

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, January 6, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

Excerpt from Complete Minutes

Carter and Jessica Hayes – request a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential), on 2.79 acres, located on the west side of N. Courtenay Pkwy., approx. .38 mile north of Hall Road. (4645 N. Courtenay Pkwy., Merritt Island)

Jeffrey Ball - I'd like to update the board on the request. The staff comments state that the request is for 10 multi-family units. Based on a land use of RES 4 this property has an entitlement of 11 units and the applicants are requesting 11 units based on what the land use allows. RU-2-4 is a multi-family zoning classification.

Mary Hillberg - I read the staff comments and it looked like a half-acre per unit.

Jeffrey Ball - RES 4 is four units per acre. It's just under three acres, so if you multiply 4 by 2.79 you get 11 units. Over the course of when the application was submitted until now, I believe the applicants have requested 11 units, but Mr. Hayes can confirm that. The half-acre zoning is the subdivision to the west.

Carter Hayes - My name is Carter Hayes and I'm here with my wife, Jessica. We're the owners of the property. I've grown up on Merritt Island; I went to Edgewood, graduated Merritt Island High School; and my kids go to Edgewood right now, so we're vested in the community. The reason we're here today is to get the zoning changed from AU to RU-2-4 under RES 4. We're here to ask for the recommendation from this board as we move through this process. This property is zoned agriculture and it's always been zoned agriculture; it's never been anything else. In fact, it's been zoned AU for so long it not longer meets the minimum property size requirements for that classification. It is basically two nonconforming lots under AU. We're looking at going to RU-2-4, which will allow me to build townhouses. What I'm trying to do is consistent with the Comprehensive Plan. The lot to the north is RES 4, the lot to the south is RES 4, the lot to the west is RES 4, and we're RES 4.

Mary Hillberg - That's the Future Land Use map, that's not what we're talking about today, and that's not the way it is right now.

Carter Hayes - I'm talking about going forward in the future and what I am doing is consistent with where we're trying to go. I'm trying to build some duplexes/townhouses. I'm going to build them myself. I'm a general contractor, and I'm going to maintain ownership of them and rent them out. These duplexes will be beautiful, they will be very nice buildings. We have architects who have done a lot with Tradewind Builders. These are going to be very attractive buildings. We're looking at 1,800

to 2,000 square feet, two-bedroom, a nice kitchen, and an easy flow, one-story buildings. Our target demographics are going to be young engineers working at the Space Center; it will be a nice rental for them, very close to work. I'm also thinking about a place for my kids, my sister's kids, our friends' kids. I don't want them to have to leave the area because they can't find a nice, affordable place to stay right here on Merritt Island. I think we're also fulfilling a need for the area. On the third page of the staff comments it states, "A multi-family use may be considered transitional from North Courtenay to the single-family residential areas to the west". We have North Courtenay, commercial, neighborhood commercial, high-density across the street, and we're going to flow right into my townhouses into the single-family residential to the west, it's a nice flow, it's consistent, it's a nice transition. What I'm trying to do is compatible with the surrounding neighborhood, it's a nice transition. If we look at one of these maps, the one I have here is the St. Johns Water Management District with the green running down the middle, this is a good map. I've had the DEP out there, I've had the U.S. Army Corps of Engineers out there, St. Johns Water Management District was involved, they walked the property and de-marked where the wetlands were, and then I had my surveyor go out and hit those spots. This was done in 2013. This map really shows it looks like the back 1/3 of the lot is wetlands, the green area. When I look at this map, the white area of my property is buildable area. I'm looking at the wetlands area as what could be a natural barrier to the residential single-family homes to the west. If you stand on this property in the white area you cannot see these peoples' houses behind there. It's very thick; you can't see them and they can't see me. I intend to do nothing with this wetland area. I'm going to leave it alone. I'm just going to have my space right here by Courtenay to develop. Reading through some of the comments in the emails, a recurring concern is stormwater management. Stormwater management will be addressed during the permit process. This is the same as all projects. I'm not here looking for deviations from stormwater management. I intend fully to comply with all of the stormwater management, just like any regular project. Looking to the future, the Future Land Use and what we're trying to accomplish here today, I believe we are compatible with the comprehensive plan, we are consistent with the future comprehensive plan for the area and we are compatible with the surrounding neighborhoods.

Jim Carbonneau - What is the total acreage of the two parcels?

