

Brevard County Board of County Commissioners

*Commission Chambers, Building C
2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, February 5, 2026

5:00 PM

Zoning

Commission Chambers

Present: Commissioner District 1 Katie Delaney , Commissioner District 2 Tom Goodson, Commissioner District 3 Kim Adkinson, Commissioner District 4 Rob Feltner, and Commissioner District 5 Thad Altman

ZONING STATEMENT

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

A. CALL TO ORDER 5:01 PM

C. PLEDGE OF ALLEGIANCE

Commissioner Feltner led the assembly in the Pledge of Allegiance.

E.1. Resolution, Re: Celebrating the Life of Sandra Collins

Commissioner Feltner read aloud, and the Board adopted Resolution No. 26-008, celebrating the life of Sandra Collins, a Planner in the Planning and Development Department who passed away on December 18, 2025.

Result: Adopted

Mover: Rob Feltner

Seconder: Kim Adkinson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

Chair Altman advised there was such a large group waiting in line for the zoning, some of which could be applicants, and the Board wanted to be sure they were in the room; the Board will begin with some of the non-zoning Items on the Agenda; he asked while the Board is waiting, are there any Items on the Consent Agenda that anyone is requesting to remove; and he stated he does not think the Board has any Items on the Consent.

Morris Richardson, County Attorney, pointed out there are about 30 folks, probably, still in line trying to get in out there.

Chair Altman noted maybe the Public Comment part of the non-zoning; and he asked if there are any cards on Public Comment.

Commissioner Adkinson replied there are no Public Comment cards.

Chair Altman stated the Board will wait an additional five or 10 minutes.

Attorney Richardson stated it is probably prudent; he is sure there are some Items on here that probably are not controversial and would not have anyone speak, but the Board just does not know until the folks get in; the best he could do is to make announcements in the hallway; but it is pretty loud out there.

Commissioner Delaney advised there is one Item H.15., that the Local Planning and Zoning requested a continuance because the applicant was not there; and she asked if that is one the Board would feel comfortable possibly voting for a continuance.

Attorney Richardson remarked the Board could proceed with that, absolutely.

Chair Altman asked if they are not here today that the Board knows, oh, they were not at the Planning and Zoning board.

Attorney Richardson stated the Board wants to send that back to the Planning and Zoning board meeting; and staff can give the Board the dates to announce.

Billy Prasad, Planning and Development Director, stated staff is requesting that the Board continue that Item until March 5, 2026, Board meeting; and the P&Z staff already continued it to their own meeting.

H.15. Public Hearing, Re: Princeton Technology, LLC Requests a Conditional Use Permit (CUP) for (4COP) Full Liquor, Beer and Wine License for On-Premises Consumption, Accessory to a Restaurant (25Z00044) (Tax Account 2104653)

The Board continued the request for a Conditional Use Permit (CUP) for (4COP) full liquor, beer and wine license for on-premises consumption, accessory to a restaurant, to the March 5, 2026, Zoning meeting.

Result: Approved

Mover: Katie Delaney

Secunder: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

*The Board recessed at 5:20 p.m. and reconvened at 5:29 p.m.

G. PUBLIC COMMENTS

Gerhard Claassen stated he is here today to get his answer; the last time the Board said it would tell him in the next meeting why his taxes went up by seven percent on his house and eight percent on his commercial property; he is here; and the Board is not going to answer him.

Morris Richardson, County Attorney, advised he knows that the County Manager looked into this and he sent an email; he is not sure if that just went to the Board or if he had contact information for . . .

Mr. Claassen interjected by saying it is on his card; in any case, he is not here to fight; he did not really expect the Board to give him an answer today to be honest; the answer is because

the County's budget went up by over eight percent in one year; the reason the County's budget went up by over eight percent is because of the County Sheriff; and that is why. He commented why the County penalizes his commercial property against his private property; he also knows, because he votes but his business does not, so they cannot, there is nothing they can do about it; his house is valued at 25 percent less than his commercial property; his commercial property is taxed three times as much as his house; but the reason it is, is because of the Brevard County budget, the Sheriff's budget specifically. He reiterated the reason the budget went up is because the sheriffs do not get paid enough; basically, they can talk here and there, but that is the reason it really went up; he found out the sheriffs got a \$5,000 increase in 2024; at that time, that is about a 15 percent increase; four years later, it has to be done again; he still makes the same money as he did four years ago, because he worked for himself; he does not even see a small amount of financial discipline among the people who are supposed to represent his interest, nothing, not one little bit; a quarter of a billion dollars is spent on the County Sheriff; he is responsible for 112,000 people; and that is \$1,600 bucks per person per year in a place with virtually no crime. He pointed out the amount of money spent on cameras is insane; every bus was just fitted with a camera; he asked why there has to be cameras everywhere in this County that leads back to the Sheriff's office; what is the point; and he mentioned he does not expect that answer.

H.1. Public Hearing, Re: Jay Steinke and Grant Steinke Request a Zoning Classification Change from GU to AU (25Z00038) (Tax Account 2504763)

Chair Altman called for a public hearing to consider a request from Jay Steinke and Grant Steinke for a change in zoning classification from GU (General Use) to AU (Agricultural Residential) on property located on the south side of Barton Boulevard, west of Bluegrass Lane.

Trina Gilliam, Planning and Zoning Manager, stated Item H.1. is Jay Steinke and Grant Steinke requests a zoning classification change from GU to AU under application 25Z00038, located in District 2.

Jay Steinke commented they have a 21.48-acre property just off South Barton Boulevard, on the very far west side of Fiske Boulevard; it is currently zoned GU and they want to rezone it to AU; he bought the property for his son Grant, who is a zookeeper at the Brevard Zoo; the intent was for him to eventually put a residential home out there; he is an environmentalist, so they are looking at wanting to put blueberries and honeybees out there; and down the road, if he has a family, they can have a little produce farm. He went on to say he wants to put in some elevated produce beds in there and possibly raise some peppers, tomatoes, and those kinds of items; if he decides he wants to sell them down the road, they can; his girlfriend like chickens, and she would like to put a few chickens out there; they just want to rezone it and put a couple of beef cattle out there; and that is what they are looking for.

There being no comments or objections, the Board approved the request for a change in zoning classification from GU to AU as requested by Jay Steinke and Grant Steinke.

Result: Approved

Mover: Tom Goodson

Second: Kim Adkinson

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.2. Public Hearing, Re: Laughing Clown LLC Requests a Small-Scale Comprehensive Plan Amendment (25S.15), to Change the Future Land Use Designation from RES-2 to CC (25SS00009) (Tax Account 2806925)

Chair Altman called for a public hearing to consider a request by Laughing Cow LLC for a Small Scale Comprehensive Plan Amendment (25S.15), on property located on Minton Road in Melbourne.

Trina Gilliam, Planning and Zoning Manager, stated Items H.2. and H.3. are going to be read into the record together, but they need a separate motion; Laughing Cow LLC requests a Small Scale Comprehensive Plan Amendment (25S.15) to change the Future Land Use (FLU) designation from RES-2 to CC under application 25SS00009, located in District 5; and Item H.3. is Laughing Cow LLC requests a zoning classification change from RP to BU-1-A under application 25Z00028, located in District 5.

Clayton Bennett stated he is the applicant for this project; they do have two requests in; one is the Comp Plan amendment to go from RES-2 to CC and the rezoning from RP to BU-1; this is to allow for general retail at a previous dentist office; the site is located off of Minton Road, which is an arterial roadway, there is commercial access; the applications were heard at the Planning and Zoning meeting in January; there were no one who showed up to object to it; they did have one written objection, which the concerns were traffic in the neighborhood; the site is going to be accessed off of Minton Road, an arterial roadway, and also concerns of sound and lighting; they are not asking for any deviation from the County's Ordinance regarding sound and lighting that the development plans do comply with those requirements; and Planning and Zoning did unanimously recommend it for approval.

There being no comments or objections, the Board adopted Ordinance No. 26-01, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "the 1988 Comprehensive Plan", setting forth the Fifteenth Small Scale Plan Amendment of 2025, 25S.15 to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan; specifically amending Section 62-501, Part XVI(E), the Future Land Use Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Katie Delaney

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.3., Public Hearing, Re: Laughing Clown LLC Requests a Zoning Classification Change from RP to BU-1-A (25Z00028) (Tax Account 2806925)

Chair Altman called for a public hearing to consider a request for a zoning classification change from RP to BU-1-A, for property located on the west side of Minton Road, south of Sharon Drive, in Melbourne.

There being no comments or objections, the Board approved the request for a change of zoning classification from RP to BU-1-A as requested by Laughing Clown LLC.

Result: Approved

Mover: Kim Adkinson

Secunder: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

Chair Altman stated what he would like to do is since a large number of people, the vast majority of people are here for H.11., and he would like to move the Item up and yield to

Commissioner Goodson, or to first ask staff to explain the Item.

H.11. Public Hearing, Re: Merritt Bidco SPV, LLC (Kim Rezanka) Requests a Zoning Classification Change from AU with a Binding Site Plan (BSP) to RU-2-15 and RU-2-30 with Removal of BSP (25Z00054) (Tax Account 2412106)

Chair Altman called for a public hearing to consider a request for a change in zoning classification from AU with a BSP to RU-2-15 and RU-2-30 with removal of BSP, for property located on the east side of North Courtenay Parkway, south of Via De La Reina in Merritt Island.

Trina Gilliam, Planning and Zoning Manager, commented that Item H.11., Merritt Bidco SPV, LLC, represented by Kim Rezanka, requests a zoning classification change from AU with a BSP to RU-2-15 and RU-2-30 with removal of the BSP under application 25Z00054, located in District 2.

Billy Prasad, Planning and Development Director, advised staff is requesting that this Item be continued; they received information from the applicant, a significant amount of new evidence; under the Brevard County Code of Ordinances Section 62-184 says that any new evidence must be submitted at least two weeks prior to the Board of County Commissioners meeting, and failure to do so may result in the continuation of the public hearing; staff is requesting that they have time to do a preliminary review of the TIA and other evidence that the applicant has provided; and therefore, he is requesting a continuance.

Commissioner Goodson stated he wanted to make a motion to continue the Item; what they got was a 400-page study of traffic; and staff did not have time to review it; and he wanted to make the motion to continue to the Item.

Commissioner Adkinson stated she seconded the motion.

Chair Altman pointed out under the Policies and Procedures, parliamentary, the motion to continue the Item, and there will be no discussion, so anyone can submit written information; and he asked what the dates were again.

Mr. Prasad replied his understanding of the motion is that it be sent back to the Planning and Zoning board at its March 16, 2026, meeting and then to the Board of County Commissioners at its April 2, 2026, Zoning meeting.

Chair Altman stated so the public will know, this is something provided for in the County's Code when information is asked, that staff does not have time to review, it requires that staff have the ability to respond, so this issue can be in the best posture as possible for whatever action the Board takes. He called for a vote on the motion.

There being no comments or objections, the Board continued the request for a change of zoning classification from AU with a BSP to RU-2-15 and RU-2-30 with removal of BSP, to the

March 16, 2026, Local Planning and Zoning (LPA) meeting and the April 2, 2026, Zoning meeting.

H.4. Public Hearing, Re: Strada Development, LLC. (Kim Rezanka) Requests a Zoning Classification Change from AU and RR-1 to SR with a Binding Development Plan (BDP) (25Z00039) (Tax Accounts 2316605, 2316606, 2316607, 2316617)

Chair Altman called for a public hearing to consider a request by Strada Development, LLC for a change in zoning classification from AU and RR-1 to SR with a BDP.

Trina Gilliam, Planning and Zoning Manager, stated this is Strata Development, LLC, being represented by Kim Rezanka, for a change in zoning classification from AU and RR-1 to SR with a BDP under Application 25Z00039, located in District 2.

Kim Rezanka, Lacy Rezanka, stated her presentation will be her, Eric Sergi, and Hassan Kamal; she is here on behalf of Strada Development and the purchaser, Maronda Homes; Eric Sergi is with Maronda Homes and Hussan Kamal is a professional engineer with 36 years of experience with BSE; the story of this land is it is 142 acres; it was a citrus grove forever according to Mr. Crisafulli; and then, the freeze of 1989 wiped out the trees, so it became cattle grazing. She went on to say the owner sold it and Strada, which is basically a land bank, purchased it for Maronda Homes; this is a request for a change of zoning to Suburban Residential (SR) to allow one-half acre lots or larger, with the clustering of homes to protect the wetlands and to develop a comprehensive subdivision with proper stormwater drainage and things like that; this is a common sense and logical approach to development; it is a far cry from the proposal, which Island Forest Preserve started a couple of years ago to do over a 100 lots using the open space subdivision that it did with Island Forest Preserve which is to the east of the project; unlike Island Forest Preserve, this housing will commit to the one-half acre and will commit 61 lots; and all of the homes will be in the middle to avoid the wetlands. She commented the density will be 2.3 units to the acre; AU allows 2.5 units to the acre; the current zoning allows 70 units; it is on page one of the staff report, 70 units; they are asking for 61; they will commit to 61; and if this is approved, the Binding Development Plan (BDP) will be changed to put 61. She noted using that 70 units and what she could guess from the Property Appraiser's mapping tools 23 units, 23 acres of that property is currently RR 1, which is one unit to the acre; 119 acres are AU; preserve point will not utilize the open space subdivision at this zoning; and if it goes forward, they will commit to that in the BDP as well. She stated Maronda Homes is being transparent about its plan, it wants the Board to know what it is doing; it is not doing a Planned Unit Development (PUD) because that take engineering; it takes 60 percent engineering, but it will have to abide by all of the County Codes, including the increased compensatory storage in North Merritt Island; and she would like Mr. Sergi to talk a little bit about Maronda and its plans.

Mr. Sergi advised they took a look at the site; she has been with Maronda Homes for over seven years now; they have been good partners in Merritt Island and in Central Florida; they want to continue to do that; they looked at the site; they did not want to over-saturate with homes, they wanted to make sure that they are being good neighbors to the abutters, and this is a good plan, which will help alleviate a lot of concerns that are out there that their engineer will speak to the Board about; and he came today to answer any questions that the Board may have.

Ms. Rezanka explained that Mr. Kamal will come up and this is the plan she handed out to the Board that has been shown at every meeting that they have had; they had a community meeting, North Merritt Island meeting, a Planning and Zoning meeting, and this is the plan that

has been shown throughout; somehow it did not make it to the Board's packet, it is unknown why as it was submitted to the County; and with that, Mr. Kamal will talk about the plan.

Mr. Kamal mentioned he wanted to give the Board a project overview from an engineering and development standpoint; as Ms. Rezanka said, it is 142 acres; it is located on the north side of Crisafulli Road; of the 142 acres, they are proposing to develop 61 lots; the actual development footprint that the Board can see with the lots and roadways is approximately 50 to 55 acres, meaning that about 85 to 90 acres of the overall property is going to be preserved; the dark green is the preliminary wetland delineation; and they have not gone through a full jurisdictional review yet, but that is based upon the preliminary mapping. He went on to say the lighter green is preserved upland areas that will serve as buffers both for the wetlands and for the project area; as Ms. Rezanka mentioned, the project is centralized within the property to maximize the perimeter buffers; on the east side, they got buffers that exceed 600 feet to the nearest property line; on the west side, it is over 300 feet, on the north side, it is about 25 feet, and on the south side, if he remembers his numbers correctly, they are almost 300 feet, about 280 feet; the plan is really focused on bringing the subdivision in and maximizing the preservation and buffers to the adjacent properties; and the lots will be served by the City of Cocoa water system and they will have an on-site lift station to provide gravity, to provide sanitary sewer service, so there will be no on-site septic tanks. He commented drainage will be provided by a series of stormwater ponds and inlets; they will be designed to comply with the North Merritt Island stormwater requirements, as well as the more recent, more stringent State criteria for water quality; that will be sized so that there is no adverse impacts to the surrounding drainage systems; even based upon the preliminary wetland mapping, they designed the site to minimize wetland impacts and comply with the County requirements to make sure that wetland impacts are less than 1.8 percent; they are less than between two and two and a half acres of total wetland impacts based upon the project; from a traffic perspective, with 61 homes they anticipate the maximum trips per day of about 580, which means on the peak hours they are looking at about 58 trips, less than what is currently allowed in the zoning because under the current zoning, with 70 units, they would be about 668 trips; with the development plan, they are proposing it is about 13 percent less trips than what would occur under the current zoning; from a concurrency standpoint, the School Board has completed their concurrency evaluation and confirmed that Lewis Carroll, Thomas Jefferson, and Merritt Island High School all have adequate capacity to meet potential demand from the project area; there was a traffic study dubbed by the County a couple years ago to support the speed bumps that are constructed further west, those that traffic study indicated traffic volumes on Crisafulli between 1,100 and 900 vehicles per day, all of which are significantly less than the level of service for a two-lane roadway, so even with these additional trips, they would still be functioning at less than 20 percent of the traffic volume for this roadway; as they go forward, hopefully after they are successful with a rezoning application, they have multiple steps to go through with both Brevard County and State staff to make sure that the project complies with land development and comprehensive planner criteria; they will have to submit subdivision plans to the County where staff will ensure that the Comp Plan elements that have been discussed during the zoning application, and any other binding development plan criteria, will be adhered to, and then they also have to go through the water management district; they will analyze the project for wetland impacts, as well as stormwater and drainage impacts; and they have a long way to go, but they are committed to making sure that this project has no adverse impacts. He stated he is confident that County staff has enough regulations and very difficult regulations that will help ensure that at the end of the day, the project meets all the criteria and does not have any adverse impacts; and he is available to answer any questions as they go forward.

Ms. Rezanka stated she wants to talk a little bit about the staff report and the staff addendum; this addendum is something she has never seen before and it actually flies in the face of what the staff report says, it is contrary to what it says in the staff report, and she will detail that in a

moment; the Administrative Policies are guidelines; the guidelines are then enforced by the County's Land Development Code; the Future Land Use Map (FLUM) is a guideline; that FLUM is currently residential one which should in theory allow 142 units, they are asking for 61; they are not messing up the Future Land Use element; and the policies do not state that the applicant must provide a traffic study or a pavement and subgrade structural evaluation and review of subsurface voids, that is one of the opponents. She continued by saying she is not even sure what subsurface voids are; the proof that the policies are met are when the developer complies with the Land Development Code with all the codes when a plat or construction plans are submitted; none of these can be processed; staff cannot look at any engineering per se until zoning is complete; staff could allow them to go forward as a matter of right with the open space subdivision, which they chose not to do; Maronda wants to be transparent, which she provided to the Board a little bit of the open space subdivision; only staff reviews the plat, that allows a 25 percent density bonus and smaller lots; with the RR 1 lots, they could be half an acre; at 23 acres of RR1, it could be 46 homes; with 119 of AU, they could be one-acre lots; and that actually turns out to be 119, so in theory, open space subdivision allows 165 lots. She noted they could make the old-fashioned subdivision without centralized stormwater, without centralized sewer, and put in more lots, at least 70 currently; that is not what Maronda wants to do, they want to do the subdivision that makes sense that is good growth management policies; the County Code Section 62-1511c has five factors; the staff addendum talks about things that can be considered, such as environmental constraints, drainage, flood hazards, and transportation impacts; those are nowhere in the County's Land Development Code for zoning; those are not part of the five factors that all of those are elusory; even if they were in the Code, there is no engineering evidence before the Board to show any of those are a problem at this stage; and the County only has a professional engineer who has told it he can make this work and he will follow the Codes. She stated the staff addendum claims the rezoning is an increase in density, but it is not; right now, they are asking for 61, when the staff report says 70 is permissible; the staff report analysis, before the addendum, says Policy Number 3, the request will not significantly diminish the enjoyment, safety, or quality of life; Number 4, the proposed use will not materially and adversely impact the established residential neighborhood; actually, this is not even an established residential neighborhood is a residential area; the staff report did not comment on Policy 7, and indicated information on Policy 7; however, if the Board looks at Administrative Policies 6 and 7, they talk about the use of the land, not a rezoning request. She pointed out the Administrative Policies are guidelines to be enforced by the County's Land Development Code; staff goes on to suggest that a PUD would be appropriate, but a PUD does require an engineered plan; engineering costs for this project will be over a quarter of a million dollars; even if the Board would like the plan to go to a PUD, all that engineering could be done just to be turned down at this level; so with that, there is nothing in the Comp Plan that requires full engineering or platting design; and the analysis for this zoning is whether the use is compatible to meet the County's Land Development Code in the five factors in the Zoning Code, which they do. She stated this is a residential area with large lots; this will be better for the neighborhood, because it will hold the water, it will treat the water under the new State requirements; and with that, she would like to reserve her two minutes and 30 seconds for rebuttal.

Chair Altman advised Ms. Rezanka's time is reserved.

Commissioner Goodson asked if staff can tell him about this site in the coastal high hazard area.

Billy Prasad, Planning and Development Director, responded the vast majority of this site is within the coastal high hazard area; the coastal high hazard area is defined by State Statute and it is required to be incorporated into all counties comprehensive plans and that is why Brevard has it in its Plan as well; specifically, Brevard is required to show how it mitigates

issues within development within the area; Objective 7 of the County's Coastal Management Element of the Comp Plan states that it should limit densities within the coastal high hazard area and direct development outside of it; meanwhile, Administrative Policy 6 states that the Board should consider whether rezoning applications are consistent with the Comprehensive Plan; and putting those together, if the Board were to find that this application is not consistent with the Coastal Management Element, it could deny the application on that basis.

Commissioner Goodson asked if that has been done yet or is that coming.

Mr. Prasad replied it is current, it is in the coastal high hazard area; that is really a question for the Board on whether this application meets that objective of limiting density within the coastal high hazard area considering that they would be going to SR zoning which allows for half-acre lots.

Commissioner Goodson inquired how the site could affect drainage.

Mr. Prasad responded there are known and pervasive drainage issues in the area, which the County is devoting significant resources towards improving; there are experts here from County staff and from Natural Resources Management if the Board is interested in learning more detail; but the issues are probably not surprising considering that the areas within the coastal high hazard area are, as he mentioned, and the Federal Emergency Management Agency (FEMA) flood zone as shown on the attached maps to the Agenda; in connection with that, Administrative Policy 7 states that proposed uses shall not cause or substantially aggravate a substantial drainage problem on surrounding properties or significant adverse and unmitigable impact on significant natural wetlands, water bodies, or habitat for listed species; and given that, if the Board were to find again that it would be detrimental to the public interest to approve this rezoning and the BDP associated with it at this time because of its impacts on wetlands or drainage problems, it may deny the application.

Commissioner Goodson asked if staff can explain to him why a PUD would be more beneficial in this case than a BDP.

Mr. Prasad replied one could argue it is because this application uses a BDP; it is a little bit unique of a BDP compared to the ones that the Board normally sees; in this case, it is being used to establish consistency between the FLU density of RES 1 and the SR zoning, which allows half-acre lots, so there is the RES 1 one-acre and SR half-acre; in other words, it is allowing clustering through a BDP beyond what normally is allowed under the Comprehensive Plan; and this has caused problems in the past in administering the Land Use regulations. He stated in any case, at least in staff's view, there is probably a superior mechanism available that allows flexibility for all parties including clustering; as always, entering into a BDP is voluntary on the Board's part just like it is on an applicant's part; and as such, the Board may choose to decline to enter into the BDP, in which case it should consider denying the rezoning application because the requested zoning classification would be inconsistent with the FLU.

Commissioner Goodson inquired if Mr. Prasad would say that right now this needs a lot more studying, a lot more discussion, before the County agrees to something it might now know is good.

Mr. Prasad advised if the Board has looked at the application and is not convinced that it has met the Comprehensive Plan Policies, it might consider denying the application; and like he said, through a PUD and the engineering Ms. Rezanka talked about, they would be able to demonstrate, and the Board would be able to condition, until it is satisfied that all those Policies are met.

Commissioner Goodson stated for the reasons discussed, he would like to make a motion.

Chair Altman stated the Board will proceed.

Commissioner Goodson stated he is sorry, to go ahead, as there are a lot of cards that needs to be heard first.

Chair Altman noted he has a question for the applicant; he asked if he had the applicant broke down the site in terms of the percentage of pervious surface paving building footprint versus what they are leaving open; and have they done an assessment on that.

Mr. Kamal replied they have not done a full analysis because they have not done engineering plans yet; as he mentioned earlier, just the development footprint itself, the back lot is only about 50 to 55 acres; the preserved area is about 85 to 90 acres; 60 percent of the property is going to be natural; then the balance, that 50 to 55 acres, is going to have a combination of the roads, the house pads, and so on; generally, single-family developments of this size lot is probably typically about 70 percent of the property is going to be pervious, and only about 30 percent may be impervious, consisting of roads, driveways, and buildings; and that is a ballpark number.

Chair Altman asked if all this open space will be surrounding the development to buffer.

Mr. Kamal responded correct, as seen on the site plan they showed earlier, it is all perimeter; and the development is interior to that.

Chair Altman asked if the area that they are preserving that they are keeping green belt, if they have any sort of management plan for that; will there be restoration; how will it be managed; will there be any mitigation environmental planning; and do they have any thought of what they may be doing there.

Mr. Kamal replied there will be a management plant that generally happens during the permitting process; there will be an evaluation; there will probably be some exotic removal; it is a mix, most of it is forested, he thinks there are some herbaceous wetlands, but there will be a management plan and it will be required to be put into a conservation easement; there will be some permit requirements for exotic removal and things of that nature; and that happens during the permitting process with the water management district.

Sarah Hodge stated she sent the Board comments last night, so she does not know if he or she has seen them or not; her husband and she are strongly opposed to this zoning because of what happened to the neighbors with the other subdivision next door; they did not take precautions to keep their runoff on their property; some of the houses next to them were three feet underwater and they may never be able to go to their homes again; no one seems to care; the regulations, the Bert Harris Act says one must retain runoff on their property, they did not, and there is a huge impact with another one that is going to make it even worse and more people will be flooded; this is unconscionable and she does not know why the Board would ever think to do this; she asked the Board to read the comments she sent it; and stated that is the main thing because there are more important people that have better information.

John Noonan commented he and his wife own a couple of acres on the south end of Broad Acres Street; he is deeply opposed to any zoning changes, because of the impacts that Island Forest Preserve has created to the community; he has been to several meetings, he has voiced his opinion and his knowledge of the area, and it falls on deaf ears; they have a very serious problem, they have flowing water through the neighborhood; it is not just standing water,

nuisance water like it was 30 years ago; and now it is flowing, moving things, moving soil, moving concrete, they have damages, and they have a lot of problems from Island Forest Preserve from these developers. He continued by saying these developers are going beyond the scope; the density is not compliant or compatible to their area, these developers are violating the policies; they have these special district policies, these administrative policies, and they are not being followed up on; these developers should be fined, they should be penalized, and they should be banned from building beyond the scope; the data they are using, these flood plans, the Island Forest Preserve Flood Plan is nothing; there are no facts there; and there is a lot of bad information. He advised they worked with former Assistant County Manager, John Denninghoff, and he gave them nothing but disinformation about water flow; his concern is that a lot of the water now that is in some of this property, the rainy season is here, they have got flooding and the land is already underwater, the lowlands are wetlands, and if their property is highlands, they live on a sand ridge and now that is being impacted; he has sent pictures beyond a bunch of information to Commissioner Goodson's office, and he presented facts; and he has shown videos of flowing water. He stated they have a telephone pole that is in the path of this flowing water; he has tried to get support from the County, they get no support, and it has fallen on deaf ears; they are all in charge of his or her safety and their well-being; the Board denies it because these corporations somehow are able to sway the Board into developing this property beyond what it is capable of; the County has impacted them beyond imagination by voting and allowing these developers to just develop every lowland filling ditches; Island Forest Preserve had a relic ditch that held a lot of water and that, he thinks was the fork in their butts, so to say that when that was filled in that took a lot of water coming from the Cape from the surrounding agricultural property; and that caused their property down at the south end to flood. He reiterated he has a lot of problems with the County right now, and they are not getting the support; he voiced his opinion to Commissioner Goodson and his comment was to buy more fill dirt; and he is sorry, he is all out, he is done moving dirt, but they really need to get some intelligence, some competent and serious leaders about fixing this problem and ending these zoning issues that are beyond his community's ability to survive.

John Calhoun mentioned he lives on East Crisafulli road, he owns the property directly across from there, the new development's exit, and he is just going to read to the Board, as he wants to speak to three things, the flooding, the traffic, and the safety. "So just to clarify, the Sykes Creek and Judson Canal are the same thing. It's our drainage. That's the only drainage we have. Okay, so the flooding in 1952, 1953, Brevard County dug the canal on Judson Road to increase the flow of water from our area to the Judson Canal, south to the Barge Canal, and north of Pine Island, and everything worked well, everything was great. In 1995, St. John's Water Management came in and plugged up both ends of Judson. They put, the Judson Canal, they put pumps on Pine Island. They're supposed to pump into the north pond." He stated he is sorry, he is having trouble here. "So, when St. John's came in 30 years ago and they plugged up the Judson Road Canal, they put pumps to go to Pine Island, and they put pumps later on at Hall Road to go into the Barge Canal, up lower Sykes Creek and the Barge Canal. Well, the County doesn't turn the pumps on until after a rain event comes, and we're flooded. So, when they turn the pumps on, if they turn them on at all, it's after the flood. And then we have pumps on Ransom Road, which is a 42-inch pump from National Aeronautics and Space Administration (NASA). When they pump, they pump everything south from NASA Causeway through Blue Origin, back into Judson Road. All of the water exits are plugged up by St. John's. They have culverts in there with 2x6 weirs stacked up so water can't go anywhere. So, with all of the flooding, and then you traffic. So you have a road that is underwater. You have traffic from the new neighborhood, and the speed limit is 30 miles per hour, which is totally ignored. They got by my house at 60 and 70, and that's the God's honest truth. So, why can't Maronda buy a piece of land through Island Forest Preserve and run the traffic out to NASA, I mean out to State Road 3? They're all going to NASA anyway, 90 percent of them work at NASA. Get the traffic out that way, because we have horses, we have bicycles, we have golf carts, and at 30

miles an hour it's you know, it's not bad, but at 70 miles an hour, it's crazy. Somebody's going to get killed, and so when somebody gets hurt out there, if we have a flood and you guys, somebody gets hurt. There's a flood, there's car in a ditch, they can't see the road, and then an emergency vehicle can't get in there to get them because there is only one way in and one way out, then somebody dies; and then whose fault is that? It's certainly not ours. So if you guys vote, if you guys vote to have this, you're just adding to it. Until we, until the County takes the pumps out of Judson Road, the pumps are dams. They're just holding water on us. We're a retaining pond, and that's so if you add more development, it just makes the problem worse. It's not going to get any better until somebody does something. We need an exit out of there besides Crisafull Road and we need the flood control done. It put it back to 1995. Get the pumps and the weirs out and we'll all be happy except for traffic."

Rose Plumber stated she is representing the North Merritt Island Area Association; their organization serves nearly 5,000 households and approximately 10,000 residents on North Merritt Island with around 500 active members and business partners spanning from the Space Center to the Barge Canal Bridge; on behalf of these residents and businesses, they respectfully recommend that the application submitted, including the associated BDP, be denied; their recommendation is based on several significant concerns including non-compliance with Administrative Policies; the application does not align with the FLU element, specifically 3A compatibility, which addresses traffic impacts; Section 4A criteria also relates to traffic; Section 5A through G road infrastructure, which is directly affected by increased traffic; and Section 7, environmental impacts, particularly regarding drainage, flooding, and wetlands. She went on to say it is important to note, to their knowledge no comprehensive traffic study has been conducted for East Crisafulli Road in relation to this project; the only available study dates back to 2023, prior to the original Maronda development that was 105 home and included a 24-hour speed survey; the study recorded 1,189 vehicles in a single day with 45 percent of the 969 vehicles passing Judson and Crisafulli, exceeding the posted speed limit of 30 miles per hour; using Ms. Rezanka's numbers, if she used that to add the cars from the 105 homes and the 61 homes, they are looking at 2,715 vehicles a day in a 24-hour period passing that area; some of these vehicles go as fast as 70-plus miles per hour; there were 11 in front of Crisafulli and Judson in that 24-hour period; and East Crisafulli Road was not designed to accommodate this volume or speed of traffic, and it is ill-equipped to handle the additional load. She explained there are numerous reasons for this Board to deny the petition; the points outlined above are among the most pressing; repeated approvals of incompatible projects have already had detrimental effects on their community character and well-being; and in conclusion, they urge the Board to consider the long-term impacts on North Merritt Island and to deny this petition in the best interest of their residents and environment.

Chris Cook commented he has been a resident in North Merritt Island for over 35 years; he is just going to kind of simplify this issue; he was at the Planning and Zoning meeting; if one reads the minutes, there was a bit of confusion about what was really going on there; but to simplify it, they got mostly AU and there is some RR 1; and about half of the property is wetlands. He mentioned with that taken out, they can leave it the way it is right now using the calculations; they can get about 30 half-acre lots in that without doing anything; what they want to do is change the zoning to SR with a BDP for 61 half-acre units; they do not like BDPs in general because they are only binding until they are not; it is much better to change the zoning, and it is harder to change the zoning than a BDP; the Board is going to hear a lot of stories about existing flooding and the road conditions, so he will not harp on that; but these recent developments, they all come in and say they are going to put a new development in and it is going to help the residents; and it has not, it gets worse. He stated one thing they would like to see is on these new developments, if the Board could require a performance bond to repair the road after they bring in thousands of cubic yards of fill and destroy the road that is already in bad shape, and to make it back to being fixed up a little bit; and he is sure the guy is a great

engineer, but they heard that story before. He went on to say the Comprehensive Plan, the Comprehensive Coastal Management Plan Objective 7 says move development away from these areas; it is also in a FEMA special flood hazard area; he asked why would the Board increase density there; he stated it makes no sense; the other part is the rural character; no one has talked about that to be rural in character; it is a rural character area; one has to have at least one acre lots to pursue rural activities; they would like to see one acre lots and also the North Merritt Island Homeowners Association, North Island Special Advisory Board, and the Planning and Zoning board all voted to deny this; he has not heard one person except for people on the applicants staff speak for it; and he asked the Board to do the right thing and to deny this application.

William Bell stated he is here against the new development; Maronda Homes recently built a community at the end of the road; after the storm of October, there was a river coming out of there and was contributing to most of the flooding on Crisafulli, the flooding has deteriorated the road; the road is in dire need of repair; it is full of potholes that were repaired; the eastbound lane headed up due to the heavy traffic, and the trucks going back and forth, the road is down like 12 inches, it is just sinking away to nothing; after all that, they want to put 65 more homes surround by wetlands and raises the elevation four to five feet; add an additional 150 cars and another several years of construction vehicles causing more damage, he finds it hard to believe that they will not further impact their community; and he provided the Board with some pictures.

Ms. Rezanka asked when those pictures were taken.

Mr. Bell replied the day after the storm.

Ms. Rezanka inquired if it was October of this year or last year.

Mr. Bell responded last year, October.

Emily Robinson commented she recommends that the Board vote no currently on the zoning; to give a little bit of a different perspective, she actually lives in Island Forest, so she does greatly sympathize with all of the neighbors on East Crisafulli because during the storm of October; her backyard actually experienced six inches of flash flooding in the matter of just an hour; the next morning to emerge and see all of their homes completely underwater really was awful; and for her to see that makes her wonder where was the original engineering and planning then. She stated her other reasons to strongly advise against the zoning is the lack of infrastructure improvements on East Crisafulli; the electric power lines have not been improved in a long time from what she understands; lastly, is the road improvements in terms of having another access road; she would urge that there be no more development until they have another road, strictly from a safety perspective; after the storm, had her family not had a SUV, one probably could not have passed through safely down the road, it was that deep; she knows several people that could not leave the neighborhood because they did not have an adequate vehicle; she knows that is their responsibility to take care of themselves, but they should all be good neighbors and not approve things just because he or she can, just because they did follow all of the regulations; she thinks this plan needs a little bit more time to cook; and she really strongly urges the Board to reconsider and have them do more engineering and follow more guidelines.

Mary Watkins stated she owns two pieces of property in the Broad Acres Subdivision, which was actually platted in the 1950s on Sand Ridge at the east end of Crisafulli Road; when one is driving out Crisafulli Road, he or she is going uphill to that sand ridge; Island Preserve is very close to that sand ridge; but at the time of the development, the highest elevation was 2.56

feet, whereas her low lot, the elevation is 5.97 feet, so one can imagine the amount of fill that has already come in. She went on to say the other development, Maronda, is talking about building downhill from Island Preserve; it is down a natural hill; to bring in a lot of field dirt, that water has got to go somewhere; with all due respect to the engineers, she can go back to a civil engineer that told her father to dig the channel deeper under the Pineda Causeway so that the water level would go down so he could get his sailboat under the bridge; she had a Commissioner representative come out and look at her house at one point; while the house was not flooded, the property was and she had to walk through flood water to get to her home; and the representatives answer was to build a deck around her house. She added, something that has not been brought up about traffic was she was working for the County and had an opportunity to do some overtime on a Saturday; unfortunately, that Friday night two young individuals new to the neighborhood had killed themselves in an auto accident on East Crisafulli Road; the coroner was taking his sweet time getting there, so she had to use a private access to get off of the property and get off of Crisafulli Road; there are several hundred people who do not have access to that private property in order to get off; and she asked what is going to happen when something like that occurs again. She advised it will happen again with the speeds and the curves in that road; thirdly, when it comes to flooding, when one breaks through a hard pan, a geological term, water is not going to go down unless it is pumped down; it is naturally going to come up; she does not care how deep the holes are dug as retention ponds, the water will not go anywhere except the path of least resistance, which is downhill; and she asked the Board to be considerate and turn this down.

Terry White stated he has been a resident of Merritt Island since 1965; and there are a couple of things that have been stated here already that he would like to talk to a little bit, but he just wonders how many sitting up here in from of him have been out to East Crisafulli Road since October 1.

Chair Altman advised he has been there.

Mr. White continued by saying it was stated earlier that it is a typical two-lane road; and there is nothing typical about it. He noted if one looks at Hall Road, Chase Hammock, Pine Island, and North Tropical Trail, they are far better roads than East Crisafulli; the current road cannot handle the traffic, it cannot handle the increase in the traffic; the survey that they mentioned about the speed hump area, that did not take into consideration people like him and a lot of other people sitting here that do not drive East Crisafulli all the way out, they go north or south along Judson to get out of their neighborhood; it is a dirt road; his truck is dirty all of the time, but that does not even consider the additional traffic right there; another thing they talked about is this is a wetland, but 40 years ago, it was an orange grove, just like his property; he used to own the oldest orange grove on North Merritt Island; and the citrus died off in that, but old-time citrus growers did not plant in wetlands. He explained something has changed over the last 40 years that turned those high pieces of ground that raised citrus into wetlands; in his case where his property is, there are two developments that have been put in south of him and one that has been put in east of him; ever since they went in, he floods; the County tells him it is because he lives in a bowl, well the bowl did not always exist there; like he said, his used to be citrus; all of those other ones, and just like Ms. Watkins mentioned, once they raise that water table and put in those ponds, that water table is up; and now, when it rains, his south pasture floods and it does not go away right away, it takes days and days. He stated this new development says that they will not put any more water off of their property than there was in the past; they did not see a lot of water flowing off of that property in the past; but they did say that once they develop it and it raises above the water, the water level in their ponds will discharge onto East Crisafulli; they are not going to retain all of their water, which is sad; there are many unanswered questions to their plans; in the previous meetings they have gone to about it, they said they do not have all of the site development; they do not have the engineering for this and that; and his

recommendation is until they come up with a clear, set of plans of exactly what they are going to do, the Board should disapprove this zoning change.

Stephen Muir commented he has a photo that shows some of the flooding that they dealt with last October that he was going to share with the Board; many of these fine folks have pretty much talked about what is troubling most of them; the flooding has been really bad, it is continuing to get worse over time; in addition, as the canals have effectively saturated, the swales that most of them have from their individual properties to the canal, which have flooded out every single time; and he thinks more and more of them are seeing areas that are continually saturated with water that did not use to be. He mentioned when that event happened, he was almost living on an island at that point, which was shocking; his home on East Crisafulli is actually just east of where this proposed development is going to be, and they were in about half a foot of water; everybody also talked about the road condition eventually fixing it and making it better; but the concern that he sees when he looks at this is the property at the very end of the neighborhood added about 100 homes; and he thinks East Crisafulli has maybe 150, 160 homes in total before this happened; this new proposed development is looking to add another 60; he thinks what they are looking at over the course of a couple years is Maronda is effectively doubling the homes that are in this neighborhood; and this road is not made for that. He stated the water has nowhere to go; even if they fix some of those things, even if their engineering is 100 percent correct, it is just not going to change the fact that they are just shoving tons and tons of people into this area; that is not just meant from an infrastructure standpoint to be able to handle this many people; and he thinks everybody that lives in this area can attest to that.

Kristopher Wischmeier stated he lives a few houses down from the proposed neighborhood; he would recommend that the Board deny the rezoning; the flooding has impacted him and his property, as his house was underwater, but that has been said before by many other speakers; somebody noted that the traffic study they did was done before many of the people moved their family members, grandmas, and everybody else in on the other Maronda homes that they have built down the street; besides that, with the traffic, in Ms. Rezanka's own words, East Crisafulli is windy, curvy, and a squirrely road, it is not straight like Hall; the traffic stop for school for his three girls is right at that s-bend; when people try to make up speed because of the speed humps, they usually do it throughout the rest of the road; and it is already a sketchy kind of deal right now. He went on to say adding more cars into the already sketchy deal, does not look good for the future; there was also talk of an exotic removal, something with the wildlife up there; he was kind of confused if that was towards plants or also the Blue Florida Scrub Jay, Gopher Tortoise, and Osprey nests that might be out there since they are right next to a wildlife refuge; the overall synopsis of the area from everybody in here is nobody wants it, he does not want it, and he knows most of his neighbors, he would say 99 percent of the people here, do not want it; Ms. Rezanka wants the neighborhood built because that is her job; she is good at it; but he wonders how she would feel if it was right down the street from her house. He concluded by saying he wanted to come up here because he showed up at the meeting and he wanted to be a speaker; and he is asking the Board to do what everybody here already wants it to do.

Mary Hillberg stated she lives in North Merritt Island and is on the North Merritt Island Special Advisory Board; they had a meeting on this topic, and as the Board can imagine, it was hours, as there was a lot of impassioned explanations as it is tonight; she asked Commissioner Goodson to note the coastal high hazard area and the fact it is a flood plain; and it should convince the Board that it is not a good idea for the area.

Kim Tampa mentioned she wanted to say like everyone else has said before her, the flooding is horrendous and her house was flooded for five days; the infrastructure needs to be done; people with the speed bumps, they light it up as soon as they hit the last one, and they are

speeding and someone is going to get hurt; the road definitely need to be addressed; and everyone else has said everything else that she needed to say.

Commissioner Feltner asked if Ms. Tampa's picture were part of the record.

Ms. Tampa replied affirmatively.

Denise Christopher commented she lives off North Tropical Trail in Merritt Island since 1977 and she is opposed to any changes to the current zoning of any property on North Merritt Island until something is done to improve the flooding and traffic; one suggestion to improve some of the flooding would be to grandfather in the existing vacant properties so that the Building Code regulations would not apply as far as raising the road and filling all of the property with dirt; most of the complaints are about the truckloads of dirt that are required to raise the land; and therefore, the existing, adjacent properties end up being flooded on either side. She continued by saying the other issue is traffic; with the additional cruise parking lots, and the Space Center traffic, the drawbridge, the traffic lights on State Road (SR) 528, there are times that the residents on North Merritt Island cannot even get out on the road on SR 3; recently, she witnessed an ambulance that was trying to get through the traffic going south and the cars were at a standstill; it was near the Barge Canal and there was no way that the ambulance could get past at that point; she asked what if it was a member one of the Commissioner's families to have to get to the hospital was a matter of life and death; she stated it seems like the Board have a lot of issues; the other part would be to maybe consider, and this kind of has to do with launches, the fact that their houses shake and they have cracks in their walls and stuff like that, that the regulations to build the houses should be changed to adjust what is happening with the rest of the property out there; and she appreciates the Board's time. She stated she wanted to put in a plug for Pioneer Day that is coming up on Saturday on North Merritt Island; and she provided the Board with a handout about the Museums of Brevard (MOB).

Robert Blevins stated he has a little over five acres on Wood Sage Lane, a flag lot; it is in the deep curb right where they plan on doing this entrance just a few hundred yards after his entrance to his driveway; he has only lived there for about four years; most of his community has already voiced their opinions about it; the flooding is ridiculous; they had 18 and one-half inches in about six hours; and that area just could not handle it. He went on to say he works at the Space Center, he understands the growth that is going on out there; he has friends that are looking for homes and are envious of him and his 12-minute drive to work; he gets it, it is lovely, but at the same point, it does not help the area; the flooding is out of control; he can tell the Board his property has two exits, he can get off of Joseph Court or off of Crisfulli; he could not do it off of Joseph Court because there is a broken culvert right there that goes to his property; and he is kind of glad it is broken because all of that water off of Joseph Court would come onto his property because his property is at a really low level. He noted there is not much he can do; there were 18 and one-half inches in his garage; he lost nearly everything in there; nobody sees his house, he is back in the woods behind 70 foot pines, and it is gorgeous; they just had a newborn son, his family is growing out there; there is a family that just build a home behind them, same thing, growing families; they do not want to be pushed away from their homes; he has to bring in a sump pump just to pump out underneath his home because the groundwater rises that quick; and it is serious out there. He mentioned to put an additional 61 homes on top of this is uncalled for; that is putting the dangers of everybody else in the community; he wanted to voice his opinion as concerned neighbor and taxpayer for this County and State; and he hopes the Board makes the right decisions.

Susan Rogers commented she is not going to echo, everyone heard about the flooding; she lives off of Chase Hammock Road, which is to the south of East Crisafulli Road; but as they

say, they are all connected and all live downstream, nature is a complex, interconnected system; the Board needs to be mindful of this; it is not sustainable all of this additional development; she heard Ms. Rezanka say this is a common sense solution; it is not a common sense solution for the people who live there, all of the traffic issues that have been discussed; and she has family members who ride bicycles. She noted they say it has gotten terrible, dangerous; they do not go down that road anymore; like everyone here, she says no to the rezoning, as it is not sustainable, this is their North Merritt Island; enough is enough; and they need the Board to do the right thing.

Diana Scarincio stated she is the last person that would normally get up to speak in front of people, so she asked the Board to excuse her; she reiterated the flooding is terrible; her husband and she own a farm; they are probably the only agricultural people that she has heard talk tonight, and that is what they are here for; the flooding event in October, they are just south of the S-turn, their pastures were underwater; they had to borrow a canoe from Mr. White so she could bring hay out to their sheep that were stuck on a small patch of land that was above water; but what she is getting at is to add in any more houses and to raise any land out there, water goes to the lowest point period, and it is not going to go anywhere else other than onto all of the neighbors properties. She asked if the Board knows how hard it is to see baby goats and sheep that cannot get to dry land, and there is no place to bury them because it is all underwater; chickens drown, and if there are kids in here, she is not trying to be too graphic; but it is awful for those of them who are actually still trying to use the land for agricultural purposes and take a large agricultural plat and turn it into anything other than agricultural, one will never get that back, that land is meant to be green space; and it is not meant for anything other than that. She noted everyone is complaining about the road; she is going to add a different spin on that because if one has ever tried to haul a livestock trailer down that road and happen to pass one of those 18-wheelers that is bringing construction material down to the subdivision, one cannot get through the road; it is not wide enough for two large vehicles, it is just not; at the end of the day, she thinks a lot of people have made comments about the actual criteria that these people do not meet; but obviously, they are opposed to this rezoning; and hopefully, the Board will do the right thing for the residents of Brevard County, and she has lived here her whole life.

Ms. Gilliam stated she wanted to add something that should have been included in the addendum, which the addendum is to clarify and correct things that were noted in the staff report; in the staff report, it is noted that they can get 70 units; they can actually get 34, not 70; and she does have a breakdown of that calculation if the Board would like her to explain how staff got to 34.

Chair Altman stated that would be good.

Ms. Rezanka advised this evidence is out of order, out of line to bring it up at this point; this is unconscionable, this information should have been provided before now, and the fact that it has not has hindered them; she has not talked to her client, but they need to be able to analyze this because this is the first time she ever heard this; she is going to object to this; and if it is going to be heard, they need time to continue and to hear it.

Mr. Prasad explained he can try to provide a little clarification; the staff comments that Ms. Rezanka earlier referred to, she stated 70 units; the Board will notice there is an asterisk next to the word potential; it says zoning potential for concurrency analysis purposes only, subject to applicable Land Development Regulations; that zoning potential that staff puts in every staff analysis is a simple formula; the zoning minimum lot size multiplied by the acreage; in cases like this, however, the reason why that asterisk is there, it does not take into account the applicability of the County's Land Use Regulations, Land Development Regulations; and in this

case, the numbers that Ms. Gilliam came up with, they are estimates, that is all they are. He pointed out that is what staff was asked to provide at Planning and Zoning, and the reason they are estimates, is because of the type of rezoning application there is; there is not engineering to know how much is going to be used for stormwater ponds, roads, and they also do not have the exact delineation of wetlands; Ms. Gilliam came up with some estimates so the Board can get an idea of how many units could be put on that parcel today; but he will notice that they are all estimates because that is all the information staff has at this time.

Chair Altman asked if the County Attorney has any comments.

Morris Richardson, County Attorney, replied Ms. Rezanka will have an opportunity to rebut with staff, staff can testify.

Ms. Rezanka commented yes, but they need to have time to expert testimony, they just got continued on another matter because of new evidence.

Attorney Richardson asked Ms. Rezanka to hear the testimony and stated she will have an opportunity to rebut it.

Ms. Rezanka responded no, they are not.

Attorney Richardson advised Ms. Rezanka will have an opportunity to respond to the testimony; the Chair has asked to hear the testimony; and he may hear the staff testimony.

Ms. Gilliam explained in the AU area, there is approximately 118.5 acres; there are approximately 80.5 acres of wetlands; when that is broken down, accounting for 25 percent of infrastructure in the 38 acres of the uplands, they would be able to get 11 units, that is accounting for 9.5 acres of infrastructure; on the 80 acres of the wetlands, today they would only be able to develop it at one unit per five acres; and that is also taking into account the infrastructure, staff would minus out about 20 acres of that. She noted that leaves them with 12 units, a total of 23, and that is on the AU portion of what they could do today. She went on to say an estimate in the RR-1 zoning, it is approximately 23 acres; it is approximately 8.7 acres of wetlands, 14.6 acres of uplands, and again, 8.7 acres of wetlands; in the wetlands, they can develop one unit per five acres; taking out 25 percent for infrastructure, they would be minusing out about 3.65 acres; that leaves them with enough to do 11 units, for a grand total of the 34; then taking into account the wetlands would give them one unit in the RR-1 portion; and she reiterated it is 11 units to give them a total of 34.

Attorney Richardson noted Ms. Rezanka now has the ability to cross-examine Ms. Gilliam and the ability to rebut her.

Ms. Rezanka advised no, she needs to ask for a continuance because she is not an engineer and she does not design subdivisions; subdivisions can accommodate wetlands and individual lots, can accommodate infrastructure in individual lots; this is down and dirty calculation that is not accurate; it is not how any engineer would design it; and at this point, she reiterated she is asking for a continuance.

Attorney Richardson noted Ms. Rezanka may request a continuance, but the Board does not need to grant the continuance.

Ms. Rezanka pointed out no, but they have new evidence; the Board Policy requires a continuance when new evidence is put forward; and they just heard that earlier.

Chair Altman stated from a planning perspective, and this is what they are doing here, this type of information is helpful in terms of planning policy and procedure and how the County evaluates its Comp Plan, and that is why he wanted to hear it; he asked what the development potential is under the larger, broader scheme of planning, not necessarily from a specific engineering point of view; he mentioned from what staff is telling the Board, this is under its planning documents, under interpretation, of what the land could be used for today; and he just thought that would be helpful.

Ms. Rezanka commented that may be helpful, but it is in controvert to what they have already provided them and it is new evidence; she does not know if it is accurate or not; this is the first she has heard of it; one would have thought staff would have given it to them by now because she is pretty sure they knew it was going to be presented tonight; and she is asking for an opportunity to review it.

Chair Altman inquired under her interpretation, he is sure she evaluated the land, she looked at it, and it was purchased under the rules as they exist today, what she feels the land could be developed for; and what density does she feel like she could obtain without changing zoning.

Ms. Rezanka replied without changing zoning based upon the staff report, based upon the zoning that is available now, it is 70 units; if they were to go as of right, open space subdivision and again, working around the wetlands, putting wetlands in a lot, using whatever means or method like Broad Acres, go back to the 1950 styles of plat road straight down the middle and lot on each side; she did not say this was a common sense solution, she said it was common sense development and it allows things to be clustered as the County's Code requests; and she still believes it is 70 under zoning, site planning has not been done, engineering has not been done, and it is not usually required at the zoning stage.

Chair Altman stated that missed a good point, he understands.

Commissioner Goodson stated he wanted to make a motion for the reasons just discussed, to decline to enter into a BDP and deny the application for rezoning, which would be inconsistent with the Comprehensive Plan, and to direct the County Attorney to draft findings of facts for the Board's consideration at a future meeting.

Commissioner Delaney stated she seconded the motion.

Ms. Rezanka remarked she has not finished her rebuttal yet, and she had asked for a continuance.

Chair Altman stated Ms. Rezanka has two and a half minutes, and to go ahead with her rebuttal.

Ms. Rezanka asked the Board to completely discount Ms. Gilliam, who she does respect as a planner, but she is not an engineer; she respectfully requests that it grant this rezoning because of the use of the land is no longer available; she stated what the Board has heard is that people do not want a change, it has been stated time and time again that they do not want a change; and they also have a speeding problem. She explained they have a speeding problem, a flooding problem; no one designs to the 500 years flood that happened in October is in no one's Code; and raising the property will not help.

Someone from the audience asked what about 2022.

Chair Altman noted he is going to add three minutes to Ms. Rezanka's time because she is being interrupted; and she should be given the opportunity to represent her client's case.

Ms. Rezanka stated there are issues, but no one has proven that there is evidence to support they do not meet the criteria; they cite Administrative Policies, they do not cite facts to go with them; they speculate on what might happen, they do not understand engineering principles; and there has not been a single engineer who has testified. She added, there have been statements from Mr. Prasad about the coastal hazard; the coastal hazard has said to limit density; they are not asking for more density than current zoning allows; current zoning allows 70; if they can make it under Land Development Regulations is another question; but this zoning, not engineering, not site planning, not platting. She stated to find it would be detrimental, there are no facts; one cannot say with any facts that this is going to make the area worse; the County's Land Development Codes prevents that, St. Johns prevents that, Florida law prevents that, and if they are having problems from Island Forest Preserve that Maronda did not build the infrastructure, they have taken down lots and built homes, then that is an Island Forest Preserve issue that should be taken into account by the County and something should be done about it, Code Enforcement or a lawsuit; she does not know, but it is not proof that this subdivision is going to do the same thing; and this area is in the new Code that requires development north of Merritt Island from Hall Road, north to State Road 405, comply with the new modeling that was developed and adopted by the Board in 2022. She went on to say there was an entire basin study that shows everything about where the water flows and any stormwater calculations gone through in the process, and that is new; only one subdivision has gone through it before; Island Forest Preserve did not; the staff report, again, when she looked at the addendum, it was clear that it was to refute everything that was said on the applicant's behalf; however, they are not increasing density, they are directing development to the uplands which is what the County's Code requests; a BDP is a zoning action; and the zoning can be changed as well as the BDPs can be changed. She noted the road is not an unusual road but there are many of them; Tropical Trail, South Tropical Trail, and South Banana River Drive, and these are roads that have been there; land has the ability to be developed; there are private property rights that apply to this land; if this land does have 70 units now, then it should be entitled to try to do those 70 units; they are trying to be transparent and let the County know exactly what is going to be built here; no zoning Code has required full engineering and it is not in the County's Code; the staff report initially said that this would have no adverse impacts, that this is not a neighborhood, it is a neighborhood area, and that it is compatible; and the staff report says that, even the addendum does not say that. She stated there has been statements that once this developed, it will discharge; it cannot discharge more than it has discharged in the past; that is the County's law, and that is how they are designed; that is how Mr. Kamal would design it; as with the City Point that came before the Board not that long ago, they are willing to put into the BDP that the developer will reduce the volume of stormwater discharge on the property to better control the runoff and allow no more water than currently comes from the property; this shall exceed the requirements of Brevard County Code and St. John's River Water Management District; and this shall be addressed at the site plan stage. She pointed out that is what they did with City Pointe in District 1 just in December of this year to require and that was a PUD, but this still applies; the exotics are exotic plants that are removed when one works with wetlands; they are not removing any animals; again, she points back to the Administrative Policies and Administrative Policies require facts, but they are guidelines; and the Land Development Codes comply; this is a logical development; it is predictable because the County knows what is going to be built; this is how the Land Development Code usually works; they have asked for a BDP to limit the density which is appropriate under 62-1255; and again, they would agree to a performance bond and to the enhanced stormwater criteria that they have done for City Pointe and District 1. She asked for the continuance if the County is relying on the evidence.

Chair Altman advised the Board noted there has been a request for a continuance.

Attorney Richardson explained BCC-97 allows an applicant to cross-examine a witness; when evidence is presented or to request a tabling for seven days to submit a rebuttal to the evidence presented, it is limited just to rebutting that issue; it is not reopening the public hearing or anything like that; both of those are within the Board's discretion; cross-examination must be allowed if it is requested; and the tabling for additional rebuttal does not.

Chair Altman asked cross-examination is required to be allowed if requested.

Attorney Richardson replied if requested.

Chair Altman asked if it would be at this particular meeting.

Attorney Richardson responded affirmatively.

Chair Altman pointed out if Ms. Rezanka would like to cross-examine, she is entitled to do that.

Ms. Rezanka asked if she can be given her numbers in 10 minutes for the engineer to look at it.

Chair Altman advised the Board is due for a 10-minute break.

Ms. Rezanka stated she needs the number Ms. Gilliam read from.

*The Board recessed at 7:05 p.m. and reconvened at 7:16 p.m.

Attorney Richardson explained the applicant has offered, asked to offer rebuttal testimony to testimony presented by Planning staff regarding an estimate of the potential number of units that could be realized under the current zoning; and Mr. Kamal, the engineer for the project, is ready to speak on that subject.

Mr. Kamal stated he would like to start out by noting that the information that Ms. Gilliam provided came from a memorandum or an email that was dated January 14th, today is February 5th; there was an addendum to the staff report that was issued earlier this week; it is a little bit disappointing and frustrating on their end that they see this information for the first time today at the public hearing where if it was provided to them and discussed with the applicant earlier, they could have had a much better chance to understand where they got their numbers from, discuss it, and maybe reach some consensus on what those numbers really mean; and that puts them in a difficult position, but they just had a few minutes to take a look at this. He went on by saying his concern would be he does not know where the wetland numbers come from; he does not think staff has, and he is an engineer, not an attorney, so he is going to pose these questions in the format that he normally would; he does not know where these numbers came from; he does not think staff has been on site, or if they just used a database inventory to generate those; the assumption for 25 percent infrastructure seems high based upon his experience; he has been doing subdivision land development design for over 30 years; that number seems high; and he does not know specific to this for this kind of a development. He noted the assumption that when going through the units that all the two and one-half acres, all the residential development, has to be in upland; he does not think it is accurate; they have done a lot of subdivisions where it can be placed into the wetlands place them in a conservation easement and provide enough upland development footprint to construct ones house pad, yard, and footprint; at the end of the day, even with those numbers that were presented by staff, there are 46 units that in theory they could develop; they do not

agree with those numbers, but that does not, he is sorry, 34; and that is assuming with all of their worst case scenarios, that does not really change the calculus. He stated they still have the most stringent stormwater criteria in Brevard County that they have to go through; the Board has to trust its staff to enforce that criteria to make sure that this project, whether it is 61 units, 40 units, or whatever, it does not adversely affect either upstream or downstream facilities, it has those regulations already in place; they have documented with traffic counts that Brevard County provided that this roadway has an acceptable level of service at its current rate, and even with the addition of the project traffic, it is well below the acceptable level of service; and as far as these numbers, they obviously received them 10 minutes ago, he does not agree with the basis for these calculations, but it does not change the request. He mentioned they meet the criteria, they are less than what is allowed under the current zoning when one takes a look at the raw numbers, and they meet concurrency, School Board concurrency and roadway concurrency; and again, he is disappointed that they just got this today, but that is their response to these values.

Chair Altman called for a vote on the motion. There being no further comments or objections, the Board denied the request to change the zoning classification from AU and RR-1 to SR with a BDP, and directed the County Attorney to prepare a Finding of Fact to bring back for Board consideration.

Result: Denied

Mover: Tom Goodson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.5. Public Hearing, Re: C. Steven Douglas Requests a Zoning Classification Change from TR-2 with a BDP to AGR with Removal of Existing Binding Development Plan (BDP) (25Z00047) (Tax Account 3006469)

Chair Altman called for a public hearing to consider a request by C. Steven Douglas for a change in zoning classification from TR-2 with a BDP to AGR with removal of existing BDP, on property located on the southwest end of Pine Ridge Trail in Micco.

Trina Gilliam, Planning and Zoning Manager, stated C. Steven Douglas request s change of zoning classification from TR-2 with a BDP to AGR with removal of existing BDP, under application 25Z00047, located in District 3.

C. Steven Douglas commented he is trying to get the zoning reclassified from TR-2, which has a BDP, to AGR mainly because he has property to the south, a farming operation, and this would just extend it to a certain point; and he wants to put up a building to put the hay and machinery in.

There being no comments or objections, the Board approved the request for a change of zoning classification from TR-2 with BDP to AGR with removal of existing BDP, as requested by C. Steven Douglas.

Result: Approved

Mover: Kim Adkinson

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.6. Public Hearing, Re: Clinton Smith and Kimberly Smith Request a Zoning Classification Change from RU-1-7 to SR (25Z00048) (Tax Account 3010597)

Chair Altman called for a public hearing to consider a request for a change of zoning classification from RU-1-7 to SR, on property located on the east side of Central Avenue, south of Blackwoods Lane, and north of Baldwin Drive in Micco.

Trina Gilliam, Planning and Zoning Manager, advised Item H.6. is Clinton Smith and Kimberly Smith request a zoning classification change from RU-1-7 to SR, application number 25Z00048, located in District 3.

Kimberly Smith stated they own their property at 9080 Central Avenue in Micco; they are here to request a rezoning from RU-1-7 with an existing FLU of Residential 2 to a zoning of SR; they have owned the property since 2016; it is vacant land, and it is 2.26 acres; they are looking to build a single home on it; and right now they have a permit that is trying to go through the process.

There being no comments or objections, the Board approved request for a change of zoning classification from RU-1-7 to SR, as requested by Clinton Smith and Kimberly Smith.

Result: Approved

Mover: Kim Adkinson

Seconded: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.7. Public Hearing, Re: Lazy River Investments LLC Requests a Zoning Classification Change from RU-1-13 to AU(L) (25Z00049) (Tax Account 3008729)

Chair Altman called for a public hearing to consider a request for a change in zoning classification from RU-1-13 to AU(L).

Trina Gilliam, Planning and Zoning Manager, stated Item H.7. is Lazy River Investments LLC requesting a zoning classification change from RU-1-13 to AU(L), application 25Z00049, and located in District 3.

David Bistarkey, Partner of Lazy River Investments LLC, stated they are requesting a zoning from the RU-1-13, which is 13 units per acre, with a total of 264 units on the 20.39 acres, to AU light which would be eight units; their proposed plat would be seven units, a reduction of 257 units; and this AU light will be FLUM established in 1988, RES 1, 2.2, and 2.5.

David Conner stated he lives in Micco off of Mockingbird Road, which is just to the west of the property that Mr. Bistarkey is trying to develop; he and his wife are totally for the development of it as per what he is going to do with it; it is going to enhance the neighborhood, which is what he likes about it because he has taken a 22-acre property and divided it into seven buildable acres; it gives it two and one-half acres and bigger, it is nice; the density is going to be pretty low for that area, and it will not increase the traffic by that much, so they are pretty happy about it; and Mr. Bistarkey has a good reputation about doing with building and stuff, he does a nice job. He went on to add they just moved here from Jupiter, so they are kind of in the know on some good builders and stuff like that, he fits the criteria, and they are for it.

Lorraine deMontigny commented she is a 24-year resident of Micco, and a resident of Brevard County since 1977; she has been before this Board several times to speak on matters of zoning, and has been through the process herself years ago; she is a strong advocate for

private property rights; she followed the request made; Mr. Bistarkey has been before the Board several times with regards to this particular parcel; and his change is going to actually lower the density, which is a good thing for the neighborhood. She continued by saying she would hate for 100-plus homes to go there or something else; the Planning and Zoning Commission had recommended approval several times, including this time; she does not feel like the previous District 3 Commissioner treated the applicant fairly; she is looking to Commissioner Adkinson to support Mr. Bistarkey on this application, along with the other members of the Board; she feels like the building department, when it comes to development, are the ones that govern what happens; and there are already procedures and policies in place to enforce what can be done. She noted she thinks this is a great thing for their community and she is in support of it.

Commissioner Adkinson asked staff to speak to the development and where the County is with how many units could go on that site at this point, as it stands right now.

Ms. Gilliam replied as it stands right now, two.

Commissioner Adkinson asked if this is granted, how many units can go on that site.

Ms. Gilliam responded eight units.

Commissioner Adkinson inquired if staff could let her know from the tentative plan that she knows is not binding that was submitted, if the County has two or three of the units that he is considering building in the Coastal High Hazard Area (CHHA).

Ms. Gilliam replied yes, three.

Commissioner Adkinson asked if there is septic or sewer available in that area, and what would Mr. Bistarkey have to do.

Ms. Gilliam advised sewer is not available in that area, he would need a septic system.

Commissioner Adkinson inquired in order to build these properties, does the County have to bring in fill.

Ms. Gilliam replied affirmatively.

Commissioner Adkinson asked if staff could give her an idea what that fill could possibly do to the neighbors who are new to the area.

Ms. Gilliam responded some of his elevations are very low in those areas, so staff estimates that he would need to bring in about three to four feet of fill; he needs to be at a base flood elevation of at least 6.3; again, with some of his elevations being about two and one-half, bringing in that fill, what that will do is when the storm surge comes up that will distribute that water outward; and that may impact the neighbors.

Chair Altman asked if the Planning and Zoning board approved this and what the vote was.

Ms. Gilliam advised this one was unanimous.

Chair Altman asked if this request had been heard before by the Commission.

Ms. Gilliam replied yes, it has, she believes two or three times; and the previous time the Planning and Zoning board also approved it unanimously.

Chair Altman asked how about at the Commission level.

Ms. Gilliam responded the Commission vote denied it, a finding of facts was done, and the Resolution was recorded.

Chair Altman inquired what that findings of fact and denial, does staff recall.

Mr. Prasad responded he does not recall the vote count, but it was based on the reasons that were just stated; the evidence presented was that because the properties were in a CHHA and Objective 7 requires staff to direct density outside of the CHHA, direct development outside of the CHHA; the thought was that there was an increase in the number of units that were buildable within the CHHA; and at that time, former Assistant County Manager, John Denninghoff, opined that there was a risk without modeling, that it could have a detrimental impact on the neighbors.

Chair Altman asked if this is approved would it establish a negative precedent or a dangerous precedent.

Morris Richardson, County Attorney, advised the application of the Policy to direct development out of the CHHA, generally, that is interpreted to apply to Comprehensive Plan changes that increase the Future Land Use Map (FLUM) density; this in case, the board has an application that, at least based on the non-binding plan presented, would allow for three units in the CHHA where right now the maximum that could be achieved or two; it is clearly increasing actual units within the CHHA; but he does not know that he would consider that to be precedential or binding on the Board in a future similar circumstance.

Commissioner Adkinson stated she actually spoke to one of her representatives on the P&Z board, and it was very interesting to her that for whatever reason he did not understand that very simple fact that currently two units would be allowed; and if this is approved, eight would be allowed; her representative did not understand that on the P&Z board, and she does not know why; generally, the Commission wants its FLU to match up with zoning, that is what it wants to do; in this case, and she thinks that this property can be developed, it is not worried about stomping on rights of people who want to build on his or her property because that is really important; she thinks it is also the Board's responsibility to protect its water, so if it can build outside of the CHHA, especially since septic tanks are being talked about at this point, then she could support this; but she cannot support this application as it is today. She stated she wanted to make a motion to deny.

Commissioner Delaney stated she would second the motion.

Mr. Bistarkey stated he has done some research, he has seen numerous houses have been built in the CHHA recently; in fact, there are two that have been on the Sebastian River recently that are in the CHHA; there are 10 on Brevard County's side where he is proposing to build the houses; there is only going to be three on his development plan; it is not binding at this time; two of them are on the highest area, which is three and one-half foot elevation and one is 400 feet back because there are wetlands in front of that area; he is a builder of 41 years' experience, he has lived her for 69 years, and he does not know where Ms. Gilliam is coming up with this enormous amount of fill. He pointed out at three and one-half feet he has to go up to six and one-half feet to get out of the flood, the finished floor elevation has to be; if he has to put those on stem wall, all he has to do is slope from three and one-half feet, he has to get a

six-inch slope in 10 feet; he reiterated he does not know where Ms. Gilliam is coming up with this enormous amount of fill that he is going to be bringing in; that is going to be very minimal; the one house that is closest to the neighbor is going to be around 400 feet back because there are wetlands in that area that is going to force the houses to stay back unless he for some reason wants to pay to mitigate those wetlands out; but he has the two houses that are in the CHHA if the Board would like to see those; and he also has all the neighbors he talked to, that 90 percent approved of what he was doing. He displayed to the Board an exhibit where the Lazy River, Mockingbird Lane, which is RU-1-13, half-acre lots, all of the houses were 10-acre parcels at one time, and all have rezoned to AU to the west of his property; he stated Brevard County now requires all septic tanks to be nitrogen reducing, which will reduce total nitrogen 79 percent, with 15 percent for soil reduction; it gives a six percent nitrogen output; seven houses at six percent is 42 percent of what one house would have been; it would not be equal to one house what was before when he proposed this back in 2021; he does not know where the septic tank problems are coming up; but every lot now in Palm Bay, everywhere in Brevard County, is now required to have nitrogen reducing septic tanks put in; these are reducing it to six percent nitrogen output; and they are coming up with less than one house of output of what he would have had in 2021. He continued by saying everybody keeps saying direct out of it, the Statute says limit densities; there are 5.1 acres of CHHA that is 222,156 square feet; his three house pads, if they were 7,000 square foot pads, would equal 21,000 square feet, which is less than 10 percent impact on that CHHA; in fact, the house to the east is partway into what is not CHHA where he shows it planned, so he does not know where all of these calculations are coming from; he would like to see the calculations of actually of how much he is going to impact the river, because he does not believe he is going to raise the river one hundredth of an inch by these pads that are coming up; in fact, if they want to know what happens, he lives right next door; he asked what floods their property when hurricanes come; he advised they released C-54 Canal Dam and they let millions of gallons of the water come down that river and the opposing forces flood their properties; and he has been there 22 years, it has never come up above his dock, and that is about three-feet above. He noted he does not know how staff came up with the impact they say he is going to have, but he would like to see the calculations.

Chair Altman asked staff if they are not saying one cannot build in the CHHA, they are saying the County has a Policy not to increase densities; his concern about precedent, and he appreciates the comments, but maybe his point it that he thinks the County needs to be consistent; and it kind of gets on a slippery slope when it allows exceptions.

Attorney Richardson advised Mr. Bistarkey can build two units within the CHHA right now, there is nothing that prevents that; what he is requesting would allow a third as planned on his non-binding drawing, but up to eight units; and how that is configured would be up to him in meeting the applicable Land Development Regulations, but certainly one more than allowed now.

Chair Altman called for a vote on the motion. There being no further comments or objections, the Board denied the request for a change of zoning classification from RU-1-13 to AU(L), and directed the County Attorney to prepare a Finding of Fact to bring back for Board consideration.

Result: Denied

Mover: Kim Adkinson

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.8. Public Hearing, Re: 100 Flug Ave LLC (Bruce Moia) Requests a Zoning Classification Change from BU-1 to RU-2-15 (25Z00050) (Tax Account 2730890)

Chair Altman called for a public hearing to consider a request for a change in zoning classification from BU-1 to RU-2-15, for property located on the northwest corner of North Highway A1A and Flug Avenue in Indialantic.

Billy Prasad, Planning and Development Director, stated Item H.8. is 100 Flug Ave LLC, represented by Bruce Moia, requests a zoning classification change from BU-1 to RU-2-15, application 25Z00050, and located in District 5.

Chair Altman explained there are no cards opposed to the Item, and he is for it.

There being no comments or objections, the Board approved the request for a change of zoning classification from BU-1 to RU-2-15, as requested by 100 Flug Ave LLC.

Result: Approved

Mover: Tom Goodson

Secunder: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.9. Public Hearing, Re: Eric D. & Pamela S. Martin Trust (Landon Scheer) Requests a Zoning Classification Change from BU-1 to BU-1 and BU-2 (25Z00051) (Tax Account 2318710)

Chair Altman called for a public hearing to consider a request of Eric D and Pamela S. Martin Trust for a change in zoning classification change from BU-1 to BU-1 and BU-2, for property located on the east side of North Courtenay Parkway, north of Norwich Street in Merritt Island.

Trina Gilliam, Planning and Zoning Manager, stated Item H.9. is Eric D. and Pamela S. Martin Trust, being represented by Landon Scheer, requests a zoning classification change from BU-1 to BU-1 and BU-2, application 25Z00051, and located in District 2.

There being no comments or objections, the Board approved the request for a change of zoning classification from BU-1 to BU-1 and BU-2, as requested by Eric D. and Pamela S. Martin Trust.

Result: Approved

Mover: Tom Goodson

Secunder: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.10. Public Hearing, Re: Blair Foster (Foster Family Living Trust) Requests a Zoning Classification Change from GU to SR (25Z00053) (Tax Account 2802682)

Chair Altman called for a public hearing to consider a change in zoning classification from General Use (GU) to SR, for property located southwest of Carriage Gate Drive, south of Carriage Gate Drive in Melbourne.

Trina Gilliam, Planning and Zoning Manager, stated Item H.10. is Blair Foster (Foster Family Living Trust) requests a zoning classification change from GU to SR, application 25Z00053, and located in District 5.

Blair Foster stated he is trying to rezone this; it is GU at the moment; it came to his attention that is five acres, for him to do anything on that property, and SR is what everybody else has around him; and he just wanted to be consistent so he could move forward with anything he would like to do in the future.

There being no comments or objections, the Board approved the request for a change in zoning classification from GU to SR, as requested by Blair Foster (Foster Living Trust).

Result: Approved

Mover: Rob Feltner

Second: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.12. Public Hearing, Re: Beverly Jean Richardson (Angel Myers) Requests a Zoning Classification Change from RU-1-9 to RU-2-4 (25Z00055) (Tax Account 2103811)

Chair Altman called for a public hearing to consider a request for a change in zoning classification from RU-1-9 to RU-2-4, for property located on the northwest corner of Carver Street and Mitchell Avenue in Mims.

Trina Gilliam, Planning and Zoning Manager, stated Item H.12. is Beverly Jean Richardson, represented by Angel Myers, requests a zoning classification change from RU-1-9 to RU-2-4, application 25Z00055, and located in District 1.

There being no comments or objections, the Board approved the request for a change of zoning classification from RU-1-9 to RU-2-4, as requested by Beverly Jean Richardson.

Result: Approved

Mover: Katie Delaney

Second: Rob Feltner

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

H.13. Public Hearing, Re: Jacob Foune Requests a Small-Scale Comprehensive Plan Amendment (25S.14) to Change the Future Land Use Designation from RES-1 to RES-2 (25SS00008) (Tax Account 2000804)

Chair Altman called for a public hearing to consider a request to change the Future Land Use (FLU) Designation from RES-1 to RES-2.

Trina Gilliam, Planning and Zoning Manager, commented Item H.13. is Jacob Foune requests a Small Scale Comprehensive Plan Amendment under (25S.14) to change the FLU designation from RES 1 to RES 2, application 25SS00008, and located in District 1; she is also going to read into the records Item. H.14.; this is a companion application; Jacob Foune requests a zoning classification change from SR with a Binding Development Plan (BDP) to SR, with removal of the existing BDP, and addition of a new BDP, under application 25Z000037, and located in District 1; and these will need separate motions.

Billy Prasad, Planning and Development Director, stated this was heard at the last zoning meeting; the Board had continued it to have Mr. Foune research with his title company, he did provide a letter; he wanted to make the Board aware of that since he knows there are a lot of changes to the Agenda in the last few days, a lot of extra documents being added; Mr. Foune did provide a letter as requested; and it stated that this situation is excluded from his title policy.

Jacob Founé advised he has gone to the title company like Mr. Prasad said; he sent the Board a response of their response; they are not responsible for his certain issue and he has also contacted legal help, which was asked at the last meeting; and they are aware of his issue and they feel it is not necessary to get them involved just yet being that the title company was able to write him that letter. He went on to say he would like to remind everyone that he has done everything by the book; he has turned in his survey, turned his permit, got it accepted, he has gotten his pre-plumbing, concrete, tie beam inspection, and all passed; he was stopped in the middle of the block, but he asked if he could finish the block, being that he can pay the block guy, and he also will get that filled; and he was allowed to do that after being stopped, because this was supposed to be sorted out in a couple of days. He noted months later, he has since paid \$2,400 for the rezoning fee; it has been nearly eight months since it has been shut down; he would like to state in the staff report that he is going to have no impact on any flooding whatsoever; and like he said, he has done everything by the book, and that is that.

Eric Paglialonga stated he waives his time.

Ed Ostopovich provided the Board with some handouts; he stated hopefully, this can be aired out where everyone is happy, including the property owner; on behalf of the neighbors and the community, they have gathered it to contest over this mistake and error for the zoning of this parcel, starting out as a BDP and continuing with the building; the size of the parcel in relation to the square footage of the foundation creates an excessive amount of runoff for the required road grade elevation, it is pretty high; he has a picture in here for them to look at, not to mention this parcel is a .45 acre and under the required half acre variations; based on that first picture, the Board saw the plat map there shows a road ride-of-way or more or less an agreement for a driveway for the guy in the back based on this zoning piece here; and this is another little tangent, basically, the attention that was given to their parcel before building; as stated, the Board can see here they are, the picture probably does more justice there, but the guy's G rated road is right in line with the property coming out to the roadway, and they are going to share this apron and driveway, so nothing has been identified as far as any legal matters that would protect the gentleman in the back; getting into the runoff based on the elevation, there is nowhere for the property to perk; because of the drastic runoff to the ditches and the low lying areas, this parcel will not accept any perk; the absorption to this property is all but nil, and one can see here the runoff and washout has been filled in probably five or six good times; and he will go with the conservative side and say at least four, but he is not there every day to verify, but he did take these pictures after a pretty drastic rainstorm they had. He advised there is the back side of the property; one can see the road degrade itself; there is no retention, there is nothing; this is the neighbors, the gentleman in the back, it is his driveway; this is three weeks after the latest major rain they had; he thinks it was a six or eight-inch accumulation total; this gentleman, because of all of the rain from the summer, was flooded out so badly that he was using an Utility Vehicle (UTV), which is a lot taller than an All-Terrain vehicle (ATV) to get to his own property; he is parking on the road, so this piece of property did not perk anymore; and now it is actually flooding out the whole, and it did not used to do that until this showed up. He stated so pressing forward, the layout of the parcel foundation is not in character of the surrounding homes that have followed the zoning guidelines for this area, which is one and a half to two and a half acres depending on the previous zoning, not the .45 they are looking at right now; the parcel zone identified, and is being required, the violation that violated the BDP per the County Zoning Department before any future structures could be built, so the identified error has become an impact to every homeowner dealing with more flooding because of properties like this adding to the ditches and canals versus having enough property to allow good filtration and adequate soil absorption; this perk is what gives them clean, natural water, that they all thrive on; and they actually literally use an Reverse Osmosis (RO) system. He noted it is not bad water, a little bit of iron, but for the most part it is drinkable, very potable, right out of the well; with that being said, the perk gives them clean, natural, filtered water and

weighs heavy to keep river and salt intrusion away from the well caverns; previous zoning and engineering knew how critical this land was, and he is going back to probably the 60s; and for the most part, the Board can see where they are at here.

Commissioner Delaney asked about the discrepancy between the Property Appraiser's form of .45 and the staff report that says .54.

Mr. Ostopovich replied that was pulled from today, just to verify nothing had changed.

Ms. Gilliam explained staff does not use the Property Appraiser for the acreage, they go by the survey; and he did include a certified survey done by Holley and Associates that certifies the property is .54 acre.

Commissioner Delaney asked if staff knows how large the original parcel was.

Ms. Gilliam replied 1.34, she believes.

Mr. Ostopovich asked stating back to 2022 when it was picked up by Minnick, it was a large parcel, it was broken up, as basically hoodwinked the system moving land around; and this was the resulting end piece of property from that parcel being cut up.

Commissioner Delaney inquired what the other property is claiming to be.

Ms. Gilliam responded she thinks it is currently .84, but if she will give her moment, she will verify that.

Mr. Ostopovich pointed out that adds to the basically the shenanigans that this contractor, Minnick and White, have done to the northern part of the community for the last 20 years; never had any issues with flooding until the last five years; but that is fine, as there are a lot more people with a lot more information.

Ms. Gilliam mentioned she is going to state this, but with caution; what staff has noted as the original parcel being 1.34 acres; however, they do not have a certified survey to really back that up; 1.34 acres is what they think it is; and his parcel certified survey is .54 acre.

Clifford McKnight commented first, a little backstory; Golden Shores is less than a mile long from end to end; this is primarily a horse country community; they have the North Brevard Horseman's Club at the end of the road; they have horse trails to the north; and all of the homes along this road are an acre or more of land zoned RR 1 or AU, with the exception of the houses right at US 1. He continued by saying his son, brother-in-law, in-laws, his wife, and he all live on this road, and he has spoken with over 50 percent of the people on this road; there is nobody that he has talked to that is for this; the primary argument has been focused on flooding; they do have a flooding issue; the house will create new challenges for the area, and they should be addressed; the bigger picture here is this house is being built illegally; all parties involved need to be held accountable; what they do not need is to change the new BDP when the last one did not prevent this from happening; he asked why should they believe a new BDP will help just because it is on fresh ink on a new piece of paper; and he noted when it dries and it gets filed, it will be forgotten. He stated the precedent will be set and they will find themselves going through this process again; the house is also being built on a lot that is illegally split; it is too small for its current land use of RES 1 wants to change to RES 2; regarding accountability, Mr. Minnick, who is a licensed realtor, sold this property; as the Board can see from the construction plans provided, Mr. Minnick is also the contractor heavily involved in this build; he is listed as a contractor on the trust layout, trust engineering plans, soil density test, and the

energy efficiency code for the building and construction; now, Jacob Foune, who is listed as the owner-builder, is someone they are supposed to take pity on because he is a victim; and he is a victim, but he is also a pawn in this fiasco. He went on to say as an owner-builder, one would expect him to answer simple questions about the build; however, at the local Planning and Zoning meeting on November 17th, when asked if he went through a realtor, he said, "no, the guy that sold it is a realtor;" when he was asked who conducted the survey, he did not know; when asked if Minnick helped him in any way, they will see, he hopes so; it is clear that Mr. Minnick is practically building this house for him; in the meeting on December 11th, when asked who stamped the plans, again, he does not know; when asked how many square feet the house is, he stated 1,600, it is actually 2,240; and it is a significant difference when the discussion revolves around flooding. He stated he would provide the actual meeting minutes, but they have not been published yet; as an owner-builder, especially since he claims to be spending his life savings on this, one would think he would know this answer as to where the money is going; he is writing the checks, so to speak; that being said, he finds it hard to be empathetic in the situation when all parties involved have been misleading and shady in their practices the County, possibly included, might need an audit to clarify this; as property owners, the County holds them accountable with building codes and regulations; and when these codes are violated, there is no forgiveness. He stated the County looks out for the masses, not the individual; it levies fines, places liens on the property until the violations are remedied, including if they build illegally, they tear it down; now that the County has made another mistake, the answer should not be to cover it up with a variance or make another exception, it should be accountable; these mistakes add up; and all of these little problems accumulate to create big issues that the constituents must deal with. He asked the Board to do the right thing, hold all parties accountable, and deny the zoning and FLU for the people it is elected to represent; he noted the County did not let Mr. Foune down, they let them down; and he asked the Board not to detract from their community. He stated he has a minute, so he has a couple of things on 0.45 acre; it started off 0.45 acre; the landscape requirement, all that was applied 0.45 acre; landscape and land clearing 0.54 acre; the State Department site evaluation system started off 0.45 acre, now 0.55 acre; and there cannot even be a conclusion on how many acres this is.

Commissioner Delaney asked what those things were that he was holding up; and does the Board have copies of those.

Mr. McKnight advised the Board can have all of the copies of it.

Mike Biegler provided the Board with a copy of a license for Mr. Minnick, a realtor and contractor; he commented he wanted to point out the address on Mr. Minnick's license; he does a lot of homeowner/builder throughout their neighborhood, and he gets things changed; he built the house down the road for a lovely person who is here tonight; he just does not know about his homeowner/builder stuff and how he gets things passed; he built the house down the road from him supposedly for himself; but if one is building it homeowner/builder, he or she has to live there for a year before selling it; he was not planning on living there, because nobody in their right mind fills up the septic tank with so much grease that the new homeowner has to have it pumped out so they can move in when it is not even a year old; and there is also other things. He provided the Board with a picture of the shower, and stated it is taped up, that is one shower; here is another shower, and he asked if the Board could see where it was circled; he advised that is where the shelf is for the stone, they caulked it in, and he is pointing this out for Mr. Foune as well; he would not want a house that he built; that is supposed to be grouted, he caulks it; and there are two new showers that are not even a year old that cannot even be used. He stated another thing the builder does, as he provided a picture of the hood vent, is he vented it right in the attic, not through the roof; that is supposed to be vented through the roof; the lovely homeowners took him right up the stairs, he could not get up there, it was kind of tough, but he insisted on going in; the first thing he saw was the nailing, they were not even in,

and that was the very first thing he saw; he provided the Board with pictures of the others sides and stated it was right in that little area, and he wonders who that inspector was; for Mr. Foune, everyone is feeling bad for the kid, but he does not understand why he does not feel bad for himself; he would be outraged if it was him; he is not showing any emotions because he is a pawn; he showed the Board the tresses he was talking about; he asked why one would want those trusses, those bananas, on one's new house; and they are shaped in a banana. He noted the drainage coming out of here, he guarantees the Board that floor is going to crack; they do not know what kind of floor system is going to be put in, but it is all undermined; he better cover their tracks; that is filled in the dirt after the drainage; everything is wrong about this; the permit was wrong, everything has been wrong; that is the only house on their street that is in front of another house; and every house on their street has the view of the street except for that. He stated he is against this and he hopes the Board is too, and it has nothing to do with Mr. Foune.

Sean Bohannon stated he is going to read the Board something from someone who was not able to be here tonight who is a resident on Golden Shores, as well as he is going to give the Board his own, hopefully, 45-second opinion; the bottom line is this should never have been issued, that is just the rules, without getting an exception in the first place; the Board needs to know who, how, what, or why that occurred; that needs to be an audit, needs to be done by the County, because obviously, the County is the one that issued the permit that is inappropriate; he is very empathetic for Mr. Foune; if there are any monies, because it is the County's mistake, it can be paid back; but he wants a full fiduciary forensic accounting and audit of all of these transactions from who, where, what, how, and why; there are just too many things overlapping here, which they have seen on all of the records that are available, and some that are not available on the Property Appraiser site and the State records; and something is wrong. He stated this is from his friend, Stephanie Knight. "In regard to the property located at 4060 Golden Shores Boulevard. It is my request you deny the approval of the rezoning due to the illegal split of the property on a previously issued BDP. There appears to be either a systemic loophole that requires immediate review or correction or significant oversight within the relevant departments, specifically permitting and property appraisal related to property splits, adverse possession claims, and the issuance of permits for properties that should not have been approved. By the way, Seminole County previously issued permit for a swimming pool constructed in a front yard in direct violation of their requirements. The error resulted in a conflict and within the past month. A \$40,000 settlement has been funded by the taxpayers due to the mistakes within the permitting department. Settlement was issued to avoid potential litigation from the air, an outcome that could occur in this situation. This matter reflects a departmental error that should be acknowledged, corrected, and addressed in the appropriate manner with accountability. Accordingly, I respectfully request that the formal audit be conducted to both the Property Appraiser's office and the Permitting Department to prevent these issues, because becoming habitual occurrence in our area. It is both time-consuming and deeply frustrating to repeatedly raise these concerns of public meetings after the fact, particularly when the preventable errors continue to be approved and overlooked by the departments responsible. These practices must be corrected to restore public confidence and ensure compliance moving forward. Furthermore, I respectfully ask that the consideration be given to supporting Commissioner Katie's votes within her District. She has demonstrated genuine effort to listen to and advocate for the residents who elected her. It is disheartening to see when voices of other Districts are consistently overridden by Commissioners that do not represent the other Districts, thereby diminishing the will of the constituents and the ones she serves. When an issue does not pertain to her assigned District, she generally votes in alignment with the other Commissioners. It would be reasonable to expect the same consideration for District 1. Thank you, Stephanie Knight."

David Laney commented he has been following the issue regarding the building permit request and then issued at 4060 Golden Shores and then subsequently discovered the County had erroneously issued a building permit; the owner, Jacob Foune's request to rezone RES 1 to RES 2 and a removal of a BDP on the problem; now, Mr. Foune asserts that he had no knowledge at the time he bought the property from Mr. Minnick that there was a BDP on the property; and it is appropriate to note that Mr. Minnick cannot claim ignorance of the BDP since he is the one who agreed to and willingly encumbered the property with the BDP to start with. He went on to say here are some predicates to this argument; first, by the time he finishes, he believes they would agree to accept Mr. Foune's assertion that at no time prior to him submitting the invalid building permit for 4060 Golden Shores, was he aware that the property had been and still is encumbered by a legal BDP; secondly, they will agree that Joseph S. Minnick was fully-aware of the BDP on 4060 Golden Shores Boulevard since he was the one who placed it on the property, so he was fully-aware at the time of the sale, and it has already been noted he is the real estate, they will get back to that; at the time Mr. Minnick sold the property to Mr. Foune, Mr. Minnick failed to disclose this encumbrance in the form of a legally-binding BDP on the property; Mr. Foune being unaware of the BDP at the time of his purchase, as he asserted, then submitted a building permit not knowing it would constitute an invalid application; they agree a BDP on the property constitutes an encumbrance on the property; and the reason that is so is they go for the definition of encumbrance and this is from Brevard County Clerk, any lien or liability attached to real property held by someone other than the owner that restricts its use or diminishes its value. He mentioned there is a lien that is attached to this as such in the form of a BDP and is held by someone other than the owner of the property, it is held by Brevard County, it has the BDP that is registered; failure of disclosure, he would like to talk about that a little bit; Johnson versus Davis, and this kind of gets back to Chair Altman's comments to Commissioner Delaney he thinks at the last meeting that caveats no longer apply; to a certain degree, it does not, and that is because of Johnson versus Davis, 1985, Florida Supreme Court; the seller must have knowledge of the encumbrance and still failed to reveal it; Mr. Minnick absolutely had full knowledge on the encumbrance; again, he is the one that placed the BDP on the property, which he failed to reveal at the time of sale, so Mr. Minnick had full knowledge this property was encumbered since he was the one who placed it; and that constitutes fraudulent and is actually a civil violation and a misdemeanor, and that is just to get started. He stated in discussion with the Board at the last meeting, Mr. Foune replied that he had no real estate agent because he bought the property directly from the owner; the real estate agent he believes was in fact Mr. Minnick, either he or his son, through Land Shark Realtors, or it may have been just directly that he purchased it from the owner himself; however, Mr. Minnick did state he has State title insurance; and now, he heard the letter, he did not exactly get the content of it, but he thinks he said that his property was not covered, something to that content by the letter. He noted he suspects the reason is that was what would have been stated is there was no real actual title insurance; he is absolutely confident Fidelity National would have discovered a BDP if they had done a full title search; they are an international company very well renowned, but he thinks he can tell the Board maybe why he did not get title insurance; he suggests that was perhaps he did not, he was told he did not need it and should not spend the money on the title insurance; the reason for that is what he just handed out to the Board; and by looking at the warranty deed of title which he provided to the Board, the highlighted areas instrument 1079/2366, as recorded by Brevard Property Appraiser site and as attested to by Joseph S. Minnick and Chelsea A. Minnick of 1968 Turpentine Road. He asked by looking at the highlighted paragraphs, what one would find; he stated one would find that Mr. Minnick and his wife attested that as the granter hereby covenants with said grantee and that this said property is free of all encumbrances except taxes occurring subsequent; he was fully-aware of the encumbrance and that it had a BDP; he is the one who placed it on the property; now, here becomes another thing from Mr. Foune and really where they are going to get to next; under Florida State Statute 831.02, uttering a false, forged deed with intent to defraud, that is punishable by prison time, fines, and restitution; in

answer to staff's question, in the last meeting when he asked how Mr. Foune is to be made whole on this property; he feels very badly for him, because he too believes he is a victim; he believes he is a total, innocent victim because he is going to continue to believe his assertion that he had no knowledge of the BDP at the time he bought the property or at the time that he submitted that building permit; and that is kind of going to be in response to staff's question as to where Mr. Foune gets his justice. He advised Mr. Foune gets his justice not by the County becoming party to a fraudulent activity by setting aside the existing BDP on the property and allowing Mr. Minnick to complete his fraud; in fact, Mr. Foune's restitution lies in him seeking full restitution for damages from Mr. Minnick who fraudulently represented the property and sold it to him at 4060 Golden Shores, it is not the County's responsibility; now they need to go a little bit here on determining who is at fault if it is not the County; first of all, five requisites to conduct fraud; first, is a false statement; Mr. Minnick issued a false statement in the form of a false warranty deed; Mr. Foune arguably would never have purchased the property if he had known there was a binding BDP on the property; second, he asked if Mr. Minnick had knowledge that the issuing was false; he stated, absolutely, he was issuing this false property deed, no question about that; he asked if that was the intent; and he noted he thinks Mr. Minnick intended to dupe, trick, or deceive the victim in order to gain advantage and get him to buy the property. He asked additionally, reliance, if there was reliance established, did the victim, Mr. Foune, justifiably rely on the false statement and assertions made by Mr. Minnick; was there injury; he advised absolutely, the victim suffered actual damage and loss; the point being here, part of those five criteria are the five criteria for fraud; those criteria fully-satisfy demonstration of an intent of fraud on the part of Mr. Minnick; additional things to discuss, if he says this is not the County's responsibility; yes, there was a building permit that was issued erroneously, but it was not the County's fault, the County is not at fault in that; he go will a little Quasi-Judicial regarding who is at fault and responsible; if not for Mr. Minnick's failure to disclose an encumbrance on the property, Mr. Foune would not have purchased the property; if not for Mr. Minnick issuing a false warranty deed, Mr. Foune would not have submitted a fraudulent building permit; if not for Mr. Minnick issuing a false warranty deed, the individual building permit application would not have been approved by the County erroneously; if not for Mr. Minnick's actions, they would not be here tonight discussing this; if not for Mr. Minnick's actions, Mr. Foune would not be before this Commission asking for a legally-binding BDP to be set aside, and asking for the property to be rezoned to accommodate Mr. Minnick's plan to build on a non-buildable lot; and even then the property did not meet the zoning to FLUM requirements, however, the new owner did submit the invalid permit. He pointed out he believes Mr. Minnick, and this is a personal opinion, this is somewhat informed by past involvements with these folks, he suspects Mr. Minnick fully-realized it would be a false building permit; but he also realized that if it came before the County, it would have sympathy for Mr. Foune, as does he; however, it is not the County's fault that they erroneously issued this permit and is not its responsibility to try to make Mr. Foune whole on this; Mr. Foune's avenue to make him whole lies in, back with the lawyer as he believes it was Commissioner Feltner who asked him if he had legal representation, and if not he should probably consider it; he reiterated again that none of this would have happened except for Mr. Minnick's action to conceal the BDP on the property they had entered into; and Mr. Minnick is culpable and responsible for every adverse consequence that Mr. Foune and his wife has experienced in efforts to build a home at 4060 Golden Shores. He continued by saying a couple of quick answers, the reason the Board came up with different calculations on the property size is because if one does the calculation based on the warranty deed that was filed with the Property Appraiser's office, he or she would come up with 0.5 and that is setting aside 25 feet north, south, east, and westerly for 145 feet and 195 feet reserved for the observed rights-of-way that are encumbering that property, so that is where that is gotten; he thinks the County is going with its gross, not net square footage on the plat; the obvious thing the Board should be doing is now making a motion to deny this; he reiterated this is not the County's fault, it was an error that was made because of a gap that exists in the administrative process and procedures of Brevard County; but again, it would

never have happened if there had not been an erroneous, false building permit issued; by the way, the warranty deed, the legal aspects of it, the Board will find that because it is inaccurate and false statements entered in it, it is going to be rendered null and void; and it is possible, in fact, that legally Mr. Founé has never owned the property, just a thought, the County Attorney would have to be spoken to about that.

Commissioner Feltner pointed out there were doc stamps collected on it, so there has been a covenant on the warranty deed.

Mr. Laney stated he is not saying that there is not a conveyance deed, but when it goes to legal consideration, if there is a false statement asserting contained within the legal deed, that will invalidate the legality of the deed itself, and that will be found out, not by him, but by Mr. Founé's lawyer.

Jerrad Atkins stated he waives his time.

Commissioner Delaney stated she looked on, and she knows staff said the County does not go by the Property Appraiser, but from the number said earlier, the 1.34, the property that is, the long piece of property that this property got split off from is 0.89; and by subtracting that, it is 0.45.

Ms. Gilliam advised again, the survey that he submitted, which was done by Holley and Associates, states on there that it is 0.54, and that is what staff goes by.

Commissioner Delaney inquired if surveys are ever wrong.

Ms. Gilliam responded it is a certified survey; and the certifier, the surveyor is certifying that the information is correct.

Commissioner Delaney stated Mr. Laney was talking about the driveway and gross versus the net; and she asked what the difference was in calculating and if the County has policy to determine how that is . . .

Mr. Prasad responded staff happens to have an expert on staff in the back of the room; and he is going to ask him to come up if the Board does not mind.

Commissioner Delaney stated when the last speaker was up here he was talking about there being two different ways to calculate the size of the lot, net or gross; she is guessing it has to do with the right-of-way and driveway that is going to the flag lot versus . . .

Paul Body, County Planner, advised he would have to look at the legal description and go through it and calculate it by the legal description, and he is sure that is what Mr. Holley did.

Commissioner Delaney asked Mr. Body to take a look at a document, a survey, which she provided to him.

Mr. Body explained it looks like he got it calculated, taken out the right-of-way here and it is calculated by how the corners are set; he says it is vacant 0.545 acre, so he has the right-of-way taken out on his calculation.

Commissioner Delaney asked if the County vacated the right-of-way.

Mr. Prasad responded he believes there is a right-of-way in between, but he has taken it out.

Mr. Body stated the right-of-way is taken out, it shows a 50-foot right-of-way.

Mr. Prasad pointed out that was not included in the 0.54 calculations.

Mr. Body advised he does not include it in the survey.

Commissioner Delaney stated the square looks like it goes around the right-of-way.

Ms. Gilliam noted the dark line on the survey, and then there are points in each corner.

Mr. Body stated he is calculating it by the lines that are shown where the property corners are set.

Commissioner Delaney stated right, but that includes the right-of-way.

Mr. Body mentioned no, it does not.

Ms. Gilliam asked if Commissioner Delaney sees the dark line and it says 190; and if Commissioner Delaney looks over to her left, there are dashes from that dark line to the dashes is where that paper roadway would be, so it is not included in that boundary.

Mr. Body stated he has seen the Property Appraiser be wrong on how much square footage is in a lot; he had his calculated wrong before he had them correct it on his, and it was a platted lot; and they were saying it was 45-foot wide and it is 65 feet.

Commissioner Delaney expressed her appreciation to staff.

Mr. Body advised generally whenever one turns in something like that, the Property Appraiser corrects it by the surveyor; but only a judge can tell one where their property is and how big it is.

Commissioner Delaney stated she has not seen a lot of properties get that acreage wrong; what she did want to mention is that while the circumstances around this are horrible, this is a horrible situation; she asked if the Board allows this new FLU into the area, even if it puts a BDP on it that says no one else is allowed to do this, what happens 30 years from now when none of the Commissioners are sitting here and this happens again; the only way to ensure that this does not happen is if the board denies this request; just like the Board has been doing all night, the Board has to look out for the greater good here of the whole community, it is not just one horrible situation; this is introducing something that could change the complete outlook of this whole community; and flooding is also a major concern. She went on to say as the Board saw in those pictures, there is nowhere for the water to go.

There was an outburst from the audience.

Chair Altman pointed out the Board had its public input, so if one wants to speak to fill out a card; and he asked the gentleman if he filled out a card.

Commissioner Delaney replied he did, he waived.

Eric Paglialonga stated he has been doing construction for 40-plus years in Brevard County, he has owned property in Golden Shores; when his son came to him, he told him the first thing he needed to do is make sure, before he purchased this property, to make sure that he has approval from the County that he can get a building permit; they talked about, he did not have a

realtor, he did not have title insurance; he has title insurance, he has proof of it right here; and they talked to title insurance for two weeks on this. He mentioned they have talked about how Mr. Minnick is crooked; that has nothing to do with what they are here for; they are here to figure out if the Board is going to approve for Mr. Founé to keep this or not, that is what they are here for, they are not here to talk about Mr. Minnick; whatever happened prior to Mr. Founé getting this, that is a whole another ballpark; and Brevard County gave Mr. Founé this permit. He stated when he was in construction, the first thing he would do was, he would not have trusted the realtor, because the realtor is not responsible to tell one if he or she can build on it, he does not trust anybody else; he told Mr. Founé to go to the County and make sure he could build on this property; he did that; the County said yes, he could build it, then he actually purchased the property; that is not what he said, he said he did not see a realtor, he was a realtor; his advice to him was to make sure the County said yes; when the County says yes, then one can buy the property because he can legally get a permit; and that is exactly what Mr. Founé did. He explained Jacob is the best kid he has ever seen, he has put his life savings into this house, he is upstanding; he told him to get an attorney; Mr. Founé said no, he did not do anything wrong; he said that he did everything he was supposed to do, and to let them go through the process, he does not need an attorney; and he said no. He advised when he did talk to an attorney, the attorney said this should be straight, he should not even need him because everything he had seen it should be straightened out; he called her, he watched the video and they said he really did not need them right now; they can use the example that the gentleman brought up about Seminole County; he does not want to go to an attorney, he does not want to get an attorney; and he asked who loses when one gets an attorney, and he advised everybody. He continued by saying the County will lose, he will lose, because everybody is paying, someone is going to be at fault, and they do not want to do that; it is sad that this had happened, but he did everything he could to get this done; it is the County's responsibility for this not to happen; it is not a title company to make this not happen; a title company sells property, they do not care who is going to build on it, they do not care what one is going to do with it, they are just saying that it is free and clear, that he or she has a property and it is theirs, and that is the only thing a title company does; they also say if something is against it, and if there is, not to buy it; later on if someone comes against it, that Policy protects one because there is something against it; that is not what title insurance does; and title insurance says a person owns a property free and clear, that is it. He stated some of the comments made were disheartening because most of them are not based on fact, they are based on feelings; the reason that was filled in is because he is trying to protect the house until he figures out what can be done, because until a house is finished, it is going to erode all over the place, everybody knows that; unless one has sod or its stuff, it is going to erode; he was trying to protect the pad from it washing out from underneath it and not have further complications with the property; Mr. Minnick is not his contractor; he knows him from the business, but he has no relationship with him, does not talk to him, and is not his friend; he knows him from construction period; and anything that has been said, is a lie. He advised he said 1,600, he meant living; he was not lying, he was telling the Board that he said 1,600, and the house is 1,600 living; he has no ties, no relationship, and he has full title policy, so they are here to determine whether to let Mr. Founé proceed or not; and they are not here to discuss anything else, that is it.

Jerrad Atkins stated he kind of just filled out a card in case he came up with something intelligent to say, and he had not until the last speaker; he does not think folks involved with this transaction have been respectful of the Board's time; he thinks they think the Commissioners are all a joke; he thinks the Board is going to fall for this; the fact that there is no relationship with Mr. Minnick or Minnick Construction to this project, he would argue, that is incorrect; he has a series of permits in his hands for this address, they were pulled by Minnick Construction, and they were handed to the Board by two people; and the mortgage on the property is being

held by the same individual; and it might be something to take into consideration when the Board is looking at validity of that argument.

Commissioner Feltner asked if he could ask a technical question, just one; and he asked are there houses up there in the immediate area that are sitting on half-acre lots.

Mr. Prasad replied yes, Commissioner, there are some in the area.

Commissioner Feltner asked if these are on the same road, over two roads, and is it within the eyesight of the property.

Mr. Prasad responded he could not tell him for sure on eyesight; if he will give him one minute, he will pull up the map, but there are multiple parcels in the area around a half an acre.

Attorney Richardson advised one of the speakers tonight has 0.44, that is going west, but most of the smaller lots on Golden Shores are clustered towards US 1; there are a number there that are in the half-acre range; but there is one, a rocks throw distance from this property basically, that is under half an acre.

Commissioner Delaney asked how those are approved.

Mr. Prasad advised it is hard to say without researching it, but they could be non-conforming lots of record; he sees a variety of zoning in the area, including RU-1-9, in other words, it is not all RR-1; there are a lot of different zoning classifications the area; and there is a large mix of different things in the area.

Commissioner Delaney stated right, but they are non-conforming because the FLU is RES 1.

Mr. Prasad explained he would expect that to be the case.

Chair Altman stated he has questions of the applicant, and he asked if he would come up just because there was some conflicting information, and he just wants to clarify so he can understand; and he asked Mr. Foune if he is the owner/builder.

Mr. Foune replied affirmatively.

Chair Altman stated he is the owner/builder, he purchased it, as his dad said, he went to the County to ensure that it was a buildable lot and it affirmed that; he had plans drawn that are required to be drawn under standard Building Code; and those plans were submitted to the County where it did extensive review, and those plans were approved.

Mr. Foune replied right.

Chair Altman advised he took those plans, he did work, then he called the County, and he got the required inspections.

Mr. Foune responded correct.

Chair Altman stated then he passed those inspections.

Mr. Foune advised correct.

Chair Altman stated Mr. Found did more work, he got inspections, and he passed the inspections; and he did everything by the book.

Mr. Founé replied affirmatively.

Chair Altman stated in the way he was supposed to do things, and he commends him for that; he thinks the Board should allow Mr. Founé to build his dream home; he has been in construction, he has been a contractor for nearly 50 years; he has not practiced the whole time; and he has been in public office for 31 years. He went on to say contractors are taught to follow the law and to act in reliance and respect, the local government, the permitting agency; for the County to penalize him for doing what was right at great economic expense to him is so fundamentally wrong; he thinks this is one of the biggest wrongs he has ever seen; he feels like the County needs to give relief, it needs to fix this problem; he asked what will happen, a house on a half-acre lot, that is not going to be detrimental to this community; it is not like a sewer treatment plant, or nuclear power plant, this is just a small, he thinks an honest mistake that the County made; and this corrects the mistake. He noted he does not think the Board in any way, shape, or form should punish this individual for following the rules; by the way, he thinks the County would be violating the law, because if he acted in reliance on the County and he has economic damages, he has a right, the County should correct those damages for its mistake; he thinks there is an easy fix here that does not really harm anyone; he does not think the County should shunt this off to a courtroom and clog the courts and laws, and cause incredible expense; the County should fix it, and should move on; he appreciates what the people are saying and wanting to protect their community; and he has seen pictures, and Mr. Founé has done a really nice job on that house.

Someone from the audience shouted so the people get penalized.

Chair Altman stated no, he does not think so, he does not think anyone gets penalized; he does not think this house hurts anyone; that is his opinion, his belief; and he supports granting this request allowing him to move on, as he thinks it is the right thing to do.

Commissioner Adkinson asked from the County Attorney's experience, how at risk is the County for this mistake that it made, and should the Board deny this request.

Attorney Richardson responded not.

Commissioner Delaney asked what he means by not.

Attorney Richardson replied he has no concern related to liability related to the issue of the building permit; the law is pretty clear that the estoppel does not apply; he clearly did not know and understand, but legally should have been on notice of things like the BDP of record that is referenced in the exclusions to this title policy and things like that; he is not concerned about monetary or fiscal liability, he does not think that should drive the Board's decision; he thinks all of the other points made were well-received; but he would not say that the County has financial liability.

Commissioner Delaney stated she will say one of the last speakers said the Board's decision tonight is whether or not the County lets the applicant continue on or not, and she disagrees; she thinks the Board's decision tonight is to change the face of this neighborhood or not; that is what the County has to protect; the people who made this mistake are no longer working in the County; staff has made massive changes in regards to training and what not; she is pretty confident that this mistake will never happen again because of the changes that have been made; and she feels like it is completely unfair for the whole neighborhood. She pointed out,

with all due respect to Chair Altman, the water situation in Mims and in this area is just as critical as North Merritt Island; and one house does make a difference.

Commissioner Delaney stated she would make a motion to deny.

Commissioner Adkinson stated she would second the motion.

Chair Altman thinks the other factor to consider here, not only the fact this application did everything right, and he relied on the County's jurisdiction, acted in reliance; had it been a one-acre lot and built a 4,500 foot home, it would be the same impact that is allowed; one could build a 6,000 square foot, could have more impervious space on a lot that is one acre size from a ratio point of view than he has here; the County allows it in its Code the amount of construction to take place; it is a relatively modest home; that is why he feels it does not create some sort of damage to the area; and he is going to vote against the motion. He encouraged the Board to show some compassion, gracious alive, a little bit of compassion; there was County staff that was criticized; there was a hurricane coming, he had a house built, and he wanted to pour it to protect his property; they made an executive decision, he commends them; and it shows him they have a heart. He stated big bureaucracy, they did not know, and they thought it was the right thing; and he asked the Board to have a heart, as this is terrible for this couple and family.

Commissioner Delaney stated with all due respect, the fact that this house is owner/builder, it is unlikely with the amount of how much Mr. Minnick's name is all throughout this stuff, it is unlikely that this is truly owner/builder; frankly, she thinks that not only should one go after him for that piece, but his license should be taken away from him for doing this type of fraudulent activity; and he thinks he should sue him and get every penny back because she thinks that he would have a heck of a case. She advised it is not because she has no compassion, it is just that there has been so much damage to North Brevard, and it cannot continue; and she is sorry Mr. Founé is caught up in all of this.

Chair Altman called for a vote on the motion. Motion failed.

Chair Altman asked if the next move would be to vote to approve.

Attorney Richardson replied the Board needs a competing motion.

Commissioner Delaney asked what the Board can do here to ensure that this can never happen again; she pointed out she is so disgusted right now with this; and she really appreciated Commissioner Adkinson.

Attorney Richardson responded he thinks Planning has implemented some measures administratively that he is pursuing Code Enforcement actions against Mr. Minnick for the behaviors with the lot splitting now that it has come to his attention, so there are two cases that are scheduled for the Code Enforcement Board hearing this month where the County is seeking pretty substantial damages in Code for violations causing irreparable harm, which should be enough of a disincentive for the illegal lot splits to continue; and then in the future, if the County is ever out from under the shadow of SB180, the Board could certainly consider adopting a lot-split ordinance which would put more scrutiny on the single lot splits, taking a piece down at a time to try to avoid the subdivision Code requirements, so those are the answers and the way to address the problems and go after the bad actors.

Commissioner Feltner stated respectfully he disagrees, however, he understands the problem; Attorney Richardson and he spoke about Statute regarding recording deeds, how to stop this

upstream before it gets to the County; he thinks that is something to look at; but that is something that would have to be done with the State; with regards to licensure, Department of Business and Professional Regulation (DBPR) is where this gentleman has licensure, so a complaint can be filed there; and he does not know it that is the County or somebody else, but there is remedy there.

Commissioner Delaney asked if there would be any appetite to try to purchase this and use it as stormwater retention, the foundation, trusses, this house is going to be pretty damaged at this point; and putting up banana trusses and having a foundation, she does not think that is a compassionate thing to set a young family up into either.

Commissioner Feltner asked if that is something that Mr. Founé would entertain just for the purpose of the question.

Mr. Founé replied no; this has been eight months since he has been stopped, and now he would just restart everything and purchase land, and then he cannot even get a septic permit; and he asked now what.

*Chair Altman passed the gavel to Vice Chair Adkinson; and he made the motion to accept this request.

Commissioner Feltner stated he will second the motion.

There being no comments or objections, the Board adopted Ordinance No. 26-02, amending Article III, Chapter 62, of the Code of Ordinances of Brevard County entitled "The 1988 Comprehensive Plan", setting forth the Fourteenth Small Scale Plan Amendment of 2025, 25S.14 to the Future Land Use Map of the Comprehensive Plan; amending Section 62-501 entitled Contents of the Plan, specifically amending Section 62-501, Part XVI(E), The Future Land Use Appendix; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

Result: Adopted

Mover: Thad Altman

Second: Rob Feltner

Ayes: Goodson, Feltner, and Altman

Nay: Delaney, and Adkinson

H.14. Public Hearing, Re: Jacob Founé Requests a Zoning Classification Change from SR with a Binding Development Plan (BDP) to SR with Removal of the Existing BDP and Addition of a New BDP (25Z00037) (Tax Account 2000804)

Chair Altman called for a public hearing to consider a request a zoning classification change from SR with a BDP to SR with removal of the existing BDP and addition of a new BDP, on property located on the north side of Golden Shores Boulevard, east of International Avenue in Mims.

Mr. Prasad stated to clarify, that was a motion on Item H.13., the Small Scale Comprehensive Plan Amendment; if the Board recalls, there is also a rezoning to . . .

Commissioner Altman stated that was two Items in chronological, the Comprehensive Plan; and he would like to make a motion for the zoning request.

Commissioner Delaney asked what the BDP would say.

Mr. Prasad replied the two conditions that were suggested and previously agreed to by Mr. Foune was one, the applicant agrees that this rezoning request companion FLU amendment application was a result of an unlawful split by the predecessor in interest and will stipulate to that fact in any future proceeding regarding that action, and two, this rezoning and companion FLU application are not precedential, but instead are being requested to resolve the substandard lot that has arisen as a result of the unlawful split; and under these particular circumstances that it be recognized that these actions are being granted based on the unique conditions of the subject property.

Commissioner Delaney asked if there was something about how these two properties, the County was going to be asking the owners to participate in however it goes forward with Mr. Minnick.

Mr. Prasad responded as far as this particular application, that is what the first condition is, to have Mr. Foune, should the County Attorney's Office believe that would be of assistance, and that he would agree to participate and stipulate to the facts.

Commissioner Delaney asked if that is all part of this.

Mr. Prasad replied affirmatively.

There being no comments or objections, the Board approved the request for a change of zoning classification from SR with a BDP to SR with removal of the existing BDP and addition of a new BDP to include that the applicant agrees that the rezoning requested companion FLU amendment application was a result of an unlawful split by the predecessor in interest and will stipulate that fact in any future proceeding regarding that action and that this FLU amendment application are not precedential, but instead is being required to resolve the substandard lot that has arisen as a result of the unlawful split, and under these particular circumstances that it be recognized that these actions are being granted based on the unique conditions of the subject property.

Result: Approved

Mover: Thad Altman

Secunder: Rob Feltner

Ayes: Goodson, Adkinson, Feltner, and Altman

Nay: Delaney

H.7. Public Hearing, Re: Lazy River Investments LLC Requests a Zoning Classification Change from RU-1-13 to AU(L) (25Z00049) (Tax Account 3008729)

Morris Richardson, County Attorney, advised the Board denied an Item earlier, the Lazy River Item, he probably should have asked the Board in that Item if they would like him to bring back a Findings of Fact.

Vice Chair Adkinson noted she apologized she should have made that part of her motion.

The directed the County Attorney to prepare a Findings of Fact to bring back for the Board's consideration.

Result: Approved

Mover: Kim Adkinson

Seconded: Katie Delaney

Ayes: Delaney, Goodson, Adkinson, Feltner, and Altman

*Vice Chair Adkinson passed the gavel back to Chair Altman

L.3. Reports, Re: Katie Delaney, Commissioner District 1

Commissioner Delaney advised she is at a loss; she supports the Commissioners all of the time in his or her zoning; she goes along with 99 percent of what goes on in this Board, even things that she deeply disagrees with, like the parking garage; this affects none of the Commissioners, it affects the people she represents; the 40,000 people who voted for her have been disenfranchised tonight; she has never seen anything like it on this Board ever; she hopes that changes; she hopes the other Commissioners can understand that while he or she may not like what she has to say or brings to the table, but District 1 does; that is why they elected her, and why she is sitting here; she is here to represent them; and their voices should be respected. She added, she is going to be bringing forward another Agenda Item for the Board meeting next week to discuss some of the different things that were brought to the Board at its budget workshop having to do with the different funding sources, the stormwater fee, and possibly the connection fees; and she just wanted to let the Board know that.

L.7. Reports, Re: Thad Altman, Commissioner District 5, Chairman

Chair Altman explained he will not ask any Commissioner to vote in his favor if he or she feels it violates his or her principles; he respects each and every Commissioner, and he expects each one to stand by his or her principles; he appreciates any difference he or she may give in consideration; but he is not asking for his or her unconditional support, no ex post facto; secondly, the Commissioners make up one County Commission, that is why it is called Brevard County Commissioners; he is very honored to have such a job; he or she represents the entire County; it does not represent enclaves, Districts, thieftoms, or whatever; it is one single Commission and it can only act in conjunction; and he trusts the wisdom of the five members. He noted he has been wanting to say that and he feels very strongly about it.

Upon consensus of the Board, the meeting adjourned at 9:01 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

THAD ALTMAN, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA