

November 5, 2020

# **Brevard County Board of County Commissioners**

*2725 Judge Fran Jamieson Way  
Viera, FL 32940*



## **Minutes**

**Thursday, November 5, 2020**

**5:00 PM**

**Zoning**

**Commission Chambers**

**A. CALL TO ORDER 5:01 PM**

**Present:** Commissioner District 1 Rita Pritchett, Commissioner District 2  
Bryan Lober, Commissioner District 3 John Tobia, Commissioner  
District 4 Curt Smith, and Commissioner District 5 Kristine Isnardi

**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.

**B. MOMENT OF SILENCE**

Chair Lober called for a moment of silence.

**C. PLEDGE OF ALLEGIANCE - Commissioner John Tobia, District 3**

Commissioner Tobia led the assembly in the Pledge of Allegiance.

**F.1. Approval of the 2021 Board of County Commissioners' Meeting Schedule.**

The Board approved of the 2021 Board of County Commissioner's Meeting Schedule.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.1. Jennifer Robbins requests a Change of Zoning Classification from GU to RR-1.  
(20Z00021) (Tax Account 2402990)**

Chair Lober called for a public hearing for a request to change of zoning classification from GU- to RR-1 by Jennifer Robbins.

There being no objections heard, the Board approved changing classification from GU to RR-1 as recommended.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.2. Christine Ruggiero and Michael A. Sollecito request a Change of Zoning Classification from RR-1 to RRMH-1. (20Z00022) (Tax Account 2002464)**

Chair Lober called for a public hearing for a request to change of zoning classification from RR-1 to RRMH-1 by Christine Ruggiero and Michael A. Sollecito.

There being no objections heard, the Board approved changing zoning classification from RR-1 to RRMH-1 as recommended.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.3. 2354 Talmadge Drive, LLC (Aldon Bookhardt) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use Designation from RES 4 to NC. (20PZ00079) (Tax Account 2103831)**

Chair Lober called for a public hearing for a request of a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to NC, by 2354 Talmadge Drive, LLC (Aldon Bookhardt).

There being no objections heard, the Board adopted Ordinance No. 20-20, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting forth the sixth Small Scale Plan Amendment of 2020, 20S.06, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled the Future Land Use Map appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date

**Result:** ADOPTED

**Mover:** Rita Pritchett

**Second:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.4. 2354 Talmadge Drive, LLC (Aldon Bookhardt) requests a Change of Zoning Classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres; and a BDP limited to 4 units per acre on 2.29 acres on the RU-1-9 portion. (20Z00023) (Tax Account 2103831)**

Chair Lober called for a public hearing for a request change of zoning classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres, with Binding Development Plan limited to four units per acre on 2.29 acres on the RU-1-9 portion by 2354 Talmadge Drive, LLC (Aldon Bookhardt).

There being no objections heard, the Board approved changing the zoning classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres, with a Binding Development Plan limited to four units per acre on 2.29 acres on the RU-1-9 portion as recommended.

**Result:** APPROVED

**Mover:** Rita Pritchett

**Seconders:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.5. St. Luke's Episcopal Church of Courtenay FL, Inc. requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1. (20Z00018) (Tax Account 2317060)**

Chair Lober called for a public hearing for a request of a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1 by St. Luke's Episcopal Church of Courtenay FL, INC.

There being no objections heard, the Board adopted Ordinance No. 20-21, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The 1988 Comprehensive Plan", setting for the fifth Small Scale Plan Amendment of 2020, 20S.05, to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI (E), entitled the Future Land Use Map appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date

**Result:** ADOPTED

**Mover:** Rita Pritchett

**Seconders:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.6. St. Luke's Episcopal Church of Courtenay FL, Inc. requests a Change of Zoning Classification from IN(L) to RR-1. (20Z00019) (Tax Account 2317060)**

Chair Lober called for a public hearing for a request change of zoning classification from IN(L) to RR-1 by St. Luke's Episcopal Church of Courtenay FL, Inc.

