

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 1, 2022

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:03 PM

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

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

C. PLEDGE OF ALLEGIANCE

Commissioner Zonka led the assembly in the pledge of allegiance.

E.1. Resolution Honoring George Ritchie

Commissioner Tobia read aloud, and the Board adopted Resolution 22-156, recognizing George Ritchie for his 35 years of service to Brevard County.

George Ritchie thanked the Board for the Resolution and stated it has been a long time but it only seems like yesterday; he does not have much memory at home but he can remember everything at work; he has enjoyed helping the public with trying to get their issues resolved and their properties rezoned or variances and actions that needed to be done; he has also worked on ordinances to make new codes for the County and everybody to follow; and he has been on various boards with Frank Abbate. He added he has enjoyed his whole time here and does not feel like his time is up and he may still come back later on in some other capacity to still help people; FRS rules state that he cannot volunteer or work with the County or an FRS agency for a year, so he will be doing something else, enjoying his time with his wife and family; he and his wife have six kids together and 11 grandkids; some of them were nice enough to join him this evening; and he just wanted to show them off.

Commissioner Tobia commented that Billy Prasad, a former employee in his office, has asked one thing; he said there was a great employee in his department; Mr. Prasad hates resolutions as much as said he does, so the fact that he thought it was important to recognize Mr. Ritchie says a lot about his tenure in the County and how much the department relies on him; and he thanked him very much for what he does.

Commissioner Zonka thanked Mr. Ritchie for his service and commented she would see him in a year.

Jeffrey Ball, Planning and Zoning Manager, stated he has known Mr. Ritchie for the better of three years; he keeps him out of trouble; it has been an experience learning the Code here; and he will be missed.

Tad Calkins, Planning and Development Director, stated words cannot express his gratitude; he thanked Mr. Ritchie for his service, helping his department; he leaves big shoes to fill and it is going to be hard; and he will truly be missed.

Result: Adopted

Mover: John Tobia

Secunder: Kristine Zonka

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

G. PUBLIC COMMENTS

Charles Tovey stated he put on his card the sewage line and he told the Board about the value of his property; it seems there is a storage facility going in behind him or expanding it, but that will incorporate the sewage line that was given away for \$1 behind him; he had plans on developing that property; and he asked how he is going to have access to the sewage line. He mentioned speaking to someone earlier and it seems it would be best to put in a sewage drainage thing for now instead of later when the 15-foot berm and all the cars and a storage facility are built; it will be easier, but they never intended for him to be there or to develop the property or anything else; there has been a hindrance from the beginning; also, on his property's condition issue, it is mostly surface issues, replacing the tin and the six burned boards from the arson damage; he has documents, pictures, paper trails, and witnesses to substantiate the things he says; and he is not a liar. He added one of the reasons he comes up here and states the things he does, is so he is compelled to keep his word; at the beginning of the new year, everything will be stripped and ready to be finished; the two hurricanes this past month have...; he spoke last month and told the Board he would, he has done the meat and potatoes and there is nothing left but dessert; it is all mainly surface issues and he is on the second part; hopefully, before Christmas he will have it stripped and ready for replacement of the tin; he wanted the plain old barn tin, but he has what he has; he has developers and other people that are invested in the property and concern of its well-being; and he asked what he would be allowed to put there, as he is getting his sewage and drainage. He stated that still remains to be seen; and he wished everyone a Merry Christmas, happy holidays, best wishes, and congratulations to the new Commissioners.

Sandra Sullivan stated she hoped everyone had a wonderful Thanksgiving weekend; there is so much to be blessed for here in beautiful Brevard County; she wanted to say how grateful she is for the County's planning; it is kind of interesting as Hurricane Nicole just did damage and if looking back in 1985, in response to a late hurricane on Thanksgiving weekend, Representative Thad Altman, when he was a Commissioner, put a policy for a set-back on unincorporated; and it is wonderful because the buildings are set back and, as was seen with Nicole, there was not a lot of damage. She added there is a part of managed retreat here too on properties that get undermined; she wanted to highlight something because this costs the County; she showed a picture of the contract between Satellite Beach and unincorporated; she has spoken about this a few times; the wonderful set-back is very resilient and part of the new policy; the peril of flood is what is being promoted to have a vegetative barrier; and the sea grapes hold up better than anything else. She mentioned her husband is an engineer and pointed this out to her one day how on the beaches where there is the set-back, the dune plants naturally catch the grass and the beaches regenerate; this is another reason why that

policy was put into place; she mentioned the cost of sand renourishment is much, much higher in Satellite Beach because when the coastline is hardened, the cost is increased; the cost of maintaining unincorporated for the County, as the County is putting out this money, is hundreds of millions of dollars for sand renourishment; and there is a controversy because the mid reach was protected for 7.6 miles, and per the Federal permit, was only allowed a 10-foot dune fill. She went on to say that one can see that is far more than 10 feet; it is about 100 feet or more of beach renourishment that buried the reef; and this is a very serious matter that she wanted to bring to the County's attention.

H.1. Dwayne White (Brook Kershner) Requests a Change of Zoning Classification from AU and RU-1-9 to SR (22Z00050) (Tax Account 2000374)

Chair Pritchett called for a public hearing to consider a change of zoning classification from AU and RU-1-9 to SR as requested by Dwayne White.

Jeffery Ball, Planning and Zoning Manager, stated this Item is for Dwayne White requesting a change in the zoning classification from AU and RU-1-9 to SR; application number is 22Z00050, tax account number is 2000374; and it is located in District 1.

There being no comments or objections, the Board approved the request for a change of zoning classification from AU and RU-1-9 to SR for Dwayne White.

Result: Approved

Mover: Kristine Zonka

Seconder: John Tobia

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

H.2. Edita Realty (James McKnight) Requests a Change of Zoning Classification from BU-1 to RU-2-10 (22Z00049) (Tax Accounts 2302548 & 2302549)

Jeffery Ball, Planning and Zoning Manager, stated this Item has been withdrawn and will be re-advertised at a later date.

H.3. Protea Senior Living Melbourne, LLC (Michael Allen) Requests a Change of Zoning Classification from RU-1-9, RU-1-13, and IN(H), with an Existing BDP, to IN(L), with Removal of Existing BDP, and Adding a New BDP (22Z00047) (Tax Accounts 2606013, 2606015, 2606018, & 2606020)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing Binding Development Plan (BDP), to IN(L), with the removal of the existing BDP, and adding a new BDP as requested by Protea Senior Living Melbourne, LLC.

