

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 18, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Edward Fontanin, Utilities Services Director; Paul Body, Senior Planner; and Kristen Champion, Special Projects Coordinator.

Excerpt of Complete Agenda

West Malabar Properties, LLC (Cole Oliver) requests a Small-Scale Comprehensive Plan Amendment (24S.01), to change the Future Land Use Designation from NC/RES 2 (Neighborhood Commercial and Residential 2) to CC (Community Commercial). The property is 4.58 acres, located on the southwest corner of Minton Rd. and Hield Rd. (24SS00001) (4100, 4120, & 4160 Minton Rd. and 3045 Hield Rd., Melbourne) (Tax Accounts 2806110, 2806111, 2806112 & 2806115) (District 5)

West Malabar Properties, LLC (Cole Oliver) requests a change of zoning classification from RP/AU (Residential Professional and Agricultural Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial) with a BDP (Binding Development Plan). The property is 4.58 acres, located on the southwest corner of Minton Rd. and Hield Rd. (24V00004) (4100, 4120, & 4160 Minton Rd. and 3045 Hield Rd., Melbourne) (Tax Accounts 2806110, 2806111, 2806112 & 2806115) (District 5)

Paul Body read the items into the record and due to the number of attendees, Mark Wadsworth asked the public audience if they were all here to comment in support of or opposition of these companion applications.

Mr. Wadsworth asked if they would like to nominate one person to speak for all the attendees, to which they declined.

Mark Wadsworth stated that each person will be given an opportunity come up and speak after they've been sworn in for the record.

Cole Oliver stated that the applicants originally bought the property in 2022 with the intention of developing a Starbucks, which would've needed city sewer and water. At that point in time, they applied to annex into the city of Palm Bay and met three different times to try and address concerns of the citizens regarding increased traffic. The potential for a self-storage facility, which has the lowest traffic impact per FDOT standards of commercial usage, came from this planning process. The Palm Bay Planning and Zoning Board made recommendation for approval of the annexation with the condition that no connections to Hield Road would be allowed, which did not work for the applicants' development plan.

The Palm Bay City Council denied the annexation of the neighboring property, which made Mr. Oliver's property ineligible to be annexed because it no longer directly abutted a Palm Bay parcel.

Mr. Oliver and the applicants have now come to the County asking for a BU-2 zoning with a Binding Development Plan for the limited use of climate controlled self-storage and other BU-1 allowed uses. The reason for BU-2 specifically is due to height limitations that BU-1 would restrict the proposed development to.

Mr. Oliver also stated that the newly developed apartment complex through the City is responsible for the road/traffic improvement within that intersection because of two bonds to the County.

Mr. Oliver stated that he believes the public comment will mostly be related to traffic comments. The applicants had a traffic study done, which included the proposed Starbucks at the time, and it did appear to show the proposed light changes would work for that intersection.

Bruce Moia asked for further clarification on what all the improvements would be at the intersection of Hield Rd. and Minton Rd. He noted in the concept plan it appears to increase Hield rd. from two to three lanes.

Cole Oliver stated that they're proposing a northbound turn lane which would align with the south bound turn lane. Which would bring in traffic into the development before you get to the intersection. It would not be signalized traffic, but it would be similar to the existing cut that leads into the Publix Plaza.

Jeffrey Ball noted to the Board that Mr. Oliver has provided a concept plan, but this plan has not been reviewed for County Code. This should just be used for informational purposes only and not to be used for Board approval. If the Board would like to include a BDP, that can be discussed.

Bruce Moia stated that he was just clarifying that these improvements were based upon the traffic study.

Mark Wadsworth addressed the audience to state that they're just a Planning and Zoning Board, an advisory board. They are not traffic or engineering. They're only hearing the zoning application.

Public Comment

John Connelly, 3620 Hield Rd. Melbourne, stated that they're proposing an intersection a bit further south on Minton which will help alleviate bringing traffic in there. However, if it doesn't get approved and they just use Hield Rd. to enter, they've already got three lanes of construction due to water being brought into the west. What we're fighting is the traffic on Hield Rd. What we're coming to you for is to not just agree to their plan because they show traffic coming in and coming out. We put in a comprehensive plan 25 years ago for residential 2.5 acres for our farming and now it's being encroached upon. We've included Orange Ave. into Minton for commercial and now they're encroaching more and more onto Hield Rd.

You can't stop development, but you do need to look at the traffic patterns and water.

Mark Wadsworth asked for clarification from Staff and the County's legal representation about what all goes into an application such as this.

Jeffrey Ball stated that we're looking for consistency and compatibility. If the request is compatible, then it would go through a staff level administrative review of the site planning process, where the

applicants would have to meet concurrency, storm water requirements, water/sewer requirements, etc. This is just the first step of many that are required to develop a piece of property.

Dennis Foster, 4366 Hield Rd. Melbourne, stated that he is part of the group that is vehemently opposed to this project from the beginning, mainly because of the Starbucks coffee and the implication to traffic at that intersection. The entrance and exit onto Hield Rd. is our biggest issue. Mr. Cole mentioned that he would like to entice Starbucks back to that intersection and I think if that happens, that intersection is going to be a nightmare. Mr. Cole said that entrance and exit on Hield Rd. is going to improve safety but we do not believe that. The entrance and exit onto Hield Rd. is going to cause major blockage. Starbucks generates 60-70 cars per hour and now they'll be blocking the one entrance and exit to Hield Rd., including school busses. And any emergency traffic is also going to be blocked. This was all reviewed by Palm Bay Planning and Zoning and they recommended approval for the whole project with exception to that entrance and exit on Hield Rd. and that's been ignored by Mr. Cole.

Judith Kuhman, 1680 Willard Rd. NW, Palm Bay, stated that she has lived out there for 25 years now and specifically bought out there due to the more rural nature of the area. That they do not want to live in another Viera. She is concerned about her lifestyle and investment. She does not want the addition of a storage unit or Starbucks. She is opposed to the apartments that were recently constructed. She stated that her concern is the property values, and that Starbucks is not going to bring her a return on her biggest investment.

Susan Shepherd, 4212 Hield Rd. NW, Palm Bay, stated that the residents know there will be future businesses on that stretch of property, however the residents greatly oppose the ingress/egress from Hield Rd. There are already established driveways along Minton Rd. for most of the property. We have never required another way out of Hield Rd. Hield Rd. is approximately 2 and quarter miles, approximately 275 homes. The whole area is approximately 750 acres. The already congested traffic leads to compromising the lives of residents and property. Minutes and seconds count. Emergency vehicles will not be able to timely get in. There are no fire hydrants on Hield Rd. Authorities need to truck in when they've had fires in the past.

The proposed ingress/egress access to Hield Rd. is a wish list item, not a need. The draft conceptual site plan of the BU-1 zoning borders residential areas. The BU-1 includes drive/thru as well as other undesirables. By allowing the rezoning change on that property, it will change everything we have.

Michael Bramlett, 3075 Hield Rd., Melbourne, stated that his property is right next door to the applicant's site. For reference, his proposed retention pond backs up to my rear property line. When his parents built that home in 1961, he could count the number of homes on one hand, now there's 270+. He understands development but there is a bigger difference for residential than commercial. Mr. Oliver was proposing the Starbucks in almost my bedroom window. Can you imagine the noise just from drive.thru ordering. The mayor of Palm Bay had the foresight to take a drive through the area during rush hour traffic and acknowledged that this wasn't going to work and the city denied the application.

Mr. Bramlett said Mr. Oliver could build a 6-story structure and that wouldn't bother him so much, he just does not want the access on Hield Rd.

Andreas Lekas, 1691 Will Rd., Palm Bay, stated he is opposed to any commercial zoning at that property. A multi-story storage unit welcomes a lot of unwanted people through all hours of the day. Him and his wife moved here 2.5 years for the same reasons as the other residents. They enjoy the quiet and it being out of the way. He feels the current zoning is appropriate for Mr. Oliver's use to bring in some income. He does not feel it is necessary to go to a higher density of BU-1 or BU-2, that the existing RP is appropriate.

Jack Zimak, 1590 Studley Dr. NW, Palm Bay, is concerned with the zoning. One of these parcels is currently residential. It's not taking an existing office building and rezoning it, it's taking an existing house and eventually tearing it down, which encroaches further into the neighborhood. He appreciated that Mr. Oliver listened to some of the traffic concerns. What he's proposing is a good concession, but the intersection has been planned to extend a dual exit lane long before this project was proposed. What Mr. Oliver is essentially doing is taking half of a safety lane that was designed for the neighborhood, for that private business. We can't look at this and go "everything has been looked at." So, this is commercial property that is being put on Hield Rd. which is historically residential.

Debbie Boutin, 3966 Hield Rd. NW, Palm Bay, has been a resident there for 45 years. Mr. Oliver has an invested interest in this property because they bought it with Starbucks in mind. He's an investor and when we had a meeting in the past, someone asked him what he would do if he was in their position. He stated that he would be doing the same thing as them, fighting against having a Starbucks at the end of his street. So we're doing exactly what he would be doing. If this passes, he's not going to stop short at getting that Starbucks on the end of that street and we've already had a death there. Traffic already goes a mile and a half down the road in both directions and with a Starbucks, it's just going to get worse. I've also got reports of Starbucks around the country, a \$9M lawsuit in Jacksonville, because of traffic accidents and deaths. I can mail or email all of the reports and photos of the information because for me, this isn't going to stop if the zoning passes today. It's not going to stop short of him pushing to have the Starbucks. That's why that property was bought, with Starbucks in mind because that's the highest income they would get off of that property.

Kip Patchen, 1500 Pinetree Ln. NW, Palm Bay, stated she has lived there since 1981. She bought out there because it was a wonderful area where you could feel safe. I'm part of a family business of self-storages, one was opened in New York in 1992 and then New Haven, Connecticut in 2002. They were 5 and 6 stories high. A lot of traffic comes through, rather than what was said, depending on the hours. I don't think it will blend in the neighborhood that we live in. Especially the entrance. The in-and-out depends on the hours of the facilities. She has worked in self-storage business, and she does believe that you don't know who's going to use the storage and it affects everyone still living there, including children. I don't believe this is suitable for Hield Rd.

Cindy Kennard, 1511 Pinetree Ln. NW, Palm Bay, stated that her concern is the proposal of a 3-story building. If you go up and down the street (Minton), everything is single story, besides the apartments across the street. Besides the Publix and Walgreens, everything else is mom and pop businesses, a trailer rental, a bridal shop, everything is low. This development would stand out and set a precedence that wouldn't be a good thing. The traffic is already horrendous. Not even just Hield Rd., just on Minton all the way to Jupiter. And for safety reasons that would be more horrendous for us on Hield Rd.

John Day, 1641 Willard Rd. NW, Palm Bay, stated that him and his wife have lived there for 25 years and that they agree with everything their neighbors have said. However, he'd like to make another point that coffee shops add another complexity to make it less desirable, it's known as the Starbucks Effect. It's when people are thirsty for coffee, they'll stop anywhere and form a line. They don't care if there are no spots open. They're going to form a queue and hold up traffic. This has been documented and he'd like to state that this would be the worst business idea for that location.

Kathy Dalrymple, 1555 Henley Rd. NW, Palm Bay, stated that she would like to thank all of the Board members for their time today and for listening to their concerns. That they just want their comments to be considered and they just want the neighborly thing to be done. That they'd like for everyone to consider if this was being done in their neighborhood.

Barbara Reuter, 4215 Hield Rd. NW, Palm Bay, stated that she didn't hear any of her neighbors mention this but they have farm animals. That it's a country environment, and she has almost two acres with go-karts and golf carts, and four wheelers. All of that in their dead-end community. To have a commercial development go in would be dangerous to the existing preschool and young families moving in, who want their children to be able to play out by the street. This would open up to people coming down their road not knowing it's a dead end and could potentially hit animals and children.

Jason Gerhardt, Palm Bay, stated he doesn't currently have an address on Hield Rd. but just bought property there and is in the process of finalizing the application. He was born and raised in Malabar and ended up buying a home in the city of Palm Bay because that's what he could afford at the time, but he's at the point that he just bought property on Hield Rd. to be able to move back to the country lifestyle and to add a Starbucks there would just add to the congestion that is already there. It would take away from the country living style that is the reason everyone lives out there.

Mark Wadsworth closed public comment and asked Mr. Oliver to return to the podium for further questions.

Mark Wadsworth stated that he's very familiar with the area and everyone is correct in that there's a lot of business whether you're heading north or south. He asked Henry Minneboo to speak on this because of his experience in this item.

Henry Minneboo recounted that this Board reviewed a coffee shop that was proposed at Pioneer and North Courtenay on Merritt Island. The residents were concerned as well and that he also had some reluctance. He stated that it was amazing how Dunkin Donuts handled that very delicate and high-volume intersection.

Henry Minneboo stated that he believes if this project is to get approved, it will need a driveway somewhere on Hield Rd. He'd consider proposing a BDP to ensure staff realizes the importance of the impact, but Mr. Oliver isn't here to talk about a Starbucks.

Jeffrey Ball stated that he would caution the Board on making that a part of a BDP because it is part of a staff review based upon what the code allows for and what it doesn't. His concern is that we have an advisory board that wouldn't be relying on staff and their technical expertise to review what an appropriate access would be.

John Hopengarten stated that his agenda packet didn't include information based upon a Starbucks, it was only for the proposed storage unit. He's been questioning the amount of storage units that have

been built in the county and asked if that was the best use for this land. He stated that he wants to know what this project would do for the neighborhood. This application is being reviewed under an LPA item and the LPA had residential, not commercial and that we should keep it residential. He would object to the application just looking at that.

Bruce Moia stated that if you don't put commercial on an arterial road, where do you put it? Everywhere there's an arterial or collector road in this county, you have commercial because the only other option is to put it in the residential areas.

Bruce Moia also acknowledged that there's storage in Viera and according to the traffic engineering manual, it generates the lowest traffic on the list. That's from a nationwide study.

He stated that looking at this from a pure planning lens, a connection to Hield Rd. would be the most desired connection because you go to the lower classification roadway first in a planning lens. He stated that the First Union on Eau Gallie and South Patrick is a nightmare because people come in and are not able to access the commercial property from the road they're coming onto and going on a higher classification roadway is a safety concern.

He acknowledges what the residents are saying about the traffic and zoning but getting another turn lane on Hield Rd. would help tremendously. Bruce Moia also stated that we don't have Starbucks in our code, we have classifications of uses, whether it's a coffee shop or restaurant and the Board couldn't legally deny the application just based upon who might be in that location. The Board just looks at the uses in that zoning and determines if they're appropriate. This application is not unique in any way, whenever you back up to a major roadway, you have the frontage as commercial and the residential behind it.

Robert Sullivan stated that he agrees with Bruce when looking at the facts. Hield Rd. is the collector road in this case because it's one way in and one way out. But he wants to look at the administrative policy that says the character of a neighborhood of an area shall be a factor for consideration whenever a rezoning application involving a specific proposed use is reviewed. It goes on to say that it shall not materially or adversely affect the impact of an existing neighborhood by introducing types of intensity and traffic. A one way in, one way out is different from an interconnected roadway system, so he does agree with the traffic impacts, just looking at turning movements.

Robert Sullivan stated that he and Bruce Moia are engineers, and they typically think differently in that aspect, but a southbound on Minton turning onto Hield and then doing a left-hand turn into a coffee shop will impact eastbound traffic undoubtedly. But the turning movement out of that location to turn right to go eastbound on Hield to get back out to the controlled light at Minton is a traffic related issue. In the uniqueness one way in and one way out is a safety concern, it's a fire rescue concern and the traffic on that road is critical. But he does have to agree with Bruce that a corner lot on a major arterial road screams commercial. So, from a zoning standpoint, he would have to say yes. However we are listening to the community and you've stated that you don't want more encroachment off that main arterial road which is very much listened to and noted.

Mark Wadsworth thanked Robert for his commentary and reiterated that the Board is here for Zoning but we're going to need a motion for items G.3. and G.4.

Motion to approve small-scale comprehensive plan amendment from NC/RES 2 to CC by Bruce Moia, seconded by Henry Minneboo. The vote was 7:2 with John Hopengarten and Logan Luse voting nay.

Motion to approve rezoning from RP/AU to BU-2 with a binding development plan by Bruce Moia, seconded by Henry Minneboo. The vote was 7:2 with John Hopengarten and Logan Luse voting nay.

Mark Wadsworth reminded the residents of the April 4th commission meeting.

Upon consensus, the meeting adjourned at 4:23 PM.