Carter Hayes - 2.79 acres.

Jim Carbonneau - And you're going to put in 11 units at 1,800 to 2,000 square feet single-story?

Carter Hayes - That's what I'm looking at now. We need to work it all out. If we can go this route, I need a site plan, I need to lay the structures out and see what I can come up with. RU-2-4 allows for four units per acre, that's what I'm trying to go with. It has to make sense, they have to fit.

Chris Cook - The math doesn't work. If you round up, it's 10 units, if you have no streets or anything else, 2.79 divided by 10, it's 9.6. How are you going to get 11?

Jeffrey Ball - From a land use perspective and the density allowed in RES 4, and his acreage, he's allowed to have 11 units. How that gets it designed and how he meets the land development code and regulations is up to him and his engineer.

Mary Hillberg - So, RES 4 is not one unit per quarter-acre, or four units per acre?

Ted Balke - And he hasn't developed a site plan yet?

Carter Hayes - I haven't done a site plan.

Ted Balke - The requirements of Brevard County requires that he has a site plan that is turned over to the Natural Resources Management office, and if Virginia Barker hasn't gotten that, you're premature in even asking for any zoning change.

Carter Hayes - The site plan will take place during the next process, which will be the permitting process. Under RU-2-4, the County said I didn't have to have a site plan for this meeting.

Ted Balke - It emphatically states right in the bylaws here on page 7. "The applicant is encouraged to contact NRM prior to any site plan design or permit submission."

Carter Hayes - I'm not submitting for a permit.

Ted Balke - You can't permit the zoning change.

Jeffrey Ball - That doesn't mean he needs it for the zoning. It means he is encouraged to contact Natural Resources prior to submitting a site plan.

Ted Balke - It doesn't say 'encouraged'.

Jeffrey Ball - The staff comments state, "The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal."

Ted Balke - That's not how I interpret that sentence. How are we supposed to decide on what he's going to put there if he doesn't have a site plan?

Mary Hillberg - We never have site plans required here. We're just reviewing the zoning change.

Jeffrey Ball - For a zoning change, we look for two criteria. Number one is consistency with the comprehensive plan. Number two is compatibility with the surrounding neighborhood. Those are the two things we look for when we're looking at a rezoning request like this, which is not predicated on a site plan or design. In my professional experience, it is going to be a tight fit to get that number of units on the property.

Ted Balke - RU-2-4 gives him four units on an acre. How does he come up with putting 10 there?

Jeffrey Ball - It's 11 units and that's based strictly on what the land use allows for.

Jack Ratterman - What about the back one-third that you said are wetlands?

Carter Hayes - It's included in my property, but I'm not going to build in the wetlands.

Mary Hillberg - In order to do that, don't you have to do an open space subdivision?

Jeffrey Ball - No. That's why Natural Resources encourages applicants to contact them because of the wetlands on site. Mr. Hayes said he had DEP go out and flag the wetlands, and he has now submitted that for review, so part of that site plan is that he will have to submit the wetland delineation and staff will go out and verify that. Based on our code requirements, he is able to impact that area a maximum of 1.8%.

Mary Hillberg - This survey was done in 2013.

Jeffrey Ball - He will have to get it updated. The maps in your package are to give you an idea that there are wetlands on the property. That's why there needs to be a delineated wetland line to know exactly where that line is, because over time wetland lines do change.

Mary Hillberg - What might be a concern is that because of the wetlands and the applicant saying that he's not going to build in the wetlands, that will reduce his 2.79 acres of buildable property.

Jeffrey Ball - He is still able to capture that density.

Mary Hillberg - Are you aware of the FEMA floodplain, or flood zone maps?

Carter Hayes - I looked at that and some of the comments on stormwater management, but that will be engineered when we do the site plan.

Mary Hillberg - More than two-thirds of your property is in floodplains.

Carter Hayes - When they built the neighborhood behind, the footprint of those homes is in the wetlands. They pushed all of that land right up to the setback, built up their property, and where do you think all that water went? These are built up, they are right there; there is a wall on one side of the canal, and the other side just flows. When they pushed their property up, all that water goes this way.

Mary Hillberg - And when you push your property up the water will go that way, too.

Cater Hayes - I'm not going to impact these wetlands. I'm going to have to contain my stormwater. I'm not going to do what they've done.