Jeffery Ball, Planning and Zoning Manager, stated this Item is for Protea Senior Living Melbourne, LLC requesting a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing BDP, to IN(L), with the removal of the existing BDP and adding a new BDP; application number is 22Z00047, tax account numbers are 2606013, 2606015, 2606018, and 2606020; and it is located in District 4.

Shirley Leslie stated the staff comments, as provided to the Board, relay a great deal of information to be considered by the Board and the Planning and Zoning (P&Z) board;

hopefully, each has reviewed the reports and digested it all; and a member of the P&Z board asked a question that is answered in these comments and, by the way, the published minutes are incomplete and do not include that. She continued to say the staff comments provided what it needs, such as a need for a transportation impact analysis; how in low-density zoning the building scale and design must be compatible with the surrounding neighborhood; the character of a neighborhood or area shall be a factor for consideration whenever a rezoning is reviewed; how compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered; and how the character of the area must not be materially or adversely affected by the proposed rezoning or land use application and how the proposed use must not materially or adversely impact an established residential neighborhood by introducing types of intensity of traffic including, but not limited to volume, time of day of traffic activity, type of vehicles, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood. She stated to support this final fact, she provided the map showing the extreme number of conflict points of Otter Creek Lane; the only ingress and egress of the subject area in U.S. Highway 1, the only way out of the neighborhood; the traffic situation alone is already a tremendously dangerous threat to the safety of her neighborhood, and will only increase with the proposed facility's addition of 170 plus over-55 residents and related activities; also, for over 30 years, the County has been unable to fix the flooding that occurs on Otter Creek Lane, where it approaches U.S. Highway 1; and she reiterated 30 years she has been trying to get the County to fix that. She stated sadly, a P&Z board member compared the proposed facility to Courtenay Springs Village, where there are only 80 beds and dumps onto the 35 mile per hour Courtenay Parkway, which accesses many other roads, not like hers; the rezoning to low intensity requires 'with conditions' and she assumes the proposed Binding Development Plan (BDP) is the conditions of the proposed rezoning in accordance with Code 62-1157; and she would like to know who enforces BDPs. She submits the following modifications and additions to the proposed BDP: modify paragraph five to read 'the developer/owner shall utilize ingress and egress at Old Dixie Highway until such time as an alternate access can be determined and provided, add appropriate signs shall be posted at each egress of the property to prevent residents and their guests, support staff, delivery vehicles, service vehicles, emergency vehicles, and caregivers from turning into the platted neighborhood, add all wet retention ponds within the neighborhood shall be secured with fencing, add athletic areas, ambulance receiving areas, and air conditioning and heating units shall be located on the property's northernmost portion, as to mitigate associated noises from these sources and preserve the quality of life in the existing neighborhood, and add no structures of parking lots shall be constructed on the southernmost lot of .17 acres so as to be compatible with the historical current residential neighborhood properties.

Greg Spiro, representing Protea Capital Partners and Protea Senior Living, Melbourne, stated he was present for the Planning and Zoning (P&Z) meeting, which went well; he appreciates the attendance and the questions; he noted Protea Capital Partners specializes in the development of Senior facilities in California and Florida; they are not only builders, but owners as well, as they own all of their properties; they are long-term holders in every community that they build as well as members of the community; and they have been for many years. He stated the project is going to be a comprehensive senior living campus which will consist of 72 independent living units, 79 assisted living units, and 24 memory care units; he showed a rendering of a flyover to give a feeling of what they are looking to develop; the facility will consist of a number of outdoor amenities which will include a pickle ball court, bocce ball, swimming pool, dog park, multiple courtyards, outdoor barbeque and dining, and walking trails; and inside there will be multiple dining rooms, a sports bar, a bistro, fitness center, salon and spa, theater, game room, and a number of activity rooms. He went on to say the building is very well located; it is close to the upmarket Suntree neighborhood with magnificent views of the Indian River and great access to Interstate 95, Viera, and the beach; the reason this location was picked is because they intend to make it the premier senior facility in Brevard

County; on August 31st, there was a neighborhood meeting, where they presented the concept to the neighbors and asked for comments, which there were a number of; one of the comments was related to the neighborhood and how they would buffer the facility from the existing residential properties; and he showed the conceptual landscape plan, with the intention to provide a very significant buffer on Old Dixie Highway in the form of landscaping. He added the other major comment that came up was related to traffic and he is sure, from the comments the Board has seen, that were addressed in the P&Z meeting, as well as today, relate to traffic; prior to the August 31st meeting, they commissioned LTG, which is one of the most respected traffic engineers in the State of Florida, to perform a trip generation traffic statement for the site to be able to see whether or not they were actually going to trip whatever the requirements were for a traffic impact analysis; the report showed that the expected traffic generated by the senior community would be less than 78 cars per peak hour, and the total amount per day was around 586 cars; this does not meet the County Code requirement for conducting a traffic impact analysis; and notwithstanding this report, they spent quite some time working with LTG, Allen Engineering, members of the County, and Florida Department of Transportation (FDOT) in an attempt to come up with a plan that would improve accessibility and create a safer driving experience on all three roads, Otter Creek Lane, Old Dixie Highway, and U.S. Highway 1. He advised these were preliminary meetings, but the idea behind it was to find a way to improve the sight distance at the intersection of Otter Creek Lane and U.S. Highway 1, make it safer and easier to access it from the north, and improve turning angles; they are also investigating the possibility of widening a portion of Old Dixie Highway from 20 feet to 24 feet, so that it conforms to County standards and allows for easier and safer travel; their intention is to be able to build something that everyone can be proud of that is absolutely necessary in the city; the intention is to work closely with the neighbors, which he thinks they have spent a lot of time working with; he has expressed to them both publicly and privately that they intend to do that moving forward; and if the issue is related to traffic, that is something that they want to work on for them and for themselves.

Commissioner Goodson stated he is really new at this, so bear with him; conceptual landscaping plans were mentioned, but it was not mentioned if the drawing of the building is conceptual; what usually happens is, a beautiful building is shown and when it is built, it is nowhere near that; and he asked if the building is conceptual also.

Mr. Spiro replied the plans that are in front of him are all conceptual; and conceptual meaning that it is in the first stages of design.

Commissioner Goodson remarked he understood that as long as Mr. Spiro understands it; if looking at the aerial map provided by the County, he would notice the railroad track goes into a dual track, and further up is a concrete plant and an asphalt plant; usually, a train comes by and blows the whistle; he asked if there will be complaints about the concrete plant, the asphalt plant, and the train; and he mentioned the residents have dealt with that since 1858 or so.

