

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

The Brevard County Planning & Zoning Board, and Local Planning Agency, met in regular session on **Monday, April 6, 2015**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo, Chair; Ron Bartcher; Rochelle Lawandales; Andy Barber; Clyde Thodey; Patrick Reed; Ron McLellan; Richard Charbonneau; Robert LaMarr; and Loretta Goggin.

Staff members present were: Morris Richardson, Assistant County Attorney; Cindy Fox, Planning and Zoning Manager; George Ritchie, Planner II; Darcie McGee, Special Projects Coordinator IV; and Jennifer Jones, Special Projects Coordinator II.

The regular and alternate members present voted throughout the meeting.

Henry Minneboo – This is the Planning and Zoning Board meeting, and we're an advisory board to the Board of County Commissioners. The Board of County Commissioners will make the final decision on all activities today. Every item heard here today will be heard by the Commission on Thursday, May 7<sup>th</sup>, at 5:00 p.m. back in this room, so if anybody who is concerned with any of these items would like to come back, it's May 7<sup>th</sup>, back in this room, at 5:00 p.m. Did everybody have an opportunity to see the P&Z minutes of March 9<sup>th</sup>?

Robert LaMarr – Mr. Chairman, I make a motion to approve the minutes of the March 9<sup>th</sup> P&Z meeting.

Ron McLellan – Second.

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

Henry Minneboo – We've got two new faces. Tom [sic], do you want to identify yourself? Pat, I'm sorry.

Patrick Reed – I've been on this board for a while now.

Henry Minneboo – I missed you.

Patrick Reed – I just got reappointed.

Henry Minneboo – Good. Rich, do you want to identify yourself?

Richard Charbonneau – Richard Charbonneau, I'm District 4 from Satellite Beach, and I was put on the commission [sic] by my friend Curt Smith.

Henry Minneboo – Thank you.

Morris Richardson – Mr. Chair, there are 10 members here currently. Mr. Charbonneau is an alternate, and Mr. Bartcher also. If we have one more member show up – and my understanding is that Mr. John Stone is supposed to show up, but if at any time during the meeting he shows up, we'll need to have a discussion about which of the two alternates may vote, because we can't exceed 10 votes on any item. I will try to let you know if that happens. I wanted to give you a warning now, so if I interrupt you later you'll know why.

Henry Minneboo – I appreciate it.

**III.B.1. (15PZ00003) – FMKT MEL OWNER, LLC – (Troy Cox) – requests a Small Scale Plan Amendment (15S.02) to change the Future Land Use from PLNIP to CC, and a change of classification from PIP to BU-1 on 7.444 acres; and a change of classification from PIP to BU-2 on 9.957 acres, located on the east side of N. Wickham Rd., approx. 0.20 mile south of Pineda Court. (No assigned address. In the Melbourne area.)**

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

**P&Z Recommendation: Lawandales/Reed – Approved. Vote was unanimous.**

Will Reynolds – My name is Will Reynolds and I represent the owner.

Regan O’Laughlin – I’m Regan O’Laughlin with Kimley Horn and Associates, I’m the Civil Engineering Consultant for the owner.

Henry Minneboo – State what you’re trying to accomplish here.

Regan O’Laughlin – We are here for, as stated, a small scale amendment and a rezoning. We are currently under construction with the project, as you may be aware. It is for the Fresh Market project along Wickham Road, at Jordan Blass and Wickham. We’ve already been through Brevard County permitting and site plan approval with a previously approved permit, and we are just asking for this action ultimately just to be able to subdivide the outparcels along the front instead of having them lease areas as they are currently shown.

Henry Minneboo – Anybody on the board have questions for the applicant? Seeing none, I go out to the audience. Is there anybody in the audience who would like to speak for or against this item? Seeing none, I bring it back to the board.

Rochelle Lawandales – I move approval, Mr. Chairman.

Patrick Reed – I support.

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

**III.B.2. (15PZ00005) BREVARD COUNTY – (Bruce Moia) – requests a Small Scale Plan Amendment (15S.01) to change the Future Land Use from Residential 2 to CC, and a change of classification from GML to BU-1 on 0.51 acres, located on the northwest corner of Minton Rd., and Hield Rd. (4090 Minton Rd., Melbourne)**

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

**P&Z Recommendation: Reed/McLellan – Approved with a BDP, limiting the use to a thrift store only. Vote was unanimous.**

Bruce Moia – Good afternoon, board members and staff, my name is Bruce Moia, I’m with MBV Engineering and I’m representing the leasees – not really the property owner because the property owner is the County, and they have an agreement with Nana’s House; they are leasing them the property, and they want to use it as a thrift store to support their mission, and their mission is to aid needy, abandoned, and abused children in Brevard County. They have several homes locally where they do that. This is a way for them to raise funds to continue to help more and more children that need their help in this community. They are currently working on a housing community just down the street, so this will help them fund that and maintain it in perpetuity. It is located on the corner of Hield and Minton, which currently is zoned Government Managed Lands because it is owned by the County. So, we need to get it zoned to BU-1, and we need to change the land use as well to get it to commercial because it’s.....I forget what the land use is, but it’s not compatible, so we’re asking for that

change. It is, obviously, at the end of a residential area; it does front Minton Road, which is a four-lane divided highway; it maybe was residential character at one point in time, but it has pretty much lost that now. It's a very low-impact use. They currently operate two thrift stores in Brevard County in the Town of Malabar; it's very low key. I was just talking to Kim today and she said the most she's ever seen is, like, six cars in the parking lot; not too many people come; they come, they browse, they buy, and they leave, so it's going to be quiet, it's going to be well-run, well-maintained, and so we're looking for your permission to grant that. I understand there is some opposition, but we do have some support here, if you don't mind standing up. We have some letters that have been submitted, and I'll be here to answer any questions if there are any objections. Thank you.

Henry Minneboo – Does anybody have any questions for Mr. Moia?

Clyde Thodey – Bruce, I seem to be reading that the road is a problem because it's been a residential area there, and putting more cars on that, what is your projection of the amount of traffic that's going to be on that road? You being from where you're at, you ought to know that that study is a necessary thing.

Bruce Moia – I'm not super familiar with that area, but I did talk to a resident who is a professional and he kind of gave me what he thought his perception of that road is, and what happens out there. The timing of that light is such that it's really hard to get out of Hield Road. I think there's a minute, maybe even two minutes, of time before that light will actually change to green to allow people to leave. It's easy to get in, but very difficult to get out. This property has frontage on Minton Road, as well as Hield Road; there is a driveway access onto Minton, so what we would like to do is – in order to alleviate that, even though the impact is going to be minor in nature, especially for this type of use compared to any other kind of commercial use, and a car or two an hour I don't think is going to have an impact on the residents, but we will also be able to exit out onto Minton directly, so we can avoid being part of that issue. I think it's an existing condition that we can't solve, unfortunately. I don't think we're going to make it any worse, but we're not going to make it any better, either.

Clyde Thodey – Thank you.

Ron McLellan – Bruce, I'm all for this thing, I think it's a great deal you're trying to do here, but my only problem is are we going to open a can of worms by going from a GML to anything?

Bruce Moia – I don't think so. I think you guys are looking to do that at the old pond there in Viera where they used to discharge the wastewater. So, it's not un-typical to change GML lands when it's no longer of any interest to the County to maintain it in that configuration.

Ron McLellan – So, you're comfortable with that and you don't think we're going to have.....

Bruce Moia – We're not setting any trends here, or breaking any barriers that have not been broken before.

Ron McLellan – I just see a bunch of people getting together and saying, "Oh my goodness, look what the County is doing now, they are taking this out of GML and making it money making deal." You know how that goes.

Bruce Moia – This organization is 100% volunteer based, so no one is making any money here.

Ron McLellan – I know it's a great thing, and I see nothing at all wrong with it, but I'm just looking at it from way down the road if somebody wants to do something in GML.

Bruce Moia – I understand.

Rochelle Lawandales – Bruce, I, too, am a supporter of Nana’s House. I just have some concerns about the physical conditions of the site. The staff referenced in their documentation that there would have to be considerable redevelopment of the property. Have you all looked at how you would propose to re-develop the site, and what modifications you would have to make in order to comply?

Bruce Moia – Yes, we’ve done a conceptual site plan just to see if it would even fit, because we have to have parking because that would be required. There’s not a whole lot of room; it is on septic, and obviously that takes up some room; there is some existing parking on the north side, and we would propose to put some on the south side off of Hield, because that’s where the open area is; but they are not going to expand the building; they are going to improve the building, and I think they are making it ADA compliant and whatever interior improvements need to be made. Obviously, we have to meet all the County rules. I think we’re going to have to follow rules that are more strict than what we’re actually going to do, because there’s really not a lot of codes that relate to the actual use of a thrift store, so we have to comply with the commercial-type uses. If need be, we might have to have a variance of some kind, but we would keep those, obviously, to a minimum, but we would try to fully support all the requirements of Brevard County.