Mary Hillberg - How can you have single-story duplexes, or townhomes, just on the front one-third? That means your density is extremely tight. If you're trying to put 11 homes and not impact the flood zone or the wetlands, this is really tight. How many stories up are you talking about?

Carter Hayes - I'd like to do one story.

Gina Lindhorst - RU-2-4 allows apartments.

Carter Hayes - Under RU-2-4 I have options.

Jack Ratterman - You talked about the natural barrier behind you, to the west, that that's a wetland area and that you plan to do nothing with it. Is it still county policy that before you get a certificate of occupancy that you have to remove all non-native plants on your property?

Carter Hayes - I'd love to go into the wetlands and pull out all of the pepper trees. Nothing survives in the pepper trees. There are no animals, there's no gators, nothing thrives in that habitat under pepper trees. If we pull those out we can revive that area, and I'd love to do it.

Jack Ratterman - As far as I know you have to, but then what are you going to plant for your natural barrier behind it?

Carter Hayes - There's some oaks, and other stuff.

Ted Balke - There are oaks and pines that exist on those two lots right now and you're talking about taking out those pepper trees, but there's also protected shrubs that are in there which you're not addressing.

Jeffrey Ball - I think we're getting ahead of ourselves. I understand there are buffer issues, stormwater issues, there's invasive species, but those are all items that will be addressed during the site plan process. Mr. Hayes understands that if he gets the zoning approved he will have to go through that process. It's all about consistency and compatibility, those are the two things you guys need to determine.

Mary Hillberg - But we have other concerns as well and I think the board deserves to be able to address those. In addition, it is compatible with the future land use plan, but it is not compatible right now with the surrounding area, and I think the people who live in the surrounding area are looking at that and saying it's AU and this isn't compatible at all and it's along the commercial corridor. So, those are the kinds of things we're looking at too. The members of board can ask any kind of questions.

Jeffrey Ball - Yes, they can.

Jack Ratterman - My concern is Administrative Policy 3, compatibility with the surrounding area. North Merritt Island is rural, that's why people move here and that's the whole outlook of the community. I was told townhomes, which means two story, so is it going to be townhomes or duplexes?

Carter Hayes - Are townhouses defined as two-story?

Jeffrey Ball - They are two different products. A duplex is an attached product where you have two attached units. Townhomes are multiple duplexes together. A townhome is fee simple, where the owner of the townhome owns the property and the walls of the building.

Jack Ratterman - But is it one story or two?

Jeffrey Ball - RU-2-4 allows up to 35 feet, so depending on how the architect designs the building, that could be two or three stories. And it is the same for a single-family zoning classification.

Mary Hillberg - So, it wouldn't be an impossibility of having one story homes there, there would be 11 of them in that small of an area. They would have to be going up.

Jeffrey Ball - In my professional experience, yes, but since I don't have a site plan to review and see how it's laid out, right now it's all conjecture.

Jack Ratterman - So, because of that, and each side is still woods, and the property to the north, that individual is thinking about going from their current zoning back to agricultural, and to me, Policy 3, compatibility, doesn't fit, townhomes don't fit in a rural area like North Merritt Island.

Carter Hayes - We have the rural area, but what about the high density area directly across the street from me? Would you consider a mobile home park rural?

Jeffrey Ball - From a planning perspective, Residential 2, which is the mobile home park to the east, is not high density, it is two units per acre. It is a mobile home park; it is not high density. High density is 15 to 30 units per acre. Medium density residential is around 10 units per acre. Residential 4 is on the cusp of a suburban/urban kind of land uses. Areas change, and what was happening 20 years ago when North Merritt Island looked and felt rural, that might not be what it is today. When I look at the land use map, I see Residential 4 to the west of N. Courtenay with a lot of commercial. To me, that is not a rural look; Residential 4 is suburban with commercial along the corridor of the road. From my perspective, that's how I see the area.

Mary Hillberg - I think everyone can appreciate your perspective, but our perspective is also that the people who were here first who are living in this area who have AU and they've been here for a while and they are perhaps concerned that Residential 4, sounds like 4, but it's not 4, it's 11, and how high will it be and will they be able to see the sun rise again.