Mr. Spiro replied no.

Commissioner Goodson noted he wanted the other Commissioners to realize there is a need for that concrete plant and the asphalt plant; the rock comes out of Miami; he wanted to make sure they were aware of that; and he asked if at one point, they had agreed to put a decorative fence up to border their neighborhood, or if it was just something he heard.

Mr. Spiro replied no.

Commissioner Feltner noted he had spoken with Mr. Leslie earlier today and had a good conversation, mostly about traffic; he thinks the concerns with traffic exist today, not at the fault

of a facility that is not there; those issues are not going away and he is sensitive to that, as he can walk from his neighborhood to this neighborhood, and knows the area very well; he thinks those are things for the County to address in the future; he thinks the applicant is going to want an easy ingress and egress onto U.S. Highway 1 also; and they are going to have a shared desire for the traffic to improve going forward. He mentioned he had an older parent, his mother-in-law, in an assisted living facility and he was thankful that it was not too far away and it was convenient for him; he commented that if this facility was there, he probably would have located her there; and he knows there is a need for this in the Suntree area.

Mr. Spiro stated he had mentioned to the P&Z board that ideally, they would have loved to have been able to access the property off U.S. Highway 1; unfortunately, they cannot because of the interchange; that is the reason they applied for the rezoning, which would allow them to access off a server street; but ideally, if they could, they would have accessed off of U.S. Highway 1.

Chair Pritchett commented the interesting thing is the way it is zoned already, there is actually a potential for more traffic than rezoning it; she knows a lot of these issues are going to have to be taken care of during the design phase; she noted he has a lot of work ahead of him; and she thanked him for building here.

There being no further comments or objections, the Board approved the request from Protea Senior Living Melbourne, Inc. to change the zoning classification from RU-1-9, RU-1-13, and IN(H) with an existing BDP, to IN(L), with the removal of the existing BDP and adding a new BDP.

Result: Approved

Mover: Rob Feltner

Second: Kristine Zonka

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

H.4. Humane Society of South Brevard, Inc. (Michael Allen) Requests a Small Scale Comprehensive Plan Amendment to Change the Future Land Use Designation from NC and CC, to all CC (22SS00011) (Tax Account 2606030)

Chair Pritchett called for a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC as requested by Humane Society of South Brevard, Inc.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.4. and H.5. are companion applications; he will read them into the record together, however, there will need to be a separate motion for each; Item H.4. is for Humane Society of South Brevard, Inc. requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC; application number is 22SS00011, tax account number is 2606030; and it is located in District 4. He added Item H.5. is for Humane Society of South Brevard, Inc. requesting a change of zoning classification from GU and BU-1 to all BU-1; application number is 22Z00048, tax account number is 2606030; and it is located in District 4.

Commissioner Feltner asked Michael Allen, Allen Engineering, what it is going to be in three to five years' time, as he is curious about the change and what that means for the future.

Mr. Allen replied there are no plans for the future to develop anything; he understands there are some issues with traffic and maybe clearing up this corner, getting rid of the spot zoning, and going to the CC, Community Commercial Future Land Use and the BU-1 may assist access to Otter Creek Lane versus Old Dixie Highway; but there are no plans for the Humane Society to go away or no plans to do anything else at this point.

Commissioner Feltner remarked he knows that area and that parcel and he was thinking what could go in there.

Mr. Allen replied not a lot, to be honest; it is low and there are environmental issues, so there is not a lot that can be done without some outside-the-box thinking and a lot of mitigation.

Commissioner Feltner asked if what the need today is just because there are two parcels.

Mr. Allen replied yes, to bring the two parcels together as one zoning and one Future Land Use.

There being no further comments or objections, the Board adopted Ordinance 22-35, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the 17th Small Scale Plan Amendment of 2022, 22S.14, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rob Feltner

Seconder: John Tobia

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

H.5. Humane Society of South Brevard, Inc. (Michael Allen) Requests a Change of Zoning Classification from GU and BU-1 to all BU-1 (22Z00048) (Tax Account 2606030)

Chair Pritchett called for a public hearing to consider a change of zoning classification from GU and BU-1 to all BU-1 by Humane Society of South Brevard, Inc.

There being no comments or objections, the Board approved the request from Humane Society of South Brevard, Inc. to change the zoning classification from GU and BU-1 to all BU-1.

Result: Approved

Mover: Rob Feltner

Seconder: John Tobia

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

H.6. Public Hearing, Re: Comprehensive Plan Text Amendment Adoption Adding the Coastal High Hazard Area Map to the Coastal Management Element X, and Correcting Scrivener's Error in the Glossary Element XVI

Chair Pritchett called for a public hearing to consider a Comprehensive Plan text amendment adoption adding the Coastal High Hazard Area Map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.6. is for a Comprehensive Plan text amendment adoption adding the Coastal High Hazard Area Map to the Coastal Management Element 10 and correcting a scrivener's error in the glossary element XVI; just so the Board understands, this requests is for two things, 1) it includes the Coastal High Hazard Area Maps, which was a request from the Department of Economic Opportunity (DEO) as part of their review, and 2) the other change is to provide clarification in the glossary under the definition of

'should', removing the word 'and' and including the word 'or'; and the way that staff is interpreting the way that is written is that it would be impossible to meet all those conditions with that 'and' in item C.

Chair Pritchett stated she wanted to clarify, as she was told this earlier, this does not change any lines on the map; and she asked if that was correct.

Mr. Ball replied the request does not change any lines on the map, as these are just the inclusion of the maps by DEO.

Tad Calkins, Planning and Development Director, added that the Coastal High Hazard Area has been established by State statute and these maps just reflect that establishment.

Sandra Sullivan stated it took the County five years to come into compliance for the 2015 Peril of Flood State statute 163.3178(2)(f) Coastal Element, thus, it may be concluded that the County did not want to do this element that she infers that the Coastal High Hazard Area (CHHA) Map and the significant change in the word 'should' in the Comprehensive Plan from 'and' to 'or' is further to try to circumvent State law; she is requesting the County Commissioners vote no for the CHHA Map because State statute says it is appropriate to use the East Central Florida Regional Planning Council (ECFRPC) maps for projections of sea level rise, however, the CHHA is about modeling flooding for category one hurricane with State statute directly referencing using the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Firm Map; the FEMA FIRM Map is referenced directly in State statute and therefore, it should be the FEMA Map that is used to make decisions on zoning, hence, reinforces why it should be the document for future zoning; and per State statute, the County is using the CHHA for development and redevelopment and the State statute references using the designation established by FEMA explicitly. She added that is directly from the State statute encouraging the use of best practices for development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from the flood zone designations established by FEMA; then under number six, it has that local governments should participate in the National Flood Insurance Program, which the County does, as it is in the Comprehensive Plan, and administered by FEMA to achieve the flood insurance; she noted that she included a page from the Federal Flood Insurance Program which also directly references the CHHA; and she hopes it will vote no.