Rochelle Lawandales – I did go to the site, and that south side is really very difficult. I don’t know how the movements would be of going in and trying to back out onto Hield to get out.

Bruce Moia – We wouldn’t be backing out on the road, we wouldn’t be allowed to.

Rochelle Lawandales – But I can tell you that the normal human behavior is, there is very little turning radius on the south side, and you’ve got the parking on the north, and there’s some maneuverability there to make a right-in/right-out on Minton, but if you’ve got people coming in on that south side right there at the intersection, that’s going to be really tough, and that concerns me.

Bruce Moia – Yes, the driveway would be close to Minton. You’d be coming in and making a right turn, obviously. The property is only so deep, so there’s not much we can do there.

Rochelle Lawandales – And I’ve got to ask you a question that’s probably none of my business, but you said Nana’s House is going to lease the property from the County, and I have to assume that lease is considerably less than what they’d be paying for a retail situation.

Bruce Moia – Very much less, yes.

Rochelle Lawandales – Obviously, that’s the driving force here. How long is the lease proposed to be for?

Bruce Moia – It’s a 20-year lease. It’s already executed.

Rochelle Lawandales – You have the lease? So, if you didn’t use it as a thrift shop, what would you use it for? Is there a reverter in the lease that the lease goes away if you don’t.....

Bruce Moia – There’s a clause that tells you what you can and can’t do. It basically allows them to do.....they can do housing, or they can do any other activity that would support the cause.

Rochelle Lawandales – And they can do that under the GML and not have to have a CC?

Bruce Moia – As far as I know, we have to get this rezoned, even if it went to community housing we’d still have to get a rezoning and a land use change.

Rochelle Lawandales – No, because it’s Residential 2.

Cindy Fox – The GML – it's been GML for many, many years and the existing GML zoning would allow them to have a home for children.

Bruce Moia – And that was the original intent, was to do this for housing, but in the time they executed the agreement and today, they were blessed with property in West Melbourne where they can build an 8-home community, so the need for housing there is no longer a need. The more important need is to have a revenue generator.

Rochelle Lawandales – Can they get out of this lease if this isn't approved by the County Commission?

Bruce Moia – I'm sure they could. The County would agree to let them out.

Rochelle Lawandales – Thank you.

Patrick Reed – I have a question for staff. Did anyone do any type of a traffic study to determine the number of movements coming in and out of this property in one business day?

Cindy Fox – On the first page of the staff comments we do a very quick potential traffic analysis that tells us that the trips from the proposed zoning would increase. It looks like they have said the average is 166, with peak by about 14. So, it does not change the level of service on the road.

Patrick Reed – Okay, but the actual ingress and egress was how many?

Cindy Fox – If you look on the first page of the analysis of this item it says, "Trips from existing zoning: 9.52. Trips from proposed zoning: 166".

Patrick Reed – So, there would be an increase estimated of 166 trips?

Cindy Fox – Yes, that's just a potential.

Morris Richardson – And that's associated, sir, with the zoning change, so that assumes up a lot of different intensive uses that can fall in the proposed zoning category. The proposed use is a thrift store, and particularly if that were encompassed, potentially, in a binding development plan, or something of that nature, then you're not likely to see that number of trips, necessarily.

Patrick Reed – My only concern....I'm familiar with the one in Malabar that's on a very small piece of land as well, and when traffic comes out Malabar is a mess right now, and when it's widened it's going to be even worse. I'm just concerned that the issue of the traffic and the surrounding residential area. That's my only concern. I know it's a good organization, my wife shops there. Thank you.

Richard Charbonneau – I spent about an hour there yesterday and about an hour today, so I would know what I was talking about. I got a picture of the layout of the land and I don't see a conflict there. (Mr. Charbonneau's microphone was not audible). I'm all for Nana's House and I would definitely give them the benefit of a doubt.

Henry Minneboo – Anybody else on the board? Bruce, did you check....you got some early indication of whether you're going to be able use that driveway on Minton for ingress and egress? Do you think you'll be able to do both?

Bruce Moia – Here's the situation we're going to be forced into. The more we put pavement down, then we're going to get into a stormwater issue. So, we can't fit both, so we have to keep it to a minimum, unfortunately.

We would like to go around the building with access; if permitting requirements prevent that from happening then we would be forced to not be able to do that.

Ron McLellan – Is there one or two driveways coming off of Hield Road?

Bruce Moia – There's no driveway on Hield Road; it's a dirt driveway off Hield, and there's a paved driveway off of Minton.

Henry Minneboo – Is there anybody in the audience who would like to speak for or against this?

John Connelly – John Connelly, 3620 Hield Road. I've lived out there for 30 years and we've always had a problem with traffic. The other thing we need to keep in mind is that this is a dead-end road; half of it is in Palm Bay, so you're going to deal with Palm Bay residents along with the County residents. We've always had an issue with the lights, as they mentioned, it's all generated now through the computers, dealing with the shopping center down the road and Palm Bay Road. So, we're having to deal with traffic going into Palm Bay. Then we always try to get a right turn lane to get out of there, so if anybody is making a right they can get out of here. This permit – this house that we're talking about – was just permitted not too long ago for a children's house. That's the premise we came up with. They just went ahead and remodeled it to make it into taking care of the children, and now we're talking about changing it into mercantile. The driveway situation.....the only driveway you have out there right now that's hard road is coming into the garages. You've got to remember this is a house, this is not.....and the way this house sits it's into the easement, almost where the eaves of this house is sitting underneath the power lines, which pushes you right up against Minton Road, so we don't have the setback like a normal house, we're up against the power lines. So, if you were going to put an entrance or parking of some kind, it would probably only be 100 feet away from this light, because of the guyed wires and all the power lines that go there. The other concern I have is you have nurseries at the end of this road and they use that road, so it's not just one truck, it's multiple trucks. We have an FPL substation at the end of the road that runs trucks back and forth, and that's all the cutting equipment that goes in there. You may not see it all the time, but that traffic gets built up and it's a continuous problem and we're always calling the County trying to get our light to make that right-hand turn, or left-hand turn. The stormwater runoff, I don't know how you're going to achieve that. Stormwater runoff is a situation we deal with all the time in the County, and this property is so small that I just don't see how you're going to get it out of there. The driveway that they talk about that's leading onto Minton Road is for the garages. It's only a driveway to pull into a three-car garage/four-car garage, and half of that garage now has been taking up into bedrooms. So, we've already changed it into, "we're going to take care of the children," to "Now we're going to do...." We have a business across the street, which is an insurance agency, so there's not a whole lot of flow, but there is flow and it's going to be right across from each other with the driveways, if they put it in there to try to get on Minton. So, if you're trying to get out of that driveway and go onto Minton, you're going to have to make that left to go to the light, and you're only talking two cars, maybe, three at the most, to try to get out of there. There's shopping centers right there in Palm Bay that are empty that they could easily go ahead and get a lease and go take care of whatever they have to do, but as far as I'm concerned, I think it's just that we're adding more to the situation and the complaints and the problems that we have there, unless you all want to have a right-turn lane where we can get out of there. The man stated that he isn't real familiar with the area; he has all these dreams of doing it, but he's not familiar. I'm 30 years, I know what the situation is. So, it's a good thing that you're doing it for the children, but they need to be moving it somewhere else; it's a dead-end road and there's no way to get out of there. So, that's my peace in this thing.

Henry Minneboo – Thank you, sir.

Clyde Thodey – You heard me ask Bruce earlier about the trips, and we're at 166, do you think that that's going to be manageable?

John Connelly – If they are running their hours from 9:00 a.m. to 5:00 p.m. they might be able to swing that in there, because there's a lot of traffic that goes in between there. I'll give them part of that, but there's still traffic that runs.....and like I said, you've got Fire Rescue running to Palm Bay. You've got two sets of Fire Rescue going down there, you've got Palm Bay and County because it's a split road. We have emergency vehicles going for fire, police, and whatever else has to happen out there. There's no other feed to it except coming off of Minton Road.

Clyde Thodey – When you worked with the County in regards to the light, has that helped at all?

John Connelly – It only helps for a little while. You talk to the County – there's a camera there where they can watch it – they are fighting the issue of a big mall that's there, and going into the new subdivision down there at Horton. That triggers when our light goes. You're not going to wait 60, you're waiting two minutes, sometimes three minutes, depending on the flow of the traffic. The traffic going up and down Minton Road governs that light, per se. They say they'd like to have this, but Palm Bay Road.....and the other problem we've got is there's a no U-turn sign there, but a lot of people going into Palm Bay don't want to make that left, they'll make the right and get there right at Minton and they'll make a U-turn right there. So, we have a lot of back up, and it's a bad situation. I mean, I feel for them, but it's not the place to be changing zoning and getting ourselves into a bind of....there's other places to put this. I mean, if they want to help the children for a while and they've got a lease for a buck, the County will let them out of their lease, I can guarantee you, but if you want to put them in there like your premise was to help these children, then help them with somewhere they need to lay their head down, but let's don't create a place where we've got more people coming in to do business there.