Jeffrey Ball - Let's look at the zoning map for a second, because we look at two things. So, you have a lot of properties that are zoned AU along the road, in Residential 4. You also have the subdivision to the west which is SR, which is a half-acre lot. There is TR-3 across the road; there is some commercial BU-1-A and BU-1, but what you don't see is RU-2-4. There is no RU-2-4 in this area. The closest zoning classification that we have is RA-2-4 on Porcher Road to the north. There is RU-2-30, which is a zoning that is 30 units per acre, that's north of the mobile home park, within a half-mile of the area.

Jack Ratterman - What we don't see on North Merritt Island are townhomes, so you would be the first townhome to come in there with a two-story, and if there are none now there might be a reason for that.

Carter Hayes - There are townhomes on Dundee. I don't think what you're saying is accurate.

Jack Ratterman - The community is rural. One of our leading citizens, Steve Crisafulli, he still does citrus and cattle. Gary Hobbs, the first pharmacy on the Island, he still does citrus and fruit. The Hunt's have 20 acres of fruit and goats. There are no townhomes, and to put that in there, I don't think that's best for the community.

Carter Hayes - I think Crisafulli just had some property rezoned just north of me, to RA-2-4, which is even higher density.

Jeffrey Ball - No, it's not. In 2017 there was a rezoning to RA-2-4, which does allow for townhomes, and that's the one the southwest corner of N. Courtenay Parkway and Porcher Road. To my knowledge it has not been built, but the zoning allows for townhomes.

Jessica Hayes - Just because we're asking to rezone to RU-2-4 doesn't mean that we're going to get 11 units in there. This is the first step. Nobody is going to spend a ton of money to get an engineer to do a site plan before getting the zoning. Once we have that, then that's when we start the process and start spending money and making sure it makes sense. There are a lot of rules and regulations and setbacks that will make that number come down. There are some townhouses across the street from Beef O'Brady's that are one story, all owned by the same person, and they are six units on a tiny lot.

Jack Ratterman - Beef O'Brady's is on south Merritt Island.

Jessica Hayes - I'm just using that as a reference of something that you can relate to of the idea behind this. It's not to cram it in there. These look very nice, they are one story, one-car garages. There is a need for rental space for our kids and retirees in the area.

Ted Balke - Everything on North Merritt Island is controlled by the FEMA map, the new map that was just drawn. The FEMA map controls your density. You can't have insurance, you can't have anything else if you live in a FEMA wetland. I don't know why you're contending that it doesn't exist, but you're in violation of wetlands every time you touch anything here. That's the uniqueness of North Merritt Island as compared to south Merritt Island.

Mary Hillberg - Ted, they are only in the flood zone for part of their property.

Ted Balke - There is a new FEMA map and half of the property itself is flood zone.

Mary Hillberg - But not the whole property, and they were talking about leaving the back alone.

Ted Balke - They were talking about the last one-quarter in the green map. The FEMA map is the gospel we're going by now, which only gives him the front portion of half of those two lots.

Mary Hillberg - It will certainly take creative planning.

Jessica Hayes - We're not asking for anything above and beyond than what is in that future planned zone that has been passed and part of the plan.

Chris Cook - I think this board needs to take a step back. What we're supposed to be looking at is the zoning; we're not supposed to be looking at foliage plans and trees and stuff like that. These are very nice people, and I'm sure they've been here a long time, but they could sell this property tomorrow, if they get the rezoning, to an evil subcontractor. We need to be analyzing the zoning, not what kind of building he's going to build, that's not the purview of this board, it's the zoning. The thing I'm looking at is where is the S.R. 3 corridor study that we spent so much time and money on that says this is a commercial corridor. That's my concern. There is not even a mention of it in here and I thought P&Z was supposed to be referencing that corridor study.

Jeffrey Ball - The study was done, but the Board of County Commissioners did not adopt any of the recommendations.

Mary Hillberg - The Board did not deny it, they just didn't accept it. And that is what the Board did with the previous small area studies as well.

Chris Cook - That's what I'm looking at, and the zoning. I'm seeing this is a commercial corridor and you're going to put 9, 10, or 11 units on it, and there is going to be a scrap yard next to them. We want to have consistency.

Mary Hillberg - All the rest of the corridor is commercial on the Future Land Use map, except this little segment here and the residential across the street.

Chris Cook - I've just sat through too many meetings where they show pretty pictures of what is going to be built and it sells the next week.

Mary Hillberg - I live in a development where everybody is supposed to have nearly an acre and there are zero lot lines.

Public Comment.