Rick Heffelfinger stated he is present to support Sandra Sullivan more than anything; the Board knows she does a lot of good work and he hopes the Board takes that work, looks at it, and says does she have a point; if she has a point, the Board could say maybe it needs more time to talk about this; that is all she is doing, she is digging; it sounds like one of those 'what is' things, 'shall' and 'must' and maybe it should, which gives some wiggle room; and everybody needs a little wiggle room as long as the wiggle is for the right reasons. He mentioned her heart is in the right place and she does the work; he is just asking to please take a look at it and judge it for what it is; the bottom line is she is trying to protect people and trying to do what is right; now, she may frustrate the hell out of a lot of people that want to build where they should not build, and understand that pulls on the Board too; she has done a lot of work and he would appreciate it if the Board would look at it because you know, 'shall' and 'might' or 'must' and 'could' are wiggle room words for people who want to do stuff that skirts the intent. He added if the FEMA guys say it should be done that way, and the insurance companies are saying...now, people have to watch what insurance companies want...; but he thinks she has done a lot of good work and he hopes the Board will read it and consider it because she spends a lot of time and it is for everybody.

Chair Pritchett noted that she knows the Board spends as much time as she does researching this and Ms. Sullivan is kind enough to usually send the Board information early and the Board does read everything; she does not always agree with what constituents send her, but she definitely spends the time looking at it and trying to make a good decision; and in all fairness, she wanted to throw that out there.

There being no further comments or objections, the Board adopted Ordinance No. 22-36, setting forth plan amendment 2022-2.1, amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part X, entitled Coastal Management Element, and Part XVI, entitled The Glossary; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: John Tobia

Secunder: Kristine Zonka

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

L.4 Tom Goodson, Commissioner District 2, Re: Board Report

Commissioner Goodson mentioned he attended the State of the Port Address; they are doing amazing and they are back to full cruises; supposedly, this coming year they will have the best year on record with some of the biggest ships; and he suggested people to go out and visit the Port.

L.3. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report

Chair Pritchett stated she handed out the Board assignments and asked if the Board was good with it.

Commissioner Goodson asked if Chair Pritchett determines by personality which Commissioner would be good for each board.

Chair Pritchett replied typically, the Chair will go through all the appointments and try to determine how to equally assign the appointments.

Commissioner Goodson remarked he understands that, but asked if she did not go to each Commissioner and ask what they think about it.

Chair Pritchett replied no; and she stated the Chair typically does this and then if a Commissioner cannot do it because of their job, there will be a discussion to move things around.

Commissioner Goodson asked where the information is found on these boards such as where and when they meet, and what they are about.

Chair Pritchett replied someone on his staff could help him with that; all the Commissioners have taken turns on these boards at some time; if there is something preventing a Commissioner from doing one, it will be traded with another Commissioner; but she thinks he will be comfortable with her selections, as she gave him a little bit more alternates so he does not have as many boards, since he is new.

Commissioner Goodson remarked he is just curious how she decided.

Chair Pritchett responded the Chair always just does it.

Commissioner Goodson remarked she will not be on the Board when he is Chair, so he will not get to return the favor.

Chair Pritchett replied that is alright, she typically goes wherever she needs to serve; and she has never told the Chair no as of yet.

Commissioner Goodson stated he guesses his staff will research it.

Chair Pritchett commented he is going to be a real cracker jack here.

Commissioner Goodson replied he is not going to be led down a path when he does not know why.

Chair Pritchett noted that is why he has to study ahead to find out what the boards are.

Commissioner Feltner asked Chair Pritchett if it would help Commissioner Goodson if he offered a trade.

Commissioner Goodson replied he does not know, as he does not know what they do; he is not worried about serving on any board.

Chair Pritchett mentioned his staff should get him on this pretty quickly moving forward.

Commissioner Zonka suggested if it is something he cannot do to just bring it back to the Board.

The Board appointed/reappointed Chair Pritchett to serve as Commissioner Liaison to Election Canvassing Board, Florida Association of Counties (FAC), Tourism Development Council (TDC), Transportation Planning Organization (TPO), and Value Adjustment Board for 2023; appointed Commissioner Goodson to serve as Commissioner Liaison to East Central Florida Regional Planning Council (ECFRPC), Election Canvassing Board (Alternate), Florida Association of Counties (FAC), FAC Board of Directors for District 19, Indian River Lagoon Council (Alternate), and Transportation Planning Organization (TPO) for 2023; appointed/reappointed Commissioner Tobia to serve as Commissioner Liaison to Florida Association of Counties (FAC), Transportation Planning Organization (TPO), and Value Adjustment Board for 2023; appointed Commissioner Feltner to serve as Commissioner Liaison to Central Florida Expressway Authority, East Central Florida Regional Planning Council, Florida Association of Counties (FAC), Indian River Lagoon Council, and Transportation Planning Organization (TPO) for 2023; and appointed/reappointed Commissioner Zonka to serve as Commissioner Liaison to Economic Development Commission (EDC), Florida Association of Counties (FAC), Public Safety Coordinating Council, Affordable Housing Advisory Committee, and Transportation Planning Organization (TPO) for 2023.

Result: Approved

Mover: Kristine Zonka

Secunder: John Tobia

Ayes: Pritchett, Tobia, Feltner, and Zonka

Nay: Goodson

Upon consensus of the Board, the meeting adjourned at 5:51 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

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

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, December 1, 2022

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:03 PM

The Board of County Commissioners acts as a Quasi-Judicial body when it hears requests for rezoning and Conditional Use permits. Applicants must provide competent substantial evidence establishing facts, or expert witness opinion testimony showing that the request meets the Zoning Code and Comprehensive Plan criteria. Opponents must also testify as to facts or provide expert testimony; whether they like, or dislike, a request is not competent evidence. The Board must then decide whether the evidence demonstrates consistency and compatibility with the Comprehensive Plan and the existing rules in the Zoning Ordinance, property adjacent to the property to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non-expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes for rebuttal. Other speakers are allowed five minutes to speak. Speakers may not pass their time to someone else in order to give that person more time to speak.