Clyde Thodey – How many residents actually live on that street?

John Connelly – I don't know how many residents live on that street, but let me show you a map.

Clyde Thodey – I've got that one.

John Connelly – I would imagine there's a couple hundred that live down that road.

Clyde Thodey – Cindy, how many people do we have that we sent letters out to there?

Cindy Fox – If you give me a minute I can check that number. Everyone within 500 feet of the property line of the property was notified.

John Connelly – So, that's not going to give you a reading.

Clyde Thodey – No, that's not going to give us a lot.

John Connelly – And the way the sign was posted, it was posted toward Minton Road, it wasn't posted toward Hield. So, the people who come down Hield didn't know this was current unless they got a notice.

Clyde Thodey – Cindy, if you could find out I'd like to know about how many people live on that road.

John Connelly – And if they were going to use the entrance into Minton Road they would have to take the structure down to get that circular drive around to it. I don't know that they have that kind of money to throw at this thing, I really just don't think so. And for us to rezone it on a premise, you know, the Fire Department was in there, Public Works was in there for a little while, but the house is just in a bad situation other than just for residential. We just can't take it.

Clyde Thodey – Thank you.

Ron McLellan – Explain to me again about the U-turn, the people coming from where.....

John Connelly – The U-turns are right at...if you're coming down, let's say Palm Bay Road, and you're going west, instead of making a left and going into Palm Bay, they'll make a right and come down to Hield Road, which is a light. There's a 'No U-turn" sign there, which is supposed to be enforced, but they don't enforce it unless there's a cop there. What they do is they hold up the traffic and make that U-turn, so anybody that's trying to make a right or a left, we've got to fight the people making a U-turn.

Ron McLellan – So, you're talking about people on the northbound lane on Minton Road.....

John Connelly – Northbound, making that U-turn right there and then holding up the traffic, and now they're in the middle of the intersection blocking the intersection, because nobody has any courtesy in this country anymore, there is no courtesy.

Ron McLellan – So, it's not so much the shopping center coming out across the road.....

John Connelly – No, because the shopping center across the road is left, right, or straight down. It's not that shopping center.

Ron McLellan – What you're saying is.....is it that much of a problem, really?

John Connelly – Yes, we fight it all the time. We'd like to have a right-hand turn lane so we can get out of there.

Ron McLellan – I understand that, but I was trying to figure out how you were talking about the people making a U-turn.

John Connelly – The U-turn just added more problems to that intersection, is what I'm saying. That dead-end road has a lot of people that use it.

Ron McLellan – I know Hield Road very well.

John Connelly - And the entrance to this proposed business would be right there, two or three cars in the light. It's not feasible.

Morris Richardson – Mr. Chair, if it would please the board I would like to try to answer the question regarding the properties on there. I'm looking on the Brevard County Property Appraiser database right now for the listed properties. There might be some properties that are exempt from public record, so the minimum number is going to be 103, because I have four pages of 25 properties, and an additional three on the fifth page.

Henry Minneboo – Thank you. Is there anybody out in the audience who would like to speak against this?

Tammy Mygrant – My name is Tammy Mygrant, my address is 3030 Hield Road. I live directly behind this property. I just purchased this house and now I'm going to have a thrift store, or if that doesn't work, it can be made into anything if you zone it commercial, it can be a strip bar, and there really isn't an exit to get out of there except the dirt road that is right beside my house.

Henry Minneboo – That latter part, the strip bar, I don't think....

Morris Richardson – I don't think as long as we own it that that can happen.

Tammy Mygrant – But anything can go in there. I read the...

Henry Minneboo – That's about the only thing I'm sure of today.

Tammy Mygrant – Right, but I read the regulations of what can actually go in there and it's pretty much anything, and I really don't want my property devalued.

Henry Minneboo – Thank you, ma'am. Is there anybody else who would like to speak against this?

Bob Deeter – My name is Bob Deeter, and I live at 1618 Emmaus Road, which is at the far end of Hield. I agree completely with Mr. Connelly talking about the egress from the neighborhood being very bad. I think if we're going to stop a business from going on the corner of Hield Road, then we probably also should stop businesses from going in behind the corner. So, there should be a moratorium on businesses anywhere off of Hield Road, because the trucks that I see are coming from back in my direction – I'm all the way at the end. The heavy traffic is coming from people who live there and then also the people who make the U-turns – not all of them make the U-turn to go down the road heading south again, some of them pull into that insurance company that the gentleman talked about, and come out there and go back up, and there's a lot of traffic doing that. If the County could get control of that corner, I don't think you'd see nearly as much traffic as you're seeing right now. So, I support it, I'm part of Nana's House volunteers – we're all volunteers, by the way – so I support it, but I just want you to know that the traffic is not going to be a problem from what I can see looking at the type business that's in Malabar right now, and you're not going to get 166, you might get six at one time, but over a period of a day you might get 20. So, it's not high volume; the volume is from the back. Thank you.

Henry Minneboo – Anybody else who would like to speak for or against this? I bring it back to the board.

Bruce Moia – I guess I threw that one statement out there a little willy nilly, but not that I'm not familiar with Hield Road, I lived in Palm Bay for a while, I'm actually very familiar, I know people that live there, and I've been down that road many times. I don't do it on a daily basis, so I'm not familiar with what happens on a daily basis, but I do know that there was some support that was provided by people that live on that road, like Mr. Ziegler. I've talked to Mr. Powshok who lives on that road and he didn't seem to have a concern except that he knows what has happened with the traffic and he would like to have access onto Minton from the other driveway. I know Leo lives out there, from Leo's Concrete, and he runs a nursery out of his yard. I know there's a lot of businesses back there, so I am a little bit familiar and I think I agree with the last speaker that there are a lot of businesses down there already, but this is probably going to be the least intense business in that area. About 20 trips a day is probably more like it; the 166 is the worst case scenario for a commercial facility under that zoning. We are more than willing to go into a binding development plan to say that we will limit this to a thrift store use, instead of opening it up to any possible use, so we'd be willing to do that and anything else the County requires us to do on that property. If you look at the operation they have out there in Malabar, it's very low-intensity. We can't fix the current problem, and I think you see a lot of projects that come before you that have a lot of existing problems, and we can't solve that with this project. The County needs to put a turn lane in because the traffic counts are excessive, and the turn movements are restricted, and maybe they need to do that. I can see from the aerials on those U-turns that you do have that shopping center coming out with a driveway that is south of that intersection, and some people not knowing any better probably do come out to that road, realize they can't turn left like they wanted to, go right and make the U-turn to go south again. So, I really feel that this is a good use for the property, low-intensity, and will be well maintained, and hopefully well received by the community.

Patrick Reed – Mr. Chairman, I'd like to make a motion.

Henry Minneboo – Okay.

Patrick Reed – I move we grant approval for this request with the stipulation as Mr. Moia stated.

Ron McLellan – Second.

Morris Richardson – Mr. Chair, can I get a clarification? This is one where we'll need two motions, one for the zoning with your Planning and Zoning hat on, and then one for the land use with your LPA hat on, please.

Henry Minneboo – I'm not going to put words in Pat's mouth, but Pat, is that for the first one?

Patrick Reed – First of all, do I need to make the binding development plan part of the first motion or the second? It should be the first. Again, I move to approve the zoning request with the stipulation as Mr. Moia stated that a binding development plan be added so that this property can only be used as a thrift store.

Henry Minneboo – Is that okay, Mr. Moia? Ronnie, you seconded that.

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

Henry Minneboo – Does someone want to do the second one?

Rochelle Lawandales – I'll move approval of the land use amendment.

Andy Barber – Second.

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

Morris Richardson – Mr. Chair, if I can ask you to backpedal a little, I was derelict in my duty earlier because we should have done the same thing with the first item. So, you approved the rezoning, but it also needed the land use change, though, from PLNIP to Community Commercial.

Henry Minneboo – Does everybody understand we're going back to item?

Rochelle Lawandales – I'll move approval.

Patrick Reed – Support.