There being no objections heard, the Board approved changing the zoning classification from IN(L) to RR-1 as recommended

**Result:** APPROVED

**Mover:** Rita Pritchett

**Seconders:** Bryan Lober

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

**H.7. Brevard Tower Communications, Inc., requests Transmittal of the 2020-2.1 Large Scale Plan Amendment to Change the Future Land Use Designation from RES 2 and NC to CC. (20PZ00072)**

Chair Lober called for a public hearing for a request of transmittal for the 2020-2.1 Large Scale Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC by Brevard Tower Communications, Inc.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.7 is Brevard Tower Communications Inc. requesting a transmittal of the 2020-2.1 Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 2 and NC to Community Commercial; the application number is (20PZ00072) located in District 5; the property currently has a mixed food designation of RES 2 and NC, and see this application will bring it to CC which is Community Commercial; this is the first of two public hearings and this is a transmittal; this request will transmit this application up to the Department of Economic Opportunity (DEO) where the DEO and other State agencies review it and provide comments in an Objections, Recommendations, and Comments (ORC) Report; it will be up to staff and the applicant to address those comments; and to bring it back to the Board for an adoption hearing.

Chair Lober stated that before he goes any further so he do not neglect to do it before the vote, he has one very brief disclosure that was not provided to the clerk in advance; he spoke with John Ditmore earlier about the Item who had called in opposition to it, so with that there is one speaker who wishes to speak against it, but he would like to give the applicant a chance with 15 minute ; and if Bruce Moia wants to reserve any remaining time he has for rebuttal, as a heads up he only has one other speaker.

Mr. Moia stated he is representing the applicant; all that is being requested today is approval to submit to the State the transmittal for the Large Scale Comprehensive Plan Amendment that will be coming back for zoning; he will be talking about conditions; he is simply asking for approval to submit to transmit; and if there are any questions, he is here to answer any questions.

Chair Lober stated he will reserve the remaining time of 14 and one-half minutes.

Stephen Phrampus stated he is one of the directors of the board of Sawgrass Lakes Master Association and the owner representative of its current 800 property owners soon to be 933 upon completion; the Sawgrass Lakes Plat borders the Brevard Tower Communication property on three sides, 100 percent on the west and southside which is across the road of Norfolk Parkway, and approximately 500 feet to the east; it can be seen from in the zoning meeting minutes that a petition was submitted of hundreds of residents who oppose this project, and he has not received any resident communications supporting it; from his comments in the meeting minutes where the residents purchased their homes some costing over \$500,000, they did so with the understanding that this landfill area scope of development was extremely limited to a large parking lot abutting their property was not one of those considerations; this change to the Large Scale Comprehensive Plan Amendment can be stopped here by voting no on moving this transmittal package forward; and the City of West Melbourne has recognized the dangers of developing this landfill property Section E page six of the transmittal report and does not have the desire to annex the property into the City, nor will it provide sewer or water which is just across the road. He added January of 2018 West Melbourne also denied zoning for a storage facility abutting this property because it does not meet zoning desires of the area, even though the report states there is no traffic data available on page six item E of Minton Road

feasibility study rates the current intersection of Minton Road and Norfolk Parkway as an "F" during morning traffic hours based on the level of service metric of A through F; the developer also has acknowledged that Norfolk Parkway is not the easiest road to get in and out of; even a zoning committee member stated when he read the staff comments, there is a traffic problem

on Minton Road and the applicant is not using available commercial property already in the area, and it is not a project that is recommended by the Comprehensive Plan; it is going to increase the potential for strip development; and he does not think it is a good idea. He stated the residents place a high level of trust in the representatives elected and appointed; they rely on due diligence when deciding where to settle down; and they rely on the Board to not make drastic changes that disrupts the settlement.

Chair Lober asked Mr. Moia if he has anything he wanted to follow up with the remaining time.

Mr. Moia responded yes; he stated after the Planning and Zoning meeting he sat down and discussed some of these issues with the representatives from that housing development to the west; they are in the City of West Melbourne and this would be in the County, and when they come to zoning they can look at doing a Binding Development Plan (BDP) where they can provide whatever buffering is required or what might be appropriate for all those types of things; that is why all he really wants to do is find out what the State has to say about this idea, so he can move forward accordingly; but there is no approvals that are being given at this time. He stated as far as traffic is concerned the proposed use is going to be RV and boat storage, it is one of the lowest traffic generating uses in the zoning code; he does not feel that it would be detrimental; it would be less traffic, probably half the traffic that would be generated if it was developed under the current zoning and land use; he is reducing the amount of traffic with buffering and other improvements that could come up within a BDP when asking for zoning; he will be able to meet with the residents, and come up with reasonable solutions for those types of issues; he really just wants to see what the State has to say; and he is asking for permission to transmit. He reiterated he is not asking for any approvals at this time; he will be coming back to the Board for approvals of the first and second readings of the land use after he gets that, as well as the zoning itself; they can talk about development type of issues at the BDP time; and he is hoping that the Board will approve the transmittal and then allowing to have communication with the residents to start addressing some of their concerns.

Chair Lober stated should this go forward he has a question for if he has given some thought to this or perhaps it is a bit premature with respect to the ingress and egress to that property; there is a road that runs to the south of it that folks would be presumably turning in and out from to potentially widening that access way given the fact that there may be a lot of boats on trailers and a lot of RVs; he is concerned but it is not necessarily going to impact his vote tonight of folks having to make multi-point turns, and stopping traffic on that road or taking out a portion of the curbing is something that has been looked at or is that something that he would be willing to work.

Mr. Moia replied affirmatively; he advised he has already talked about and he is obviously willing to look into doing any kind of turn lane improvements to make sure that traffic is not detrimental to the residents; that was definitely something already being considered and that will be part of the BDP when it comes back to the Board if this gets approved.

Commissioner Isnardi advised she is okay at least sending for the transmittal, but she is going to be very much scrutinizing this project; she is not suggesting that he have 300 angry residents in here, sometimes can be less impactful because people can be foul; she always looks at things in a very factual way, if it is not extremely favorable she will not be supporting it;

talk to the residents; she knows it is hard to get anybody on board when building anything; but she suggested that he make it very favorable to her and the residents if he wants the support of her in this; it is in her district and it is going to have to be very favorable; and it cannot impact the traffic, because he is not the only one wanting to do things out there too, which is even more of a challenge.

Mr. Moia advised he is very well aware of that.

Chair Lober stated to that end, he does not think this is going to be a surprise to Mr. Moia because he has been to enough of these meetings; he does not have any reason to not hold true to his trend of voting with the Commissioner whose district the project falls; he can count on less than one hand how many times he has ever diverged from that, and if Commissioner Isnardi is not on board, then he is not on board; but if she is on board, then it is extremely likely that he will be on board, so just keep her happy.

Mr. Moia stated okay and he will do.

Commissioner Isnardi remarked to keep the residents happy.

Mr. Moia stated absolutely and with the transmitter he is going to have a couple months of time to sit down and really negotiate what is going to happen.

Commissioner Isnardi advised this is more conducive for Community Commercial.

Mr. Moia added it is a very interesting piece of property and it has a lot of history.

Commissioner Isnardi mentioned it is Norfolk Parkway as well.

Mr. Moia remarked that is a big change, but historically that was an old landfill there, so it is a challenging piece of property.

There being no objections heard, the Board approved transmittal of the 2020-2.1 Large Scale Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC as recommended.

**Result:** ADOPTED

**Mover:** Kristine Isnardi

**Second:** Curt Smith

**Ayes:** Pritchett, Lober, Tobia, Smith, and Isnardi

Upon consensus of the Board the meeting was adjourned at 5:15 p.m.

ATTEST:



RACHEL M. SADOFF, CLERK



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