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

C. PLEDGE OF ALLEGIANCE

Commissioner Zonka led the assembly in the pledge of allegiance.

E.1. Resolution Honoring George Ritchie

Commissioner Tobia read aloud, and the Board adopted Resolution 22-156, recognizing George Ritchie for his 35 years of service to Brevard County.

George Ritchie thanked the Board for the Resolution and stated it has been a long time but it only seems like yesterday; he does not have much memory at home but he can remember everything at work; he has enjoyed helping the public with trying to get their issues resolved and their properties rezoned or variances and actions that needed to be done; he has also worked on ordinances to make new codes for the County and everybody to follow; and he has been on various boards with Frank Abbate. He added he has enjoyed his whole time here and does not feel like his time is up and he may still come back later on in some other capacity to still help people; FRS rules state that he cannot volunteer or work with the County or an FRS agency for a year, so he will be doing something else, enjoying his time with his wife and family; he and his wife have six kids together and 11 grandkids; some of them were nice enough to join him this evening; and he just wanted to show them off.

Commissioner Tobia commented that Billy Prasad, a former employee in his office, has asked one thing; he said there was a great employee in his department; Mr. Prasad hates resolutions as much as said he does, so the fact that he thought it was important to recognize Mr. Ritchie says a lot about his tenure in the County and how much the department relies on him; and he thanked him very much for what he does.

Commissioner Zonka thanked Mr. Ritchie for his service and commented she would see him in a year.

Jeffrey Ball, Planning and Zoning Manager, stated he has known Mr. Ritchie for the better of three years; he keeps him out of trouble; it has been an experience learning the Code here; and he will be missed.

Tad Calkins, Planning and Development Director, stated words cannot express his gratitude; he thanked Mr. Ritchie for his service, helping his department; he leaves big shoes to fill and it is going to be hard; and he will truly be missed.

Result: Adopted

Mover: John Tobia

Secunder: Kristine Zonka

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

G. PUBLIC COMMENTS

Charles Tovey stated he put on his card the sewage line and he told the Board about the value of his property; it seems there is a storage facility going in behind him or expanding it, but that will incorporate the sewage line that was given away for \$1 behind him; he had plans on developing that property; and he asked how he is going to have access to the sewage line. He mentioned speaking to someone earlier and it seems it would be best to put in a sewage drainage thing for now instead of later when the 15-foot berm and all the cars and a storage facility are built; it will be easier, but they never intended for him to be there or to develop the property or anything else; there has been a hindrance from the beginning; also, on his property's condition issue, it is mostly surface issues, replacing the tin and the six burned boards from the arson damage; he has documents, pictures, paper trails, and witnesses to substantiate the things he says; and he is not a liar. He added one of the reasons he comes up here and states the things he does, is so he is compelled to keep his word; at the beginning of the new year, everything will be stripped and ready to be finished; the two hurricanes this past month have...; he spoke last month and told the Board he would, he has done the meat and potatoes and there is nothing left but dessert; it is all mainly surface issues and he is on the second part; hopefully, before Christmas he will have it stripped and ready for replacement of the tin; he wanted the plain old barn tin, but he has what he has; he has developers and other people that are invested in the property and concern of its well-being; and he asked what he would be allowed to put there, as he is getting his sewage and drainage. He stated that still remains to be seen; and he wished everyone a Merry Christmas, happy holidays, best wishes, and congratulations to the new Commissioners.

Sandra Sullivan stated she hoped everyone had a wonderful Thanksgiving weekend; there is so much to be blessed for here in beautiful Brevard County; she wanted to say how grateful she is for the County's planning; it is kind of interesting as Hurricane Nicole just did damage and if looking back in 1985, in response to a late hurricane on Thanksgiving weekend, Representative Thad Altman, when he was a Commissioner, put a policy for a set-back on unincorporated; and it is wonderful because the buildings are set back and, as was seen with Nicole, there was not a lot of damage. She added there is a part of managed retreat here too on properties that get undermined; she wanted to highlight something because this costs the County; she showed a picture of the contract between Satellite Beach and unincorporated; she has spoken about this a few times; the wonderful set-back is very resilient and part of the new policy; the peril of flood is what is being promoted to have a vegetative barrier; and the sea grapes hold up better than anything else. She mentioned her husband is an engineer and pointed this out to her one day how on the beaches where there is the set-back, the dune plants naturally catch the grass and the beaches regenerate; this is another reason why that

policy was put into place; she mentioned the cost of sand renourishment is much, much higher in Satellite Beach because when the coastline is hardened, the cost is increased; the cost of maintaining unincorporated for the County, as the County is putting out this money, is hundreds of millions of dollars for sand renourishment; and there is a controversy because the mid reach was protected for 7.6 miles, and per the Federal permit, was only allowed a 10-foot dune fill. She went on to say that one can see that is far more than 10 feet; it is about 100 feet or more of beach renourishment that buried the reef; and this is a very serious matter that she wanted to bring to the County's attention.

H.1. Dwayne White (Brook Kershner) Requests a Change of Zoning Classification from AU and RU-1-9 to SR (22Z00050) (Tax Account 2000374)

Chair Pritchett called for a public hearing to consider a change of zoning classification from AU and RU-1-9 to SR as requested by Dwayne White.

Jeffery Ball, Planning and Zoning Manager, stated this Item is for Dwayne White requesting a change in the zoning classification from AU and RU-1-9 to SR; application number is 22Z00050, tax account number is 2000374; and it is located in District 1.

There being no comments or objections, the Board approved the request for a change of zoning classification from AU and RU-1-9 to SR for Dwayne White.

Result: Approved

Mover: Kristine Zonka

Secunder: John Tobia

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

H.2. Edita Realty (James McKnight) Requests a Change of Zoning Classification from BU-1 to RU-2-10 (22Z00049) (Tax Accounts 2302548 & 2302549)

Jeffery Ball, Planning and Zoning Manager, stated this Item has been withdrawn and will be re-advertised at a later date.

H.3. Protea Senior Living Melbourne, LLC (Michael Allen) Requests a Change of Zoning Classification from RU-1-9, RU-1-13, and IN(H), with an Existing BDP, to IN(L), with Removal of Existing BDP, and Adding a New BDP (22Z00047) (Tax Accounts 2606013, 2606015, 2606018, & 2606020)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing Binding Development Plan (BDP), to IN(L), with the removal of the existing BDP, and adding a new BDP as requested by Protea Senior Living Melbourne, LLC.

Jeffery Ball, Planning and Zoning Manager, stated this Item is for Protea Senior Living Melbourne, LLC requesting a change of zoning classification from RU-1-9, RU-1-13, and IN(H), with an existing BDP, to IN(L), with the removal of the existing BDP and adding a new BDP; application number is 22Z00047, tax account numbers are 2606013, 2606015, 2606018, and 2606020; and it is located in District 4.

Shirley Leslie stated the staff comments, as provided to the Board, relay a great deal of information to be considered by the Board and the Planning and Zoning (P&Z) board;

hopefully, each has reviewed the reports and digested it all; and a member of the P&Z board asked a question that is answered in these comments and, by the way, the published minutes are incomplete and do not include that. She continued to say the staff comments provided what it needs, such as a need for a transportation impact analysis; how in low-density zoning the building scale and design must be compatible with the surrounding neighborhood; the character of a neighborhood or area shall be a factor for consideration whenever a rezoning is reviewed; how compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered; and how the character of the area must not be materially or adversely affected by the proposed rezoning or land use application and how the proposed use must not materially or adversely impact an established residential neighborhood by introducing types of intensity of traffic including, but not limited to volume, time of day of traffic activity, type of vehicles, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood. She stated to support this final fact, she provided the map showing the extreme number of conflict points of Otter Creek Lane; the only ingress and egress of the subject area in U.S. Highway 1, the only way out of the neighborhood; the traffic situation alone is already a tremendously dangerous threat to the safety of her neighborhood, and will only increase with the proposed facility's addition of 170 plus over-55 residents and related activities; also, for over 30 years, the County has been unable to fix the flooding that occurs on Otter Creek Lane, where it approaches U.S. Highway 1; and she reiterated 30 years she has been trying to get the County to fix that. She stated sadly, a P&Z board member compared the proposed facility to Courtenay Springs Village, where there are only 80 beds and dumps onto the 35 mile per hour Courtenay Parkway, which accesses many other roads, not like hers; the rezoning to low intensity requires 'with conditions' and she assumes the proposed Binding Development Plan (BDP) is the conditions of the proposed rezoning in accordance with Code 62-1157; and she would like to know who enforces BDPs. She submits the following modifications and additions to the proposed BDP: modify paragraph five to read 'the developer/owner shall utilize ingress and egress at Old Dixie Highway until such time as an alternate access can be determined and provided, add appropriate signs shall be posted at each egress of the property to prevent residents and their guests, support staff, delivery vehicles, service vehicles, emergency vehicles, and caregivers from turning into the platted neighborhood, add all wet retention ponds within the neighborhood shall be secured with fencing, add athletic areas, ambulance receiving areas, and air conditioning and heating units shall be located on the property's northernmost portion, as to mitigate associated noises from these sources and preserve the quality of life in the existing neighborhood, and add no structures of parking lots shall be constructed on the southernmost lot of .17 acres so as to be compatible with the historical current residential neighborhood properties.

Greg Spiro, representing Protea Capital Partners and Protea Senior Living, Melbourne, stated he was present for the Planning and Zoning (P&Z) meeting, which went well; he appreciates the attendance and the questions; he noted Protea Capital Partners specializes in the development of Senior facilities in California and Florida; they are not only builders, but owners as well, as they own all of their properties; they are long-term holders in every community that they build as well as members of the community; and they have been for many years. He stated the project is going to be a comprehensive senior living campus which will consist of 72 independent living units, 79 assisted living units, and 24 memory care units; he showed a rendering of a flyover to give a feeling of what they are looking to develop; the facility will consist of a number of outdoor amenities which will include a pickle ball court, bocce ball, swimming pool, dog park, multiple courtyards, outdoor barbeque and dining, and walking trails; and inside there will be multiple dining rooms, a sports bar, a bistro, fitness center, salon and spa, theater, game room, and a number of activity rooms. He went on to say the building is very well located; it is close to the upmarket Suntree neighborhood with magnificent views of the Indian River and great access to Interstate 95, Viera, and the beach; the reason this location was picked is because they intend to make it the premier senior facility in Brevard

County; on August 31st, there was a neighborhood meeting, where they presented the concept to the neighbors and asked for comments, which there were a number of; one of the comments was related to the neighborhood and how they would buffer the facility from the existing residential properties; and he showed the conceptual landscape plan, with the intention to provide a very significant buffer on Old Dixie Highway in the form of landscaping. He added the other major comment that came up was related to traffic and he is sure, from the comments the Board has seen, that were addressed in the P&Z meeting, as well as today, relate to traffic; prior to the August 31st meeting, they commissioned LTG, which is one of the most respected traffic engineers in the State of Florida, to perform a trip generation traffic statement for the site to be able to see whether or not they were actually going to trip whatever the requirements were for a traffic impact analysis; the report showed that the expected traffic generated by the senior community would be less than 78 cars per peak hour, and the total amount per day was around 586 cars; this does not meet the County Code requirement for conducting a traffic impact analysis; and notwithstanding this report, they spent quite some time working with LTG, Allen Engineering, members of the County, and Florida Department of Transportation (FDOT) in an attempt to come up with a plan that would improve accessibility and create a safer driving experience on all three roads, Otter Creek Lane, Old Dixie Highway, and U.S. Highway 1. He advised these were preliminary meetings, but the idea behind it was to find a way to improve the sight distance at the intersection of Otter Creek Lane and U.S. Highway 1, make it safer and easier to access it from the north, and improve turning angles; they are also investigating the possibility of widening a portion of Old Dixie Highway from 20 feet to 24 feet, so that it conforms to County standards and allows for easier and safer travel; their intention is to be able to build something that everyone can be proud of that is absolutely necessary in the city; the intention is to work closely with the neighbors, which he thinks they have spent a lot of time working with; he has expressed to them both publicly and privately that they intend to do that moving forward; and if the issue is related to traffic, that is something that they want to work on for them and for themselves.

Commissioner Goodson stated he is really new at this, so bear with him; conceptual landscaping plans were mentioned, but it was not mentioned if the drawing of the building is conceptual; what usually happens is, a beautiful building is shown and when it is built, it is nowhere near that; and he asked if the building is conceptual also.

Mr. Spiro replied the plans that are in front of him are all conceptual; and conceptual meaning that it is in the first stages of design.

Commissioner Goodson remarked he understood that as long as Mr. Spiro understands it; if looking at the aerial map provided by the County, he would notice the railroad track goes into a dual track, and further up is a concrete plant and an asphalt plant; usually, a train comes by and blows the whistle; he asked if there will be complaints about the concrete plant, the asphalt plant, and the train; and he mentioned the residents have dealt with that since 1858 or so.

Mr. Spiro replied no.

Commissioner Goodson noted he wanted the other Commissioners to realize there is a need for that concrete plant and the asphalt plant; the rock comes out of Miami; he wanted to make sure they were aware of that; and he asked if at one point, they had agreed to put a decorative fence up to border their neighborhood, or if it was just something he heard.

Mr. Spiro replied no.

Commissioner Feltner noted he had spoken with Mr. Leslie earlier today and had a good conversation, mostly about traffic; he thinks the concerns with traffic exist today, not at the fault

of a facility that is not there; those issues are not going away and he is sensitive to that, as he can walk from his neighborhood to this neighborhood, and knows the area very well; he thinks those are things for the County to address in the future; he thinks the applicant is going to want an easy ingress and egress onto U.S. Highway 1 also; and they are going to have a shared desire for the traffic to improve going forward. He mentioned he had an older parent, his mother-in-law, in an assisted living facility and he was thankful that it was not too far away and it was convenient for him; he commented that if this facility was there, he probably would have located her there; and he knows there is a need for this in the Suntree area.

Mr. Spiro stated he had mentioned to the P&Z board that ideally, they would have loved to have been able to access the property off U.S. Highway 1; unfortunately, they cannot because of the interchange; that is the reason they applied for the rezoning, which would allow them to access off a server street; but ideally, if they could, they would have accessed off of U.S. Highway 1.

Chair Pritchett commented the interesting thing is the way it is zoned already, there is actually a potential for more traffic than rezoning it; she knows a lot of these issues are going to have to be taken care of during the design phase; she noted he has a lot of work ahead of him; and she thanked him for building here.

There being no further comments or objections, the Board approved the request from Protea Senior Living Melbourne, Inc. to change the zoning classification from RU-1-9, RU-1-13, and IN(H) with an existing BDP, to IN(L), with the removal of the existing BDP and adding a new BDP.

Result: Approved

Mover: Rob Feltner

Second: Kristine Zonka

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

H.4. Humane Society of South Brevard, Inc. (Michael Allen) Requests a Small Scale Comprehensive Plan Amendment to Change the Future Land Use Designation from NC and CC, to all CC (22SS00011) (Tax Account 2606030)

Chair Pritchett called for a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC as requested by Humane Society of South Brevard, Inc.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.4. and H.5. are companion applications; he will read them into the record together, however, there will need to be a separate motion for each; Item H.4. is for Humane Society of South Brevard, Inc. requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and CC, to all CC; application number is 22SS00011, tax account number is 2606030; and it is located in District 4. He added Item H.5. is for Humane Society of South Brevard, Inc. requesting a change of zoning classification from GU and BU-1 to all BU-1; application number is 22Z00048, tax account number is 2606030; and it is located in District 4.

Commissioner Feltner asked Michael Allen, Allen Engineering, what it is going to be in three to five years' time, as he is curious about the change and what that means for the future.

Mr. Allen replied there are no plans for the future to develop anything; he understands there are some issues with traffic and maybe clearing up this corner, getting rid of the spot zoning, and going to the CC, Community Commercial Future Land Use and the BU-1 may assist access to Otter Creek Lane versus Old Dixie Highway; but there are no plans for the Humane Society to go away or no plans to do anything else at this point.

Commissioner Feltner remarked he knows that area and that parcel and he was thinking what could go in there.

Mr. Allen replied not a lot, to be honest; it is low and there are environmental issues, so there is not a lot that can be done without some outside-the-box thinking and a lot of mitigation.

Commissioner Feltner asked if what the need today is just because there are two parcels.

Mr. Allen replied yes, to bring the two parcels together as one zoning and one Future Land Use.

There being no further comments or objections, the Board adopted Ordinance 22-35, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the 17th Small Scale Plan Amendment of 2022, 22S.14, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), entitled The Future Land Use Map Appendix; provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Rob Feltner

Second: John Tobia

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

H.5. Humane Society of South Brevard, Inc. (Michael Allen) Requests a Change of Zoning Classification from GU and BU-1 to all BU-1 (22Z00048) (Tax Account 2606030)

Chair Pritchett called for a public hearing to consider a change of zoning classification from GU and BU-1 to all BU-1 by Humane Society of South Brevard, Inc.

There being no comments or objections, the Board approved the request from Humane Society of South Brevard, Inc. to change the zoning classification from GU and BU-1 to all BU-1.

Result: Approved

Mover: Rob Feltner

Second: John Tobia

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

H.6. Public Hearing, Re: Comprehensive Plan Text Amendment Adoption Adding the Coastal High Hazard Area Map to the Coastal Management Element X, and Correcting Scrivener's Error in the Glossary Element XVI

Chair Pritchett called for a public hearing to consider a Comprehensive Plan text amendment adoption adding the Coastal High Hazard Area Map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.6. is for a Comprehensive Plan text amendment adoption adding the Coastal High Hazard Area Map to the Coastal Management Element 10 and correcting a scrivener's error in the glossary element XVI; just so the Board understands, this requests is for two things, 1) it includes the Coastal High Hazard Area Maps, which was a request from the Department of Economic Opportunity (DEO) as part of their review, and 2) the other change is to provide clarification in the glossary under the definition of

'should', removing the word 'and' and including the word 'or'; and the way that staff is interpreting the way that is written is that it would be impossible to meet all those conditions with that 'and' in item C.

Chair Pritchett stated she wanted to clarify, as she was told this earlier, this does not change any lines on the map; and she asked if that was correct.

Mr. Ball replied the request does not change any lines on the map, as these are just the inclusion of the maps by DEO.

Tad Calkins, Planning and Development Director, added that the Coastal High Hazard Area has been established by State statute and these maps just reflect that establishment.

Sandra Sullivan stated it took the County five years to come into compliance for the 2015 Peril of Flood State statute 163.3178(2)(f) Coastal Element, thus, it may be concluded that the County did not want to do this element that she infers that the Coastal High Hazard Area (CHHA) Map and the significant change in the word 'should' in the Comprehensive Plan from 'and' to 'or' is further to try to circumvent State law; she is requesting the County Commissioners vote no for the CHHA Map because State statute says it is appropriate to use the East Central Florida Regional Planning Council (ECFRPC) maps for projections of sea level rise, however, the CHHA is about modeling flooding for category one hurricane with State statute directly referencing using the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Firm Map; the FEMA FIRM Map is referenced directly in State statute and therefore, it should be the FEMA Map that is used to make decisions on zoning, hence, reinforces why it should be the document for future zoning; and per State statute, the County is using the CHHA for development and redevelopment and the State statute references using the designation established by FEMA explicitly. She added that is directly from the State statute encouraging the use of best practices for development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from the flood zone designations established by FEMA; then under number six, it has that local governments should participate in the National Flood Insurance Program, which the County does, as it is in the Comprehensive Plan, and administered by FEMA to achieve the flood insurance; she noted that she included a page from the Federal Flood Insurance Program which also directly references the CHHA; and she hopes it will vote no.

Rick Heffelfinger stated he is present to support Sandra Sullivan more than anything; the Board knows she does a lot of good work and he hopes the Board takes that work, looks at it, and says does she have a point; if she has a point, the Board could say maybe it needs more time to talk about this; that is all she is doing, she is digging; it sounds like one of those 'what is' things, 'shall' and 'must' and maybe it should, which gives some wiggle room; and everybody needs a little wiggle room as long as the wiggle is for the right reasons. He mentioned her heart is in the right place and she does the work; he is just asking to please take a look at it and judge it for what it is; the bottom line is she is trying to protect people and trying to do what is right; now, she may frustrate the hell out of a lot of people that want to build where they should not build, and understand that pulls on the Board too; she has done a lot of work and he would appreciate it if the Board would look at it because you know, 'shall' and 'might' or 'must' and 'could' are wiggle room words for people who want to do stuff that skirts the intent. He added if the FEMA guys say it should be done that way, and the insurance companies are saying...now, people have to watch what insurance companies want...; but he thinks she has done a lot of good work and he hopes the Board will read it and consider it because she spends a lot of time and it is for everybody.

Chair Pritchett noted that she knows the Board spends as much time as she does researching this and Ms. Sullivan is kind enough to usually send the Board information early and the Board does read everything; she does not always agree with what constituents send her, but she definitely spends the time looking at it and trying to make a good decision; and in all fairness, she wanted to throw that out there.

There being no further comments or objections, the Board adopted Ordinance No. 22-36, setting forth plan amendment 2022-2.1, amending Section 62-501, entitled "Contents of the Plan"; specifically amending Section 62-501, Part X, entitled Coastal Management Element, and Part XVI, entitled The Glossary; providing for internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: John Tobia

Secunder: Kristine Zonka

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

L.4 Tom Goodson, Commissioner District 2, Re: Board Report

Commissioner Goodson mentioned he attended the State of the Port Address; they are doing amazing and they are back to full cruises; supposedly, this coming year they will have the best year on record with some of the biggest ships; and he suggested people to go out and visit the Port.

L.3. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report

Chair Pritchett stated she handed out the Board assignments and asked if the Board was good with it.

Commissioner Goodson asked if Chair Pritchett determines by personality which Commissioner would be good for each board.

Chair Pritchett replied typically, the Chair will go through all the appointments and try to determine how to equally assign the appointments.

Commissioner Goodson remarked he understands that, but asked if she did not go to each Commissioner and ask what they think about it.

Chair Pritchett replied no; and she stated the Chair typically does this and then if a Commissioner cannot do it because of their job, there will be a discussion to move things around.

Commissioner Goodson asked where the information is found on these boards such as where and when they meet, and what they are about.

Chair Pritchett replied someone on his staff could help him with that; all the Commissioners have taken turns on these boards at some time; if there is something preventing a Commissioner from doing one, it will be traded with another Commissioner; but she thinks he will be comfortable with her selections, as she gave him a little bit more alternates so he does not have as many boards, since he is new.

Commissioner Goodson remarked he is just curious how she decided.

Chair Pritchett responded the Chair always just does it.

Commissioner Goodson remarked she will not be on the Board when he is Chair, so he will not get to return the favor.

Chair Pritchett replied that is alright, she typically goes wherever she needs to serve; and she has never told the Chair no as of yet.

Commissioner Goodson stated he guesses his staff will research it.

Chair Pritchett commented he is going to be a real cracker jack here.

Commissioner Goodson replied he is not going to be led down a path when he does not know why.

Chair Pritchett noted that is why he has to study ahead to find out what the boards are.

Commissioner Feltner asked Chair Pritchett if it would help Commissioner Goodson if he offered a trade.

Commissioner Goodson replied he does not know, as he does not know what they do; he is not worried about serving on any board.

Chair Pritchett mentioned his staff should get him on this pretty quickly moving forward.

Commissioner Zonka suggested if it is something he cannot do to just bring it back to the Board.

The Board appointed/reappointed Chair Pritchett to serve as Commissioner Liaison to Election Canvassing Board, Florida Association of Counties (FAC), Tourism Development Council (TDC), Transportation Planning Organization (TPO), and Value Adjustment Board for 2023; appointed Commissioner Goodson to serve as Commissioner Liaison to East Central Florida Regional Planning Council (ECFRPC), Election Canvassing Board (Alternate), Florida Association of Counties (FAC), FAC Board of Directors for District 19, Indian River Lagoon Council (Alternate), and Transportation Planning Organization (TPO) for 2023; appointed/reappointed Commissioner Tobia to serve as Commissioner Liaison to Florida Association of Counties (FAC), Transportation Planning Organization (TPO), and Value Adjustment Board for 2023; appointed Commissioner Feltner to serve as Commissioner Liaison to Central Florida Expressway Authority, East Central Florida Regional Planning Council, Florida Association of Counties (FAC), Indian River Lagoon Council, and Transportation Planning Organization (TPO) for 2023; and appointed/reappointed Commissioner Zonka to serve as Commissioner Liaison to Economic Development Commission (EDC), Florida Association of Counties (FAC), Public Safety Coordinating Council, Affordable Housing Advisory Committee, and Transportation Planning Organization (TPO) for 2023.

Result: Approved

Mover: Kristine Zonka

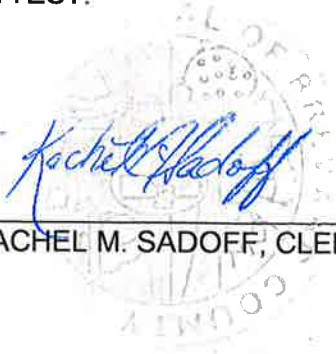
Secunder: John Tobia

Ayes: Pritchett, Tobia, Feltner, and Zonka

Nay: Goodson

Upon consensus of the Board, the meeting adjourned at 5:51 p.m.

ATTEST:



Rachel M. Sadoff

RACHEL M. SADOFF, CLERK

Rita Pritchett

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

As approved by Board on February 7, 2023.