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

**III.B.3. (15PZ00013) – EMCORP, INC. AND DONALD W. RENFROE SR., TRUSTEE** – (Robert E. Harmeyer) – request a Small Scale Plan Amendment (15S.03) to change the Future Land Use Map from Residential 15 to CC on the western 428.53 ft. (2.5 acres); and requests a CUP for Commercial Entertainment and Amusement Enterprises, with a waiver to the requirement that no outdoor attraction or other commercial amusement as indicated in subsection (a) shall be permitted within 300 ft. of an existing residential development or an area designated by the County Comprehensive Land Use Plan for residential development (62-1921(b)), in BU-1 and BU-2 zoning classifications, on 10.23 acres, located on the west side of S. Range Rd., approx. 0.17 mile north of Pluckebaum Rd. (No assigned address. In the Cocoa area)

**LPA Recommendation: Barber/Reed – Denied. Vote was unanimous.**

**P&Z Recommendation: Barber/Lawandales – Denied. Vote was unanimous.**

Joe Coppola – My name is Joe Coppola, I'm the CEO of Twin Rivers Gun Works, Inc., and we're currently located at 634 Barnes Blvd., Rockledge, and we've been there for about two and a half years. We're coming before you today to discuss a potential project that we have located on South Range Road; 535 is the actual property, it's a flag lot, and there's an additional lot in front of that. What we're looking to do there.....our request is going to be the basis of developing an outdoor gun range and amusement complex, and utilizing firearms and primitive weapons, such as bows and such, and bb guns as well, to develop a complex open to the public. At this point, we have approximately two and a half years of business in Rockledge of operating as a firearms sales consulting, and also we do gunsmithing operations, and we also do personal protection training and law enforcement training from those facilities. Our business case is that currently there's no local outdoor facility within a 30 to 45 minute driving time frame in the local area for people to use an outdoor range. There are a couple of grandfathered-in indoor ranges, but nothing currently in the local area that the public can use that's open to the public that is an outdoor range that will provide the services we are providing. We've had a number of our clients and customers, as well as local organizations and law enforcement organizations, requesting that we provide this type of facility for the use of their ability to fire firearms and training. So, what we've come to understand is that in addition to the high demand and request for this locally, we'll also increase some additional revenue into the area generated by the operations that we'll be conducting. Our request at this point, again, as I mentioned, was requesting the CUP in accordance with the County requirement. We believe we've addressed most of the issues that have been brought up from Section 62-945 and 1901, respectively, but I'd like to review some of those, if you'll grant me that option. Some of the areas that have been in particular concern to the Planning and Development staff, as well as to reassure the neighbors of the adjacent properties and the public as well, so if you'd grant me that permission I'd like to cover some of those.

Henry Minneboo – You've got a little bit of time left.

Joe Coppola – First, in regards to noise generation, a particular concern has been the possible generation of noise levels, which meets the required limits that were posted in 62-1901. What we've done is conducted extensive preliminary studies and we've also submitted the findings of those studies. This is without the development of the sound barriers that we would impose. I have some pictures and a PowerPoint demonstration that we could – if we wanted to table it to later, we could show the board those specific requirements that we're going to be using – but what we're developing here, and I have my engineer of record here with me, we're developing in accordance with the National Rifle Association Design Guide, which has been the cornerstone of range development, specifically outdoor range development, for the last 25 years, in addition to the Florida Range Best Practices. So, Florida also has established guidelines for best practices for lead abatement and those types of situations, as well as noise abatement. So, the design that we've presented to you as our proposal for how we'd like to build this complex is in accordance with those regulations, but keep into understanding that we have adjacent properties with different uses. What we were specifically concerned about was the potential of which some of these noise conditions might exceed the requirements. What we've done is come very close to meeting those requirements without those barriers being placed. In addition to that, what we're going to be doing is placing approximately 5 out of 6 sides – if you consider a shooting position a cube – only one of those sides would be open, and the other sides would be covered with either a floor, a roof, or we actually have sound acoustical panels around that. So, what we'll be doing in a sense is actually directing the sound waves, and in addition to that we have sound barriers that are called Blue Sky barriers, which will be put in, and I have pictures of those as well. Currently, there's no ranges in the local area that use these, but we will be using those to actually not only limit the projectile movement, or potential (TAPE CHANGE) but also the sound waves as well, so what that does is redirect the sound back into the area where the acoustical panels are located. So, we've addressed those issues and we can address those further if you like, but certainly we've taken into consideration those issues and put measures into the design and planning of the range. Secondarily, we had some issues that were brought up – or potential issues – as far as the impact to local animal life in the area, specifically domesticated animals in the area, equestrian and the potential use of one of the properties adjacent to the north having an animal shelter placed on that property. The University of Illinois, the Center for Wildlife Ecology, the University of Florida Extension Service,

and the University of Georgia Agricultural College, and others – I'm just noting those, they are all available online as well, these reports are – have determined conclusively that habitual exposure to small arms-fired generated noise poses no long-term adverse effects to domesticated animals. The risk of hearing damage to wildlife is actually greater from exposure to aircraft and heavy machinery-related noise due to the frequencies generated by those devices. Decreased responsiveness after repeated exposure levels, such as required in Section 62, is frequently and predominately observed and attributed to habituation and reduced fear and danger responses. The findings also indicate a continual noise generated from vehicles and low level vibratory droning, which is produced by generators and the like, is actually more harmful to domesticated animals than the short-term exposure to habitual small-arms fire. So, with that being said, we just wanted it known that we are taking those situations into consideration and making sure that we're in compliance with studies that determine that there will be no adverse effects. Certainly, it's not in our plan or intent to produce those adverse effects. The last being the variance to the 300 ft. distance from residential property. We have currently in our possession from Mr. Carl Loggins, who is the southern property owner adjacent to us, that he would like us to be his agent of record to actually get a zoning variance on that property; he would like us to represent him in this potential situation to rezone from Residential Multi-Family to possibly a BU-1 or BU-2 classification or any associated commercial application, and we're in the process of doing that. So, that variance, then, would be negated at that point; if that were to pass the board we would no longer require a variance to that 300 ft. small amusement complex located close to a residential area. I'd be happy to answer any questions.

Richard Charbonneau – I have quite a few questions. I'm not an anti-gun person, I'm a NRA life member, and I also went to the police academy. How high is the berm that's shown in the drawing?

Joe Coppola – The berms are 16 feet with an additional 4-foot Blue Sky partition on the top of that, so the total height will be 20 feet.

Richard Charbonneau – What calibers are you limiting to?

Joe Coppola – It depends on the particular range that we're talking about. There will be multiple use ranges, so the pistol and small rifle range will be limited to 556 to 306. The long-range rifle will be limited to 338 Lapua, at about 400 yards with the Blue Sky stopping points. There's actually no possible way that other than an extreme adverse condition that a bullet would actually leave the bermed area.

Richard Charbonneau – So, you're not contemplating a Barrett 7, or anything like that?

Joe Coppola – Not at this point, but all of the procedures that will be put in place will be able to encapsulate those at that point. There's no need at this point to be talking about a Barrett 50 caliber.

Richard Charbonneau – You know that can go through a one-inch plate steel easily.

Joe Coppola – It depends on the load.

Richard Charbonneau – Right, it can travel well over a mile.

Joe Coppola – It depends on the load, sir, absolutely. So, if we limit the load then we can limit the possibility of the projectile leaving this area.

Richard Charbonneau – I'd like to see a little more on what you're limiting to and what you're not limiting to. It kind of makes me nervous having a really high powered rifle – and the 338 is one of them that can penetrate quite a bit also, and can travel a long ways.

Joe Coppola – One of the concerns that we've heard is that 'we just don't want to have another outdoor range where anybody can go out there and do anything'. Keep in mind that this is a commercial operation and we'll have individuals that are NRA RSO trained on every range at any point that there's a person on the range, and we'll also limit the type of ammunition that will be allowed on the range for safety purposes; there's no reason for an individual to bring out a high-loaded 50 cal just to sight-in a 50 cal or a 338; there's absolutely no reason for that, so obviously we would limit that. That's also dictated by 790-333, which is a Florida Statute, which says that we can't limit that as long as we hit the specific recommendations for making sure that they're encapsulated, that those ranges are encapsulated, so at this point we don't have any intention to go beyond that; however, we will put in place best practices to make sure that we don't have those issues.

Richard Charbonneau – I shoot sometimes at the police range and I know that we use MP5, and shooting a fully-automatic you do have a barrel rise. Do you have any prohibition against fully-automatic at your range?

Joe Coppola – We will actually not have a prohibition against it; our intention, though, is that if we are going to go full-automatic that there will be an RSO on the range, the individual will be vetted before they are allowed to shoot on the range – to our standards – and we will have a limiting device, and I can show you how it works, where the muzzle rise will be limited and it will actually, physically stop the muzzle from rising; and if there's an issue with that, we can also go to putting stops on top of that.

Richard Charbonneau – Okay, thanks.

Henry Minneboo – Anybody else?

Patrick Reed – Earlier in your comments you mentioned that you had requests for this facility from law enforcement officers and other people.

Joe Coppola – That's correct, sir.

Patrick Reed – Do you have those in writing?

Joe Coppola – I do not have them in writing.

Patrick Reed – Are they documented?

Joe Coppola – They are documented. We actually had a meeting with Eastern Florida State College because they requested that we do some joint use training with them through our business currently, and they mentioned the fact that they would love to have an ancillary facility because the problem that Brevard County has currently is that in order to get their officers trained, they do not have the option to go, even though it's open to them, there's very little bit of time where they can actually go and train personally if they want to, because the current facility is so well used and managed. So, this would offer them an overflow to actually go and practice and train and have a facility to be able to do that, not at the County's expense.