Debra Barker - I'm Debra Barker and I live at 4540 Deanna Court, Merritt Island. I'm here as a property owner and am asking the board to not support the change in zoning from the AU to RU-2-4 as requested by Carter and Jessica Hayes for 4645 N. Courtenay Parkway. I am asking this lack of your support based on this rezoning issue will ruin the aesthetics of North Merritt Island, the rural character of our property, by depleting the protected resource of the area. I have many grave concerns regarding this proposed project, one of which is that it would change the zoning, but I do not know how much of the future project would be looked at in the future once the zoning gets changed. I have some of the same concerns, that this would be a quick project and it would be changed once the zoning gets changed. And I would respectfully make a comment that I believe the Hayes' are from Cocoa Beach, so we are all from Merritt Island where we appreciate the ruralness of this community, so put this in your backyard, not in mine.

Don Barker - I'm Don Barker, 4540 Deanna Court, Merritt Island. There is a large canal in the back of our property that goes through the back of Deanna Court. [Mr. Barker submitted photos to the board. The photos can be found in file 21Z00042, located in the Planning & Development Department]. The nature in the back of the property is like a second ecosystem, it's beautiful. We did not dig the canal; I bought my property in 1994 to build a house; the house was finished in 1998; and nobody has done anything to the berm in 30 years. I don't want 11 rental units at my back door. I don't want to hear what's going on. I bought my property in 1994 because of the rural atmosphere; I don't want anybody behind me. I was told it was a wetland; it's mapped as a wetland. I don't think the County knows that it is, because if you look at the aerial plats, which are years-old, there is a tree canopy and density that has been removed by several hurricanes, and an aerial photo today would show that. We maintain that canal at \$110 per family quarterly to get it sprayed so there is not algae. We don't want any high density behind us, we don't want any density behind us, at least in the wetland area. What you see of the water was taken in January, which is the dry season. When a good rainstorm comes through it overflows and now is full all the time. A larger impact would be to the horseshoe bend area immediately to our south, which floods. It's our fear that if you change the zoning on one of these lots, the rest of them are going to go and we're going to get all that water into our residences.

Ted Balke - Your picture shows there are some pepper trees, but there are also a lot of Spanish moss.

Don Barker - There are oaks there and cypress.

Ted Balke - That changes the condition you were discussing before, that it's only pepper trees that can be removed. I represented a lot of these lots that sold or bought by out-of-staters a long time ago and that back property there is definitely wetland. If there are three days of rain you can't walk there.

Don Barker - It is a beautiful area, it's a very charming piece of Merritt Island, and it's rural in nature, and if you build 11 townhouses there, I don't know how they can build them because it looks like half of the land is unbuildable. I don't think it's compatible with our neighborhood or North Merritt Island. You're going to put multiple density housing next to half-acre lots with one house on them. That

doesn't seem compatible to me, and I understand that the future land use is a projection to plan on, but it doesn't mean you have to live by it. That's why you're having a zoning meeting.

Ann Duset - I'm Ann Duset, I live at 4560 Deanna Court. This affects me because it's my back yard; it splits my property in half. I don't want to tell anybody what to do with their property, I just think the density is too high and they should go for a different zoning. I think it's too much; it's at the upper end of the scale and he's at the bottom end of the scale. It will affect my property as far as water and I would want him to take that into consideration.

Phil Bernardo - I'm Phil Bernardo, President of the North Merritt Island Homeowners Association. We, the HOA, put it to a vote, and the conclusion was that we disagree with the proposed rezoning. Neighboring residents who live to the west of the subject property expressed concern to us associated with flooding, increased density, traffic, and that the proposed use is not consistent with the current use of the surrounding properties. We also concluded that the proposed rezoning is not compatible with Administrative Policies 3, 4, 6, 7, and 8, and also Section 62-1151(c). [Mr. Bernardo gave the board a handout. The document can be found in file 21Z00042, located in the Planning and Development Department]. Admin Policy 7 says, "The proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties". As you have heard, a substantial part of the subject property is wetland. I went out there yesterday, I went to the properties to the back, and I also went around Courtenay Parkway, and the remaining buildable property is also a little low. It seems likely that before any construction they will probably have to increase the elevation somewhat before construction begins. You've got a large impervious surface that you're adding, so it's going to create some additional runoff that has to go somewhere, and if it's not going to go across Courtenay Parkway, the other direction is toward the property to the west. I also looked at some of the properties that border to the back. They are already having drainage issues and even an aerial view doesn't really show how big the canal is behind the homes. The canal looks to be 45 - 50 feet wide and 5 - 10 feet deep, and this is the dry season. Admin Policy 4 says, "The proposed unit must not materially and adversely impact an established residential neighborhood". Admin Policy 8 talks about traffic concerns. Behind the subject property is several single-family homes on half-acre lots and the people who live there all own their homes, so they are not rental properties. An apartment building seems inconsistent with single-family homes. For most trips, the only way on or off of North Merritt Island is the drawbridge, so there are already traffic problems unless you're going to Kennedy Space Center. Again, the HOA concluded that we didn't agree with it.

Ken Marino - My name is Ken Marino, I live at 4510 Deanna Court, Merritt Island. We recently moved to North Merritt Island, we bought our house about five years ago, and moved here officially two years ago. We have the creek behind our house. When we bought the house, the creek was relatively low and now I notice it comes up during the summer and goes back down during the winter. We have a duck walk that runs alongside our property and the creek, and normally it's about 1.5 to 2 feet clearance from the creek, and after the last rainstorm it is submerged. We have a bridge that is also submerged. I'm concerned about the runoff coming from the property in question. Where I come from on Long Island, New York, we're allowed so many square feet in footprint and if you cover that land with concrete and asphalt you have to provide proper drainage. We have to put something to allow any runoff to properly not to runoff to adjacent properties. He could possibly put drywells in, but where is the water actually going to end up? If you're talking about raising the elevation of the property, now the property has to be higher than the existing wetlands property, which gravity will take back into our creek. Another thing about our creek is that it's clean right now. We have otters in there, I've seen bobcats in the woods, we have turtles, and also gators, and now there will be runoff coming off of the

parking lots that's going to have oil, gasoline, and whatever else. That's going to flow into our creek and it's going to become a sewer. That's my main concern. When we lived on Long Island we lived on the cusp of rural, in my backyard we had woods, and we chose that house because there were woods in the backyard, but ¼ mile to the east were horse ranches and sod farms. We have an RV in the Poconos in Pennsylvania, and it's rural because that's what we like, and that's why we chose North Merritt Island. You're setting a precedence for other buildings to be built. If you allow this guy to do it, someone else is going to want it done. I've seen on Long Island how small communities turn into big cities.

Brittany McCloud - My name is Brittany McCloud and I live 4530 Deanna Court, Merritt Island. I am here not only as a concerned resident, but also as an Environmental Engineer. I'm going to object to the rezoning of parcels 761 and 762 on S.R. 3. Brevard County's own GIS interactive map clearly shows that two-thirds of this property is in a wetland area. Not only in the rear, but also in the front along S.R. 3 there is a minor area that is deemed a wetland. In order to make this land buildable, the topographical level would need to be elevated, making the land higher than its neighboring properties which could easily cause flooding not only to the properties behind, but on the road itself. When land is considered wetlands it means the soil is near or at saturation levels and capacity; therefore, if the soil cannot hold its capacity, no more water at this point will be able to be saturated into the soil. If the land is built up higher than these properties around it, the water will have to be displaced elsewhere. If something were to be built on this property, the parts of land that were not deemed wetlands would now be a concrete footprint, which would prevent even more drainage. On average, a square foot of land absorbs three inches of rainfall per hour. If that water is then diverted into the creek behind these properties as well as the homes behind Deanna Court, it could easily cause the water level and water table to rise causing major concern for the existing homes that are along the creek on Deanna Court. I call the body a creek because by definition it is one. A creek is truly defined by the Environmental Protection Agency as an inlet inner shoreline or a channel or a marsh in another narrow sheltered body way. The aerial view that is on record does not show the actual size of the creek because of the density of the treelined canopy cover. It has been assumed it is a 3-foot by 3-foot drainage ditch and as shown in the development and building plans originally, but it is far from that. In reality it is a minimum 4 feet wide and 6 feet deep with a thriving and sustainable ecosystem. This water flow has an abundance of wildlife. Some of which include, but are not limited to, the American alligator, the North American river otter, yellowbelly sliders, softshell turtles, white ibis, great blue herons, and many others. What some people are not aware of is that the American bald eagle does come into these areas. There are many fish and amphibian species in the creek as well. Several of the birds are protected under the Migratory Bird Act, and the bald eagle is protected under the Florida White and Gold Eagle Rule, which is a Florida law set forth by the DEP. There are many environmental concerns with this, and with the Merritt Island National Wildlife Refuge being our close neighbor, North Merritt Island should continue to set the standard for environmental awareness and appreciation and continue to develop North Merritt Island, but in a way that makes it beautiful.

Jim Carbonneau - Are you a degreed Environmental Engineer?

Brittany McCloud - Yes, I am, Florida Institute of Technology, Class of 2013.

Jessica Hayes - Right now, the current zoning is agricultural and would allow us to build two houses.

Jeffrey Ball - That is not correct, that's assuming it is a nonconforming lot of record.

Jessica Hayes - Right now, we're nonconforming as agricultural.

Jeffrey Ball - To my knowledge, we have not done a formal nonconforming lot of record verification. The AU classification requires a minimum of 2.5 acres.

Jessica Hayes - For one house or two houses?

Jeffrey Ball - For one house.

Jessica Hayes - We were told we could have two residences the way that it currently sits. There is a house on it right now that is condemned. So, we can leave it as a condemned house and let it sit there. We could build two houses, which we would have to build up the land and do all of that to get two houses on it. If we don't go with this zoning, that's part of the future land use that's already approved, and then we try to go commercial and you end up with a Target in your backyard. I think some of this is kind of picking the best solution for what is available. What you're saying is you think the current zoning would allow for one residence?

Jeffrey Ball - It really depends. There are code stipulations in Section 62-1188 that we would have to review to determine if it is a nonconforming lot of record and if one house could be built or two. To my knowledge, only one can be built, but that's just face value.

Jessica Hayes - Single-family doesn't seem to be conforming for that area either, or for that lot.

Mary Hillberg - That's one of the things that we look at because this is supposed to be a commercial corridor. So, it's not for residential, it's a commercial corridor.

Jessica Hayes - Our lot, the one to the north of us, and the one to the south of us are zoned for residential low density, versus commercial.

Jeffrey Ball - I think we're getting confused between land use and zoning. The subject property and the property to the north and south, along with the properties to the west are Residential 4, which is a residential land use category, it does not allow commercial uses whatsoever. Further to the north and further to the south there is commercial land use designations. The subject property and the properties to the north and south of that are zoned AU, which is an agricultural residential zoning classification allowing for single-family and agricultural uses. To the west is suburban residential which is a half-acre single-family zoning classification. Further to the north and further to the south we have BU-1 and BU-1-A. The BU-1-A zoning is the lowest intensity zoning classification that allows for offices and transitional commercial uses. The BU-1 zoning is a mid-level commercial zoning classification that allows for some pretty intense uses. Across Courtenay Parkway is a mobile home park that has a land use of Residential 2, which is a half-acre lot and TR-3, which is a mobile home zoning classification.

Carter Hayes - When we look at compatibility with the surrounding neighborhood, I'm looking at a mobile home park. Everyone says it's rural, but in my neighborhood there is a mobile home park right across the street. The lots around me are specifically designed to not be commercial, to not be a commercial corridor. This is what we have; we're trying to be compatible, we're trying to provide a transition from mobile home park, which is in my neighborhood, to residential, which is also my neighborhood. We're not just living in an idyllic little residential area, there are other things going on,

there's commercial, there's neighborhood commercial, there's an area designed to not be commercial, and there is a mobile home park directly across the street from me.

Chris Cook - In our criteria, what do we use to incorporate what Mr. Bernardo mentioned about being on a barrier island that needs to evacuate for hurricanes and we are served by two drawbridges. They will tell you that S.R. 3 is at a level of service of 35, but that whole intersection there is a complete and total disaster half of the time. Where do we factor that into our criteria?

Jeffrey Ball - I think you need to factor all of that into your recommendation. From a zoning perspective, we look at compatibility and consistency. Obviously, there are extenuating circumstances about flooding, environmental, each property is different and I think you need to take that into consideration.

Chris Cook - He wants to bring in 11 more units, that's 25 - 30 people who are going to be in line in front of me to get out of dodge when the wind is coming. I think that really needs to be a consideration.

Jeffrey Ball - How we analyze all of the policies is very subjective, and that's why staff looks at the face value of things. Obviously, you're going to interpret that differently, P&Z is going to interpret that differently, and the Board is going to interpret that as well. You need to consider the subjectivity as well.

Chris Cook - I think if you're going to put a multi-resident on a commercial corridor, the access should be on an existing side street, so they are not pulling out directly onto S.R. 3., where people drive at a high rate of speed.

Jeffrey Ball - They will have to provide internal access to that development. We don't have many codes that have criteria for multi-family zoning like we do for commercial zoning.

Ted Balke - There is a physical ditch directly off of Courtenay Parkway and whenever we have a day's worth of rain there is water standing in that ditch.

Mary Hillberg - They are kind of stuck between water and water, and that's unfortunate. It is curious to me that the Future Land Use plan was designed this way without it not be continuously compatible.

Jeffrey Ball - We don't know why that happened, and hopefully they recognized something back then, but you don't want to line your corridors with all commercial. That's typically what has happened because nobody wants to live along a major arterial road with 30,000 daily trips going by.

Mary Hillberg - That's what they wanted, they wanted this to be a commercial corridor. The things that were already there, were just there, but they wanted an all-commercial corridor so that the rest could be residential. In looking at Administrative Policy 7, it says specifically, "Proposed uses shall not substantially cause or substantially aggravate any substantial drainage problem or surrounding properties, or significant adverse or unmitigable on significant natural wetlands or bodies". So, it seems that if we were to recommend this, that we would be ignoring Admin Policy 7, which is ignoring the people who were already here. In addition, the character of the land, the properties around it should be considered. I know this is the future land use map, but the people who were already here have a vested interest, and the value of their property is a consideration. If you have 35-foot high

buildings right behind your home, this changes that value of your property, and I understand that's a difficult position to be in.

Chris Cook - In my business I travel all over the County and go to new developments, the thing I find concerning is a lot of places are trying to cram as many people in small spaces to make the most amount of money. There is one handicap parking spot and hardly any room for a fire truck to move around. There is no place to park. I had to park a half-mile away just to get to a client's home, and it's hazardous. Just because you can do something doesn't mean you should, and I think if they went with a lesser density, if they wanted to go to RES 2 I think they stand a better chance of getting it and not as many people would be against it. I don't look at the person, I look at the zoning and that's what I'm seeing.

Gina Lindhorst - My concern is that there are long skinny lots and they are joined together, but the lots behind you are SR and I think that would be more along the lines of what I would recommend the zoning be. It doesn't seem reasonable to expect you to build all this stuff, because the footprint is not going to work out well with any kind of water management, with the wetlands and the runoff, and the people behind are residents who have been here a long time and did not expect to have a change on their property.

Mary Hillberg - I realize it isn't fair to have people who have rural property to have them do less with it, but you have to consider the surrounding areas, and we're supposed to allow no water, everybody has to contain their own water, but if you put that many units on half of the property because the other half is not going to be buildable, so now you have half of 2.79 acres with that much density in it, and hardened, where does the water go? Are you putting it in the wetlands? You can't put it in the wetlands, you can't put it in the street. It saturates the soil and it impacts the people around you. We're not supposed to be building things that negatively impact the areas around you.

Jack Ratterman - I'd like to make the motion of denial, using Admin Policy 3, 4, 6, and 7.

Jim Carbonneau - I'll second that.

Ted Balke - Jack, you and I spent four years developing the small area study that they rejected. By you rejecting this today is only going to drive it to the next stop along the line for approval. Their approval supersedes ours, and you know what happens. We've rejected so many of them, and they just overturn us. So, I think we really need to give them an alternative to select, as opposed to outright rejecting it.

Jack Ratterman - Ok, I'll amend my motion to approve as Res 2.

Jeffrey Ball - You would need to approve it as SR, which is half-acre lots, with a Binding Development Plan.

Ted Balke - You have to see if they are amenable.

Carter Hayes - I'm interested in alternatives.

Ted Balke - And a binding development plan saying you are going to go with an SR.

Jeffrey Ball - The BDP would restrict it to two units per acre.

Ted Balke - That would be more inline with what we spent four years doing.

Mary Hillberg - We are appreciative of the fact that you want to help the rental situation.

Gina Lindhorst - I agree, we need more moderate housing for rental.

Jack Ratterman - I'll amend my motion to approve as SR with a BDP limited to two units per acre.

Jim Carbonneau - I'll second the amended motion.

Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.