beach and riverfront fund and allowed the Port to continue to claim that they do not require any County taxpayer funds. He went on to say the Port has rejected all offers to compromise, failing to give their CEO any new direction at yesterday's meeting, still insisting that the County allow them to take advantage of County taxpayers; while everyone can agree that an amicable solution, which keeps Jetty Park whole, would be ideal, the County does have options; he will not support the status quo indefinitely or leasing valuable County land for \$1 per year, or giving away valuable County assets which taxpayers have invested in; however, he will support a reasonable compromise that Mr. Abbate has suggested. He noted if a compromise cannot be reached then

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the County may have no choice but to take steps to remove the holdover tenants from the property in order to protect taxpayer assets. He stated while the County does not have the funds to build a \$23 million tower with chameleon paint or to pay Mr. Abbate at the rate the Port CEO receives; the County Manager has his full confidence in support of these negotiations; and in conclusion he suggested that the partners at the Port keep in mind that although the Board has been split on many, many issues it has always been a unanimous agreement of support for the County Manager. He added the Port can assured that the action Mr. Abbate takes is in the direction of the Board and hence the best for the citizens of Brevard County.

ITEM VIII.E., CURT SMITH, DISTRICT 4 COMMISSIONER

Commissioner Smith stated Commissioner Tobia's topic is definitely one that needs to be addressed; several Port commissioners had approached him when he was the Chairman, but he was unavailable for a good amount of time in the fall when they were approaching him; if has now fallen to Madam Chair and the Board is now moving forward to make a decision on what to do with that property; and he welcomes the discussion as Commissioner Tobia said, hopefully the Board can meet an amicable agreement with the Port. He added he has every bit of faith in Mr. Abbate's ability to negotiate; he and Mr. Abbate have had lengthy discussions about that subject; and he is quite confident that everyone can move together and end on the same page.

ITEM VIII.F., KRISTINE ISNARDI, DISTRICT 5 COMMISSIONER/VICE CHAIR

Commissioner Isnardi stated it has been brought to her attention that she missed something at the last meeting when the Board discussed appointing Eden Bentley as the Interim County Attorney; she wants to make sure that Ms. Bentley is entitled to the same benefits and salary for that role; and she does not know if that needs to be made formally.

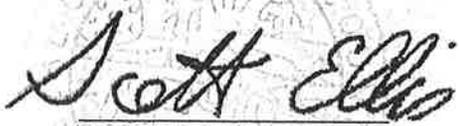
Eden Bentley, Deputy County Attorney, replied affirmatively.

The Board approved the same salary and benefits as the current County Attorney to be given to Eden Bentley, Deputy County Attorney, when she begins her duties as Interim County Attorney.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristine Isnardi, Vice Chair/Commissioner District 5
SECONDER:	Curt Smith, Commissioner District 4
AYES:	Pritchett, Barfield, Tobia, Smith, Isnardi

Upon consensus of the Board, the meeting adjourned at 7:05 p.m.

ATTEST:



SCOTT ELLIS, CLERK



RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA
As approved by Board April 10, 2018

March 1, 2018