Patrick Reed – In the report from staff there's an actual noise level, a preliminary noise study that has been performed. Was that done by staff, or was that done by.....

Joe Coppola – That was done by our contracted engineers.

Patrick Reed – And they did the db study?

Joe Coppola – Yes, sir.

Patrick Reed – They are a licensed audio engineer?

Joe Coppola – Yes, sir. I don't know if they are a licensed audio engineer.

Patrick Reed – I'm just concerned that.....

Joe Coppola – We fulfilled the requirements as stated in Section 62 on how to do that, which was, I believe an 'A' level, we had to have a specific type of metering device to be able to do that for a specific amount of time. We had to get a base line, so we conformed to the requirements of that, but at this point it was a preliminary because we didn't want to move forward until we actually had an idea as to whether or not.....

Patrick Reed – Are you going to allow any automatic weapons, as they do out in Nevada?

Joe Coppola – It depends on what you consider 'allowing' automatic weapons.

Patrick Reed – Fully automatic M16's.

Joe Coppola – If an individual was vetted then we will allow them to shoot, but it will be in a specified area in specified control. Again, at any point in time there will not be an individual just allowed to come onto the range; they will always have a range safety officer, and all of our range safety officers on my staff currently have over 25 years of either special operations or law enforcement experience.

Patrick Reed – That's all I have except for one quick comment. I'm concerned about the proximity to the residents and the audio. I live three miles from a State operated range and every morning at 7:00 a.m. I am woke up to the noise. Thank you.

Andy Barber – If I was living in one of these houses to the west, would I have any reason at all to be concerned that a bullet could hit my house, and would I be listening to the gunfire?

Joe Coppola – Well, you won't be listening to anything that you're not already hearing. Understand that we are also in very close proximity – I believe it's 2,800 feet – from the Sheriff's range, so it's not a foreign sound, it won't be a new introduced sound into the environment, but certainly, like I said, we're doing everything we can, even well beyond the NRA Design Guide and Florida Best Practices, to mitigate the noise levels to come into compliance with 62-1901.

Andy Barber – So, I wouldn't have to worry about gunfire into my home?

Joe Coppola – No, sir.

Andy Barber – How can you say that, because you don't have a ceiling on the range. I mean, why couldn't somebody shoot up into the air, by mistake of course.

Joe Coppola – If you'll permit me I'll show you a picture of what our plan is for those barriers.

Henry Minneboo – Grab that microphone, we don't want to lose any of your voice, here.

Joe Coppola – Understood, sir. Okay, you'll notice on the picture located here, you can see the firing line itself, and then you can see the Blue Sky limiter. This Blue Sky limiter is located right here, which allows the rise of the muzzle to only go to a certain point. If you were to shoot beyond that it would actually go into a barrier that would encapsulate the natural round itself. In addition, you have to fire below these Blue Sky barriers in order to hit the target that you're aiming at. So, actually, the reason they're called Blue Sky limiters is because you

cannot go beyond that point, and it actually removes the blue sky, so the only thing that you actually have the ability to hit is the target that's in front of you. Should the muzzle rise beyond that, you're actually going to go into something that will encapsulate that. That's AR500 steel wrapped with wood, and then actually about 2 inches of 10,000 psi concrete, which is poured, and then we place them up that way.

Rochelle Lawandales – Is that what the Sheriff uses?

Joe Coppola – Actually, those are not currently in use anywhere in the State of Florida at this point.

Richard Charbonneau – The Sheriff doesn't have anything.

Joe Coppola – We understand that and we want to go well beyond that, and with this being commercial we'll certainly have a number of ex-military and law enforcement officers utilizing the range, but it's designed to be open to the public who may not have that type of training, so we're putting every type of measure that we can to make sure that the projectile will not leave the encapsulated area.

Andy Barber – How often does the Sheriff's Office use their range, do you think? Do you know?

Henry Minneboo – Every day, I can answer that for you.

Joe Coppola – From 7:00 a.m. to about 2:00 p.m. every day.

Henry Minneboo – The problem is the residents get to hear it from the south and now they get to hear it from the east, so they're going to be pleasantly surprised.

Patrick Reed – Mr. Chairman, one other quick question, if I may. You, I'm sure, carry complete liability in case something does happen.

Joe Coppola – That's correct, sir, we carry standard NRA, we're covered by Lockton and Lloyds of London up to \$2 million aggregate.

Rochelle Lawandales – What is distance from the edge of the actual shooting arena, if you will, to the edge of your western property line?

Joe Coppola – Well, it depends. For what we're talking about we can be anywhere from 500 yards down to about 300 yards. The back portion of the plan is actually what's called a 'shotgun 5' stand; the shotgun 5 stand has been designed so that it will be limited in the type of round that you can use. Actually, the load that can be used, and also the shot can be used and the distance it can go. So, what you'll see on those plans is the actual fall-zone of what's called a Number 7 round; we will not utilize Number 7's, but we wanted to express that we're still inside with a Number 7; we'll be using Number 9's, which as you go higher in the numbers in the shotgun, it is actually smaller, so it goes less distance, so it will be well inside of that. Prior to that, we'll have small arms ranges and that distance will be 500 yards. So, in the event that there was a circumstance where there was a total failure of every system that's in place – and keep in mind there's seven of them currently – seven systems in place to encapsulate a projectile. If every one of those failed, and we're talking an astronomical number, if every one of those failed, that bullet would still have to have the velocity to go another 6,000 – almost another mile – in order to hit a residence.

Rochelle Lawandales – What are your hours of operation?

Joe Coppola – Our intended hours of operation are 9:00 a.m. to 8:00 p.m., and it will be six days a week. We haven't decided which day we will close, it depends on, obviously, traffic associated to the site. The ATF will require us to close one day out of every week.

Rochelle Lawandales – I have a question for staff. There is a binding development plan on the Residential 15 piece, the RU-2-8 piece that's on the south, is that correct?

Cindy Fox – Yes, ma'am.

Rochelle Lawandales – Should I presume that that's the piece that this gentleman is referring to coming in for a land use amendment?

Cindy Fox – Yes, I believe that's the resident that they spoke to.

Henry Minneboo – Is that Tron?

Joe Coppola – It's Mr. Carl Loggins, and the address is 555.....

Henry Minneboo – I know who he is.

Rochelle Lawandales – So, the distance requirement, the waiver requirement, is right now from that existing residence that's on that piece?

Cindy Fox – It's from any property that is adjacent to this piece that has a residential zoning or future land use, and that would be the piece.

Rochelle Lawandales – And just south of that is an AU area, everything else is commercial, or commercially designated.

Cindy Fox – Correct.

Henry Minneboo – Anybody else before I go to the audience? I'm going to say one thing. I'm as much a gun advocate as all these people, but I wish you had the Sheriff here to tell me it was okay.

Joe Coppola – I was actually advised against that.

Henry Minneboo – You tell the Sheriff it would have been a lot better for me if he had been here. We dealt with the Knight Industry issue many times, and they had to muffle all their sounds and stuff, and that was quite an ordeal. This is going to be pretty tough. Had we notified Catalina Village out there and Lakeside, this room would have been packed. That's my only comment as Chairman. I'm going to go out to the audience. Is there anybody who would like to speak for or against this item? Yes, ma'am?

Katherine Johnson – I'm Katherine Johnson, with Friends for Animals Sanctuary, located at 2705 Kyle Lane, Cocoa, Florida. We have some different issues. He was talking about the hearing and who can hear it, and what he's going to have going. He talked mainly about the automatics and semi-automatics, and the handguns; he didn't talk about the skeet shooting, which if you look at his proposed range of skeet shooting, it comes right up to the southwest end of our property, which is where we're going to have the girl and boy scouts camping. So, that back end has got our cat house, our horses, we've got the camping facility for the girls and boy scouts, we have the volunteers there all the time. First off, I want to say that I am not against guns; we're a gun owner, we're an NRA card holder, we belong to the Malabar Gun Club, so this isn't about guns; I don't mind guns at all. I just mind this particular business being with our animal sanctuary. Let me read

