

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, February 2, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

ZONING STATEMENT

The Board of County Commissioners acts as a Quasi Judicial body when it hears requests 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 to be rezoned, and the actual development of the surrounding area. The Board cannot consider speculation, non expert opinion testimony, or poll the audience by asking those in favor or opposed to stand up or raise their hands. If a Commissioner has had communications regarding a rezoning or Conditional Use Permit request before the Board, the Commissioner must disclose the subject of the communication and the identity of the person, group, or entity, with whom the communication took place before the board takes action on the request. Likewise, if a Commissioner has made a site visit, inspection, or investigation, the Commissioner must disclose that fact before the Board takes action on the request. Each applicant is allowed a total of 15 minutes to present their request unless the time is extended by a majority vote of the Board. The applicant may reserve any portion of the 15 minutes 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.

Chair Pritchett called for a motion to allow Commissioner Goodson to participate by phone.

Result: APPROVED

Mover: John Tobia

Second: Kristine Zonka

Ayes: Feltner, Goodson, Pritchett, Tobia, and Zonka

Ayes: Feltner, Goodson, Pritchett, Tobia, and Zonka

C. PLEDGE OF ALLEGIANCE

Commissioner Zonka led the assembly in the Pledge of Allegiance.

Present: Commissioner District 1 Rita Pritchett, Commissioner District 2 Tom Goodson, Commissioner District 3 John Tobia, Commissioner District 4 Rob Feltner, and Commissioner District 5 Kristine Zonka

D. MINUTES FOR APPROVAL: December 6, 2022 Regular Meeting Minutes

The Board approved minutes from the December 6, 2022, Regular meeting.

Result: APPROVED

Mover: Kristine Zonka

Second: John Tobia

Ayes: Feltner, Goodson, Pritchett, Tobia, and Zonka

Ayes: Feltner, Goodson, Pritchett, Tobia, and Zonka

F.1. Approval, Re: Extension of 60 days from the 120-Day Requirement to Record a Binding Development Plan in the Public Records. (District 2)

The Board granted a 60 day extension to the 120 day requirement to have a BDP recorded, as provided in Section 62 1157.

Result: APPROVED

Mover: Kristine Zonka

Second: Rob Feltner

H.1. Robert J. Woodhouse requests a change of zoning classification from GU to AU(L). (22Z00059) (Tax Account 2441057) (District 1)

Chair Pritchett called for a public hearing to consider a change of zoning classification from GU to AU(L) as requested by Robert J. Woodhouse.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.1. is for Robert J. Woodhouse requesting a change of zoning classification from GU to AU(L); application number is 22Z00059, tax account number is 2441057; and it is located in District 1.

There being no comments or objections, the Board approved the request for a change of zoning classification from GU to AU(L) for Robert J. Woodhouse.

Result: APPROVED

Mover: John Tobia

Second: Kristine Zonka

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

H.2. Michael C. McLain and Kelsey Barnes request a change of zoning classification from RR-1 to AU. (22Z00055) (Tax Account 2802103) (District 5)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RR 1 to AU as requested by Michael C. McLain and Kelsey Barnes.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.2. is for Michael C. McLain and Kelsey Barnes requesting a change of zoning classification from RR 1 to AU; application number is 22Z00055, tax account number is 2802103; and it is located in District 5.

Commissioner Zonka stated she thinks all of her correspondence by email was made a part of the packet, but she had some disclosures to bring up; on January 31, 2023, she met with Sharon Dolan and her husband Brent in her office and are in opposition to the property; in attendance was Tad Calkins, Planning and Development Director, Billy Prasad, Danielle Stern and herself; they met for about an hour; and she noted they have cards to speak. She added on the evening of January 31, 2023, she had a call with the applicant, Michael McLain who explained what he wanted to do with the property; and she had a follow up phone call with Mr. McLain on February 1, 2023, to talk about the property.

Chair Pritchett reminded the Board members that before the meeting, the disclosures are sent up electronically to the Clerk's Office, but if there are any more to mention, they need to be revealed before the Items are heard.

Michael McLain stated he would like to switch his property from RR 1 to AU so that they may have chickens, roosters, a couple of goats, an alpaca, breed chicks, and have eggs for a family farm.

Brent Dolan stated he lives directly adjacent to the applicants and he is present to object to the rezoning; he noted it is not a personal issue against them and is only about the noise of the

roosters and the lack of trying to mitigate that noise; despite the untruths that were said about him at the Planning and Zoning meeting, there is no ongoing dispute; the only dispute is the roosters and their noise; the applicants were only cited after there was a complaint about the roosters; and if it was not for the rooster noise, he would not be present. He went on to say in 2020, he asked them repeatedly to do something about the roosters but nothing was ever

done; he has been accused of killing those roosters, but he did not and would never go on their property or do anything cowardly like that; Mr. McLain said it was probably raccoons; over the next year, they acquired four more roosters and penned them in a small area about 20 feet from the property line, which is about 50 feet from his living area; and they crow multiple times an hour, multiple times a day. He added there is no communication between them; if it were not for the constant crowing, there would be no issue and the zoning would be no issue; and as it stands right now, he and his wife object to the rezoning.

Sharon Dolan stated what was made out at the zoning meeting, that she and her husband are discontented neighbors, is not true; they have just complained since they got roosters about two years ago that continually crow, especially during the pandemic time when people were home more; they asked the neighbors to remove them and they refused; they were asked five times to have a conversation and they refused; and they have other neighbors to the north that are bothered, who made it to the zoning meeting but could not make it today. She added they have a petition of four homes adjacent to these properties that hear the roosters constantly with no respect; they want to get along with the neighbors and told Mr. McLain that he could talk to them about anything when they acquired the home, but Ms. Barnes just got angry with them; that is part of the communication problem; she feels if someone has the privilege to have AU property, to have the responsibility of having animals, they have three acres, two maybe to farm, that they should think about the nine homes that surround them; and she has four homes that object to this. She stated it is mainly about that, thinking about the neighbors; she concluded to have respect for your neighbors being disturbed by their actions and they want the privilege to have multiple animals, which goes with AU, and there is only a small area, then they should be thoughtful and try to work things out without taking it personal; when these roosters fly over the fence and she helps to get it back, they do not even say thank you, this concludes that they are incapable of being a respectful neighbor with animals; they were not zoned for roosters and they got four and put them right outside their door, which is disrespectful; and she reiterated that other neighbors feel the same way. She went on to say they put up a seven foot barrier outside of a six foot fence because in the evening, she likes to play music, and they wanted to make the sound less for their neighbors, as that is a thoughtful thing for neighbors to do if they were asked to; that is how they feel; and she asked for them to think about their neighbors, be nice, be neighborly, and less angry.

Commissioner Zonka asked Ms. Dolan if the property is zoned AU.

Ms. Dolan replied affirmatively.

Commissioner Zonka mentioned that everyone is not privy to the conversation that was had in her office; and she asked if she currently runs a nursery on her property.

Ms. Dolan replied correct, for 35 years and has never had a complaint about noise; and she feels that when people are privileged to be able to work on their property for 35 years, that they should have some thoughts for their neighbors that surround them.

Mr. McLain remarked when Ms. Dolan originally mentioned the roosters, when he had two, she said that his wife accused her of killing them, which is not the case; one was killed by a fox and

the other died; unfortunately, his wife did say she assumed the neighbor may have had something to do with it but they had no proof; he did move the roosters to the front of his property line; if one was to pull up his house on Google Maps, it can be seen that the coop is currently on the front of his property, because the picture is that old; after the roosters died, his mom, the original owner of the property, had him move the coop to the back yard, which is 20 25 feet off the property line; he did not have roosters for a while and he bought a bunch of straight run chicks and ended up with more roosters; and at the time, they were in a chicken run off of that coop. He added he is in the process of trying to get a fence put in so that the chickens can be free range and not wander around on other's properties, and other animals cannot get into their stuff; he had a survey done on February 2, 2023, which he has a receipt for; the Dolans share a 652 feet property line with them and his mom had a tree service cutting trees down the property line so the fence could be put in, and after about a week, the property stakes, that he paid for to have placed, were thrown in his yard in one spot and moved in another spot; he did not see the neighbors move them, but he does not see why anyone else would move the property markers; and the Sheriff was called multiple times for the neighbors trespassing. He went on to say he had to pay for a second survey to replace the markers, after Ms. Dolan was talked to; she had degraded him, called him names, and a bunch of other stuff, because he would not tell his mom to stop doing anything on the property line and removing trees; she even harassed the tree cutting service workers and threatened to give them bad reviews if they touched anything on her property; it has been a whole fight; and the last call, which he has on his phone record, was on August 7th at 11 a.m. from the manager of the fencing company telling him that his workers were being hounded and he needed to deal with his neighbor. He stated he called the Sheriff in regards to that because the many conversations that were had with the Dolans in the past year led to arguments that led nowhere; it was him being belittled, called a coward, a momma's boy, and it got out of control to the point where he could not talk with them anymore; his mom made most of the calls before that but decided not to trespass the neighbor for the times she stepped over the lines to take pictures and other things; he is in the process of getting the documentation for those calls from the records office, but he does not know when he will get them; and it could be up to 30 days.

Chair Pritchett mentioned Mr. McLain is trying to change his property to AU and all the property around him is AU; she is not sure where Commissioner Zonka is, but the Board does go heavily with the Commissioner of that District; she does not see why he should not have an AU; she suggested a Ring camera might help him out a bit to find out who is doing that; and he could go to civil court to get some of those costs back.

Mr. McLain replied he did not want to pursue the costs, as that is why he did not do anything about the having to do a second survey; and he understands that Ms. Dolan is upset.

Kelsey Barnes noted that they now have cameras after the events started occurring; they do have video of Ms. Dolan crossing over the property line a few times; they showed the Sheriff and were told they would trespass her, but at the time, it was not their property, it was still his mother's; his mother declined to do anything and give the neighbor one more chance; she then turned the property over to them; and now there is a fence up and it has not been an issue.

Mr. McLain stated he has tried to be very considerate; he had a berm built up so his water would not go on her property, which was in her comments as a concern; he did that before this application; he had to pay a little extra for longer fence posts; he made sure he told the dirt guys not to go over the property line and to keep the dirt on his side; he even measured every tree that was cut in front of the neighbor to be sure that he was not overstepping the 50 percent boundary line, whether it was theirs or his; and he has been very considerate in that regard. He went on to say as far as the roosters being penned near her, it should not be a concern

because he has a new coup farther away; he can now free range his chickens since his property is fenced in; in regards to the petitions, he has gotten signatures from people south, east, and west, directly off his property line and on some of the streets a little past and gotten notices saying that they are fine with it; some of them even have roosters and chickens themselves; and he is trying to be as nice as possible with this.

Commissioner Zonka stated that was going to be her question, and she asked if there are other roosters in his neighborhood.

Mr. McLain replied yes; one of the neighbors, Mr. and Mrs. Durand, directly next to them and straight across from the property line in objection, took in four roosters for them since they could not have them anymore because of the violation; and directly on the opposite side of the RR 1 zoning on the south side, there are two roosters.

Commissioner Zonka asked if Mr. McLain's property was AU in the past.

Mr. McLain responded his property was apparently AU back in 1984 or 1985; it got switched with a flag lot at one point; and then Lowe's bought it for his family, his great uncle, in 1999 or so, and it all got switched to RR 1.

Commissioner Zonka stated she had the chance to listen to the neighbors and had a pretty lengthy phone call with Mr. McLain the other evening; she would find it hard to deny him the same privilege that his neighbor has; she knows the neighbor has an issue with the roosters, but in reality, they are running a nursery on their property and she had that discussion with them when they were in her office; she is a little leery on asking him to restrict his property, because she is not asking the neighbors to restrict theirs; she encouraged him on anything he can do to improve that relationship if it is within his power, but she understands there is a history there that is sometimes talked about and sometimes is not, which is unfortunate; and she understands it even goes back to when his mom owned the property. She added she is fine with his application the way it stands; and she would support the rezoning.

There being no further comments or objections, the Board approved the request for a change of zoning classification from RR 1 to AU for Michael C. McLain and Kelsey Barnes.

Result: APPROVED

Mover: Kristine Zonka

Secunder: John Tobia

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

- H.3. Austin A. and Kailey R. Mahan request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. (22SS00013) (Tax Accounts 2102061 & 3030132) (District 1) This item has been automatically tabled to the 04/17/23 LPA Meeting and the 05/04/23 BCC meeting, at the request of the applicant. Letter received 12/30/22.**

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Austin A. and Kailey R. Mahan requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC; application number is 22SS00013, tax account numbers are 2102061 and 3030132; it is located in District 1; and this Item has been automatically tabled to the April 17, 2023, LPA meeting and the May 4, 2023, Board of County Commissioner (BOCC) meeting at the request of the applicant.

- H.4. Austin A. and Kailey R. Mahan request a change of zoning classification from AU**

to BU-2. (22Z00054) (Tax Accounts 2102061 & 3030132) (District 1) This item has been automatically tabled to the 04/17/23 P&Z Meeting and the 05/04/23 BCC meeting, at the request of the applicant. Letter received 12/30/22.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Austin A. and Kailey R. Mahan requesting a change of zoning classification from AU to BU 2; application number is 22Z00054, tax account numbers are 2102061 and 3030132; it is located in District 1; and this Item has been automatically tabled to the April 17, 2023, Planning and Zoning meeting and the May 4, 2023, Board of County Commissioner (BOCC) meeting at the request of the applicant.

H.5. KVK Management & Remodeling Services, LLC; and JJ's Design & Construction request a change of zoning classification from RU-1-9 to RU-1-11. (22Z00061) (Tax Account 2320171) (District 1)

Chair Pritchett called for a public hearing to consider a change of zoning classification from RU 1 9 to RU 1 11 as requested by KVK Management and Remodeling Services, LLC and JJ's Design and Construction.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for KVK Management and Remodeling Services, LLC and JJ's Design and Construction requesting a change of zoning classification from RU 1 9 to RU 1 11; application number is 22Z00061, tax account number is 2320171; and it is 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 1 11 for KVK Management and Remodeling Services, LLC and JJ's Design and Construction.

Result: APPROVED

Mover: Kristine Zonka

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

H.6. Tomas Manuel Guillen Arguelles and Elsa F. Rodriguez Arriaga request a change of zoning classification from AU to RU-1-9. (22Z00058) (Tax Account 2419383) (District 2)

Chair Pritchett called for a public hearing to consider a change of zoning classification from AU to RU 1 9 as requested by Tomas Manuel Guillen Arguelles and Elsa F. Rodriguez Arriaga.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Tomas Manuel Guillen Arguelles and Elsa