our mission. Our mission is to rescue animals from the two County shelters to reduce the euthanasia rate, rehabilitate, and find forever homes for them, and educate the public about good pet care. So, not only are we going to have animals on our sanctuary, we're going to have a lot of youth on there. Every day we hope to have someone from the Brevard County school system, one class a day there learning about animals and animal care. We've got the boy scouts, lots of community outreach, and I understand that in the NRA manual it says that animals and people get used to the pop-pop sound all the time. If you put a 50 caliber next to me and shoot it, even with my earphones I'm going to jump, even though I know that it's going to be loud. We don't have animals that are going to stay there long-term, we have animals that are going to be there short-term, we have volunteers that are there short-term. I don't know what parent would let their child on our sanctuary at this point, knowing there's a gun range right behind us. And even though they've got all the berms and all the safety, we picked this land. I was just before you guys in October getting us rezoned to agriculture to have this. We picked this because we were out kind of in the middle of nowhere, we were going to be a sanctuary where it was going to be quiet and it would be great for the animals to be rehabilitated - the one's in the shelters are traumatized already - rehabilitate them and give them a second chance at life. He said he was closing at 8:00 p.m., but according to the plan it's 9:00 p.m. at night. When he talks about the decibels, their engineer did it at our entrance, which is, if you look at Kyle Lane, it's very long going back into the back part of the property where the animals are, he did it at the entrance of our lane and Parrish, which is quite a ways from where the animals are going to be. Also, these are decibels for humans, and I think we all know that animals have a much more sensitive hearing rate, and what's loud to us is excruciating to animals. Not only are we going to have the scouts, the kids from the public school system, and the volunteers, we're also going to have the public walking the area looking at animals and adopting animals, and I sure would hate someone to be in our horse paddock, which is right up at the south area of that land, and there's something that goes off and that horse starts rearing. That's going to be a bad day. Also, if you look at the skeet shooting, what concerns me is if you look at this it goes right up against our property line. That's where the scouts are going to be camping. Who is to say.....I don't know about you guys, but I don't have the perfect range or sight, but what happens if one of these skeet shooters goes out of that and goes into our property? I don't know if he is going to be required to have a wall there, or how far that wall is, but we had to sign off that we wouldn't require any of the commercial properties around us to build a wall, which is required if you are residential, so we had to waive that. I don't know if this is going to pertain to him and he doesn't have to build a wall now. So, those are our concerns. I would like to have.....he said he did a preliminary, and at the very least we would like a formal sound assessment, because in Florida, as you well know, the temperature guardiance of wind could be 10 or 15 decibels effect on sound compared to the neutral atmospheric conditions, which is University of Mississippi Environmental Noise Study, as local folks can attest that during winter months they can hear trains and I-95 very clearly, while not hearing those in the summertime.

Clyde Thodey – Would you come up here and tell me exactly where your place is. Is this it, right here?

Henry Minneboo – It's contiguous to the acreage here. We can have girl scouts and guns at the same time.

Katherine Johnson – We actually cut this out for the girl scouts and boy scouts in order to camp there and get their husbandry badges. They can be back there by themselves and camp, and they can get their camping badges, along with their husbandry badges. We're a nonprofit helping Brevard County, not only with their animals, but with their youth, and we're going to be a very aggressive outreach organization to our communities. We are not for profit, we are nonprofit and we are here only to help Brevard County, not anything else. And we work very closely with Sheriff Ivey, because we will not take any owner surrenders. All animals on our sanctuary have to come from the shelter or they have to be confiscated by the Sheriff's Department. Thank you.

Henry Minneboo – You guys can have fun and both of you can have the Sheriff here at the same time.

Katherine Johnson – My husband said yesterday, at Easter Sunday, “You need to call Sheriff Ivey and talk to him about this”. I’m not calling Sheriff Ivey on Easter Sunday.

Henry Minneboo – Thank you. Is there anybody else who would like to speak for or against this? I see none. It’s up to you, sir.

Joe Coppola – I understand the previous comments, absolutely. What I would like to state is I am personally a Boy Scout troop leader. We have Boy Scouts coming and using one of their merit badges as well – my son and daughter are both involved in Boy Scouts, and Mr. LaMarr can account to that effect – so we understand what’s going on there. Certainly, we have no issue with actually re-addressing the design and pointing it in the opposite direction. There’s not a problem with that. So, we’re open to design alternatives. As far as the animals are concerned, again, it’s not our intent, or not in our planning, to not include those issues, but again, we have scientific studies that state that there’s no issues with this as far as domesticated animals are concerned. So, I understand the concern there, but we want to make sure it’s based in science and not opinion. Ninety percent of what we are doing is an outreach to the community as well. So, I just wanted to make sure that that’s included as well, and we look forward to your reply.

Loretta Goggin – I had a question for the gentleman that just sat down. He made reference to opinion versus fact. I’m not sure if it was this board.....I think it was this board a couple of years ago, we had a veterinarian in here and we were talking about a borrow pit, and there were some concerns about a horse riding stable and children riding horses. There was a veterinarian in the group that testified, and he spoke about the fact that the horses can be startled and knock the children off, and of course the children could be hurt. Now, I would consider that to be expert testimony, or expert.....not opinion, but expert testimony.

Joe Coppola – It might be expert testimony, ma’am, but it’s not continually scientific based. What we’re concerned with here is that there’s any number of things that could cause that horse to be startled. There could be a snake on the ground that could cause that horse to startle. So, there’s a number of different issues that can create the scenario that you’re talking about. What we’re talking about here is the noise generated specifically from small arms fire, which this is considered small arms fire, even up to a 50 cal is considered small arms fire, we’re not talking large caliber weapons, we’re talking small arms fire here. There have been multiple studies done, specifically for this purpose, to indicate that domesticated animals do not have an issue once they have been habituated, meaning they’ve been exposed to this and they’ve gotten over the fear factor. When you introduce an animal to a situation where they are unfamiliar with the circumstances of their surroundings, there are a number of different things that will startle that animal, but after a while it becomes normal and they understand there should be no fear associated with that noise, and it’s normal ambient background noise to them, and there are significant studies that indicate that.

Loretta Goggin – So, am I – and I don’t want to argue with you, but am I to understand that these animals that are brought to this rescue, they are there for a short period of time, they are not there for any great length of time, so they have not become acclimated to this noise and this environment.

Joe Coppola – Well, then would it be appropriate to put a child on top of a horse that’s not been acclimated?

Loretta Goggin – I’m not going to argue at this point, I have to speak on behalf of the school district’s children. I have to make sure that these children are going to be put into a safe environment, and I also have to think of the girl scouts/boy scouts, and the 4H children that are out there.....

Joe Coppola – Who will also be on our property.

Loretta Goggin – My point is just the children. I am a gun advocate, there’s nothing wrong with that. I did my 24 years, six months, five days in the Air Force, and I’m proud of it, and I think everyone should be able to

have the choice whether they want to carry a weapon or not, but I still think we have to think of safety first, before we make our decisions. I think you can come to some sort of compromise on this decision, I really do.

Henry Minneboo – It's back to the board.

Patrick Reed – What is the distance from the rear of the property in question to Burnell [sic] Road?

Henry Minneboo – That's Burnett.

Patrick Reed – Burnett. I'm estimating about 600 feet.

Cindy Fox – I think that you're correct with that estimation. They've done a radius map that should be part of your package that gave us the 1,300.

Patrick Reed – About 600 feet. Was a sound study done on Burnett Road, directly west of the property? I can't find one.

Cindy Fox – They did one at Pluckebaum and South Burnett Road.

Patrick Reed – Which would be southwest of the property.

Cindy Fox – And they did one at Catalina, also.

Patrick Reed – I don't see Catalina.

Henry Minneboo – Catalina is west, off of Burnett.

Patrick Reed – I'm just concerned, you've got – from what I can see from the aerial map – a lot of homes about 600 feet to the west of this.

Cindy Fox – Yes.

Patrick Reed – I don't know where the Sheriff's range is on there.

Clyde Thodey – Down to the left.

Patrick Reed – It's south. Again, someone mentioned the fact that wind carries sound, and I live next to the FEC railroad and I can guarantee you it carries sound. I'm just concerned, not only with safety, and I would like to see the report that the gentleman spoke of about animals and their acclimatization.

Andy Barber – Henry, is it possible to make a motion?

Henry Minneboo – We're in position, yes.

Andy Barber – I'd like to make a motion to deny.

Rochelle Lawandales – Second.

Morris Richardson – Once again, Mr. Chair, I apologize, but this is another case with two hats; for Planning and Zoning it's the CUP; and LPA for the land use.

Henry Minneboo – I'm going to ask for a roll call.

Rochelle Lawandales – Let's clarify what the motion is.

Henry Minneboo – The motion is to deny the first part of the zoning.

Morris Richardson – The Conditional Use Permit, that's the zoning component.

After a roll call vote, the board voted unanimously to deny the Conditional Use Permit.

Henry Minneboo – Do we have a vote on the second one?

Andy Barber – So moved to deny.

Patrick Reed – Second.

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

**III.B.4. (15PZ00015) – BBC INVESTMENTS IV, LLC** – (Steve Stevens) – requests a change of classification from AU to BU-1-A on 1.31 acres, located on the east side of U.S. Hwy 1, approx. 0.19 mile north of Roundtree Dr. (No assigned address. In the Cocoa area.)

**P&Z Recommendation: Reed/Lawandales – Approved with a Binding Development Plan. Vote was unanimous.**

Scott Nickle – My name is Scott Nickle and I'm with Bussen Meyer Engineering Group, we're the engineering consultants for BBC Investments, and our office address is 100 Parnell Street, Merritt Island. We're here today to request rezoning of property that is 1.31 acre, located on the east side of U.S. 1, about ¾ of a mile north of S.R. 528. It's known on the Property Appraiser's map as Parcel 270. It is currently zoned AU, Agricultural Use, and we're requesting a rezoning to BU-1-A. The County's Future Land Use Map designation is NC, which is Neighborhood Commercial, and BU-1-A is consistent with that designation. The proposed use for the parcel in question is for a stormwater treatment pond, a small amount of parking, a solid waste dumpster enclosure, access to U.S. 1, and also there will be a significant amount of tree preservation to make sure we preserve oak trees and hickory trees onsite. We have no objections to the findings contained in the staff report, and also there was one recommendation in the staff report for a binding development plan submittal, which we have done.

Henry Minneboo – And that binding development plan said what?

Scott Nickle – It restricted use to the pond, the parking, and the solid waste enclosure, and access to U.S. 1.

Henry Minneboo – Anybody have a question for this gentleman? Seeing none, is there anybody in the audience who would like to speak for or against this item?

Linda McKinley – My name is Linda McKinley, and our address is 304 Glen Ridge Road, Cocoa, Florida. We live in Parkchester. I don't know if any of you are familiar with our neighborhood. We have one entrance out to U.S. 1, and this proposed.....I'm still not sure, because we weren't.....we just got a notice within the last week, and a lot of people in Parkchester didn't get a notice, so we are kind of a blue haze about what is actually proposed. Can somebody can just say it in a couple of easy words?

Henry Minneboo – I can do that, but I'm not supposed to. I've read my agenda here, but it probably....nobody has contacted you all? Here's what happened, they tried to contact everybody within 500 feet of the parcel, so a lot of the people in Parkchester may not have had that opportunity, so I don't know exactly how far it is from Parkchester.

Linda McKinley – Some people who overlook that area.

Henry Minneboo – I'm going to defend the staff, they do a pretty good job of trying to get everybody within 500 feet.

Morris Richardson – It looks like a large amount of it would be within 500, but I can clearly see that there would be a number of residences back there that would not be within the 500 courtesy mailing notice.

Henry Minneboo – So, the staff over here tried. They didn't keep it a secret.

Linda McKinley – It's just that it's really adjacent to our neighborhood.

Henry Minneboo – Usually, whoever is working the piece would probably meet with you all if you had an organization, or a homeowners association. I'm providing answers in hopes that I can try.....and this board may decide that if it gets too complex here that maybe they'll have to explain it to you at a later date, and we may have to table, so just hang with us here. Do you all want to try to.....this is a little out of procedure, but they have no clue, and you might be able to answer.....it would have been a good idea had you guys met with them before you got here.

Ron McLellan – Can we move on to the next item and let these people talk?

Linda McKinley – I left doing taxes to come down here.

Henry Minneboo – There's another item here, and maybe they can talk to you in the back if that would help you all.

Morris Richardson – Tim, if you all have a map that you can show them.

Unidentified man – May I ask that we go ahead and table this so we can actually research it? We haven't gotten the proper notice.

Henry Minneboo – Is this time sensitive?

Tim Pickles – If I may, Mr. Chairman. Tim Pickles, my address is 3490 N. U.S. 1, Cocoa, so my office is very close to this, as it turns out, right next to Parkchester. The site request is for a rezoning, which is a parcel to the north of the parcel adjacent to my property, and also adjacent to another parcel which is currently zoned BU-2. The request is BU-1-A, as an ancillary site, or a site consistent with a current development plan that will be submitted for a use that is consistent. In other words, a commercial use that is already consistent on U.S.1. This is a site solely dedicated to parking and drainage, and those items identified in the binding development plan; it's not for any other purpose. The 500-foot – or the requirements for notification – to my knowledge have been complied with. The only issue is whether some people in Parkchester, or maybe another subdivision outside that scope.....I can't speak to that per se, but what I can say is this issue is time sensitive in that this property is under contract to be purchased, and if further delays are incurred, then the contract may go south. I don't know. We do have representatives of the owner here to explain some of those issues if necessary; however, for purposes of explanation, the reason for this rezoning is solely as it relates to an ancillary use, and not a primary use for commercial purposes; it's solely for purposes of drainage and parking, et cetera, as

identified in the staff report. They are not seeking to change the use other than what is required under the application and contained in the binding development plan for purposes of the rezoning.

Henry Minneboo – Did you all understand? They think you are going to build a building there tomorrow.

Linda McKinley – They already started.

Morris Richardson – That's on another property.

Tim Pickles – The engineer can talk specifics if necessary, but there's no building on this property.

Henry Minneboo – This board knows that, but the people that live there don't.

Tim Pickles – I understand, and I understand the concerns, certainly, but for purposes of this rezoning, it's solely as related in the application and the BDP.

Morris Richardson – I don't know if the board has it, but I have reviewed an agreement that the developer submitted committing that they will only use it for stormwater retention, parking, and things like that to support the building on the other property, which is going forward regardless of this. This is separate and apart from that piece.

Tim Pickles – I would be happy to meet with the people outside if necessary, if you want to take a few minutes. I don't want to lose our spot in line.

Henry Minneboo – It's time sensitive to you all, and if you could just help those people out real quick, if this board wants to agree upon getting the last item and get that out. I think in five minutes you could get it done.

Tim Pickles – We'll attempt, sir.

Several speakers at once from the audience.

Henry Minneboo – I can't speak for you people that live there, but if Mr. Pickles does a good job, he's going to clearly explain to you that nothing is going to happen to this piece of land that's there other than drainage.

(TAPE CHANGE)

Morris Richardson – The Board of County Commissioners will hear this request on May 7<sup>th</sup>, so this is not your last opportunity to speak on this.

Henry Minneboo – I'm just trying to answer you before everybody else.

Tim Pickles – In addition, it will have to go through the site plan review process.

Henry Minneboo – I need a motion by the board to let him go out there and see if they can work this out.

Rochelle Lawandales – So moved.

Robert LaMarr – Second.

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

Henry Minneboo – We're going to take the last item.

Rochelle Lawandales – Can we take a five minute break?

Henry Minneboo – Let's take a five minute break.

**III.B.5. (15PZ00016) – PENCE LAND MATERIALS II, INC.** – (Bill Alcock) – requests a Small Scale Plan Amendment (15S.04) to change the Future Land Use Map from Residential 1 to CC, and a CUP for Land Alteration on 9.87 acres +/-, located on the northeast corner of SE Babcock St. and Micco Rd. (No assigned address. In the Palm Bay area.)

**LPA Recommendation: McLellan/Reed – Approved. Vote was unanimous.**

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

Roy Pence – My name is Roy Pence, with Pence Land Materials, at 3160 Dixie Highway, Palm Bay, Florida. We're here today to request a small scale plan amendment to change the future land use map from Residential 1 to Community Commercial, and a CUP for land alteration on a total of 9.87 acres at the northeast corner of SE Babcock Street and Micco Road. It's a small expansion of an existing borrow pit that was originally permitted in 1999. I'm assuming you all have a diagram of the lake and the aerial.

Henry Minneboo – Yes, we do. Does anybody have any questions of Mr. Pence? Let me go out to the audience. Is there anybody who would like to speak for or against this item? Seeing none, I bring it back to the board.

Ron McLellan – I move for approval.

Rochelle Lawandales – I have a question.

Patrick Reed – So do I.

Rochelle Lawandales – You can make your motion, but I still have a question.

Henry Minneboo – Go ahead.

Rochelle Lawandales – Actually, my questions are really not for you, Mr. Pence. My questions are really more for staff. From a procedural standpoint there seems to be some natural resource concerns on this piece.

Cindy Fox – We do have Natural Resources staff here, but I'll try and see if I can explain this. There has been a change to the ordinances that allow impacts to wetlands for commercial development, and if you are on what they call a, 'MQR', a Mitigation Qualified Roadway – and this does meet those minimum standards – then you can impact wetlands. So, the intent of going commercial on this property is to allow the impact to the wetlands.

Darcie McGee – Once they are on the Mitigation Qualified Roadways, the new code allows them to potentially mitigate. They'll have to do an analysis using the new Wetlands Toolbox, if you guys recall that from the change in the wetland codes. If it does not meet the high standards administratively we can approve the wetland impacts, and if it does trigger either the high function or landscape level the Board will do a public interest determination.

Rochelle Lawandales – Meaning the County Commission?

Darcie McGee – Yes, for wetland impacts. In order for him to start this process he needs to have the commercial future land use.

Rochelle Lawandales – It seems a little circular to me that in order to move forward he's got to get the land use, but he's asking for a CUP, but the CUP needs your approval, basically, to move forward. Is that the way that I'm reading this?

Darcie McGee – No, it would need the Board's approval. Our wetlands code used to be a 'no' for commercial impacts, so this way it's kind of piecemealed on the future land use and zoning there. In order for him to even start the process he has to have the commercial land use and be on the MQR, and at that point we look at the wetlands, and if it doesn't trigger a high function then we can go ahead and approve it administratively. It's just that the Board wanted to prioritize the very best wetlands in the county, so if it triggers either one of those bars that they set for a high function landscape level, then at that point he would ask permission from the Board to demonstrate a public interest determination. So, it actually is a good progression where it used to be an absolute 'no'. This enables him to be able to expand that pit.

Rochelle Lawandales – Are there species on this site?

Darcie McGee – I don't know that there's been an updated environmental. I don't think there are, but when he goes through the process with the land alteration permit, we'll have him do the full environmental analysis on the species, the wetlands, and any other things that might come into play with our other codes, but we would take care of that at the permitting stage.

Roy Pence – If I might add, it's less than an acre of wetlands that we're talking about impacting here. It's an isolated wetland less than an acre.

Darcie McGee – We don't think it triggers one, but until they use the Toolbox to do the analysis we won't know for sure.

Roy Pence – The County is very thorough in protecting their wetlands.

Andy Barber – Basically, in the past they considered this a wetland and they wanted it preserved and that's why the map was drawn the way it was and the borrow pit stopped. Is this considered a high functioning wetland at all, or not?

Darcie McGee – When they come in for their land alteration permit to actually request permission, at that point they will use the Wetlands Toolbox, which was established under our recent code wetlands code changes, and at that time they will do the analysis for high function or landscape level. I don't know that it's going to trigger either one of those. We sort of looked at it, but until they use that Toolbox established by you and the Board.....

Andy Barber – It just seems odd that you guys wouldn't, because if we grant the zoning change, or whatever that we're doing, without that this can't go forward, so we have to do this first.

Darcie McGee – Yes, correct.

Andy Barber – And it seems odd that you guys wouldn't have a position now as opposed to later on. I don't know why you wouldn't examine the property now.

Henry Minneboo – Because we could turn it down and then they won't have to use the Toolbox.

Darcie McGee – It's asking them to spend money, so in other words, he would have to hire a consultant and do all that work up front. We can't take it to the Board if it doesn't have the right.....

Andy Barber – Natural Resources doesn't go out and do their own investigation?

Darcie McGee – No, we don't have staff for that. The consultants do that analysis and then they submit it to us, and we say 'yes, it does', or 'no, it doesn't'. At that point we would help them go through the Board process, but otherwise, we would just go ahead and let them get their State permits and their land alteration permit.

Patrick Reed – The thing I don't understand is why this small portion, surrounded by Residential 1, has to go CC. And if we do approve it, is there any way we can limit it to the borrow pit rather than a motorcycle repair shop, or some other use granted under CC?

Darcie McGee – The reason it needs to go to Community Commercial is because the way the wetlands code is written, you have to have direct frontage on a Mitigation Qualified Roadway, which Babcock and Micco – right in that vicinity – are, but the future land use is not consistent on that property, so if he changes it to Community Commercial, then he's got the correct future land use. He can't impact the wetland if it's a residential future land use.

Morris Richardson – The Residential 1 that he's surrounded by, the aerial photograph is probably the best, rather than the zoning map, and you can see it's a borrow pit.

Henry Minneboo – It's been there since '99.

Morris Richardson – To the east of it is conservation land, so the borrow pit is what it's going to be. The process works this way in large part because as she said before, the Residential 1 didn't need to get the land use change in order to be able to, but now to go through the process he's going to need that Community Commercial designation, and I guess it's considered cheaper and easier to go through this process before he goes through that gauntlet, so it makes sense to do this on in advance.

Patrick Reed – As my colleague next to me said, it's all going to be under water anyway, but can we still approve it with some stipulation limiting that to a borrow pit.

Roy Pence – We already have Community Commercial on this site, and this is expanding that area. The CC is to the south, so we're just continuing on from there to the north just a little bit in this one area that wasn't excavated to make the lake more uniform.

Patrick Reed – You're going to turn it into a rectangular lake.

Roy Pence – Yes, but we already had Community Commercial on this other one, so we're not asking for anything more in that area.

Patrick Reed – But can we stipulate that that portion of Community Commercial only be used contiguous [sic] to the borrow pit?

Cindy Fox – We can, but I.....

Morris Richardson – That can be a recommendation on the Conditional Use Permit. This isn't a rezoning, so you wouldn't see a binding development plan because he's not getting a new zoning, he's just getting a land

use, but that can be a condition that's put on the Conditional Use Permit if you wanted to recommend that to the Board, and I'm sure Mr. Pence wouldn't object to that condition.

Patrick Reed – I support whatever he just said.

Roy Pence – That's fine.

Henry Minneboo – Ronnie, I think you were the lead on that motion. I need a second.

Patrick Reed – I'll support.

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

Cindy Fox – That's for both the LPA and the P&Z also?

Henry Minneboo – Yes.

Rochelle Lawandales – We need a motion on the CUP. That was the land use.

Morris Richardson – Yes, we need a CUP and a land use.

Henry Minneboo – Motion by Ronnie, and seconded by Pat again.

Rochelle Lawandales – With the condition.

Henry Minneboo – With the condition, yes, that Mr. Pence agreed upon.

Andy Barber – On that last vote, I did have a nay vote on the first item. You're putting the cart before the horse, in my opinion.

Cindy Fox – Andy, you voted nay to the future land use change.

Richard Charbonneau – Nay.

Henry Minneboo – Two nays now.

Morris Richardson – On the land use map change, Mr. Charbonneau and Mr. Barber both voted nay.

**III.B.4. (15PZ00015) – BBC INVESTMENTS IV, LLC** – (Steve Stevens) – requests a change of classification from AU to BU-1-A on 1.31 acres, located on the east side of U.S. Hwy 1, approx. 0.19 mile north of Roundtree Dr. (No assigned address. In the Cocoa area.)

**P&Z Recommendation: Reed/Lawandales – Approved with a Binding Development Plan. Vote was unanimous.**

(Continued)

Tim Pickles – I am the attorney for the applicant. We did discuss several issues about this rezoning request with the people who are in the audience. We've attempted to answer their questions; I won't say that we have.

We'll certainly want to wait a few minutes for them to come back in. If there are any further questions we would be happy to answer them.

Henry Minneboo – You did the best you could with what you had. If they still have questions.....

Tim Pickles – We can address them to the board.

Linda McKinley – It appears we definitely did not have all the facts. The parcel of land that they're talking about is north of the clearing that is going on behind Parkchester, which we didn't know what this notice is about.

Henry Minneboo – So, they did help you today?

Linda McKinley – Yes, they did. Thank you.

Henry Minneboo – Does anybody in Parkchester that's here have any further questions?

Mark Ward – Mark Ward, 382 Chester Drive, in the neighborhood of Parkchester Subdivision. As she mentioned, there was really no advance notice for us to really take a look at this. The notices were received Friday and Saturday respectively in our neighborhood, and everyone wondered what is going on. I'm representing three of the homeowners at West Roundtree and North Roundtree, and we withdraw our objection.

Patrick Reed – Mr. Chairman, I move to approve the request.

Gary Ray – My name is Gary Ray and I live in Twin Lakes, which is the subdivision just to the north of Parkchester. Ironically, this piece of land that we're talking about today is directly behind my house. I've lived there for 45 years. There's about six houses in the Twin Lakes subdivision that go along from the south to the north. I've lived there for 45 years and I'm one of the newcomers to that residence. I've seen things on that particular piece of property from junk tractor parts.....we had a nursery there at one time, most recently it had used cars that would come in there and get shipped overseas. So, that could possibly become anything and any time, but one of the things....and maybe we've been lucky having been there all that time.....there's a stand of oak trees, hickory trees, and we have a real good buffer behind our property that keeps down the noise from U.S. 1 and other noises that may be going on with businesses and stuff. I don't know if it's the right thing to do, but I would appeal to the board to please keep that buffer there for the Twin Lakes subdivision, and also the Parkchester subdivision, as much as possible.

Henry Minneboo – Scott, can you get that accomplished?

Scott Nickle – Yes, we're going to do as much as we possibly can to preserve any sort of hardwood trees and native trees to keep his buffer.

Gary Ray – Also, there's a fence there, a wooden fence that belongs to that piece of property, but I've sort of maintained it since.....

Henry Minneboo – They'll let you continue to maintain it.

Gary Ray – I wouldn't mind doing that, but I'd like to have the fence there also, and I'd appreciate anything they can do to help us.

Henry Minneboo – Anybody left in Parkchester? We don't normally do it this way, and staff hasn't messed up either, because they do a great job of getting it out to everybody. Ronnie, I think you had made a motion.

Rochelle Lawandales – I'll second it.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously. Do we have to do a double on that?

Cindy Fox – No, but I just wanted to make sure that you were going to approve that with the binding development plan that they offered?

Henry Minneboo – Yes.

Upon consensus, the meeting was adjourned at 4:51 p.m.

Upon consensus, the meeting was adjourned at 4:51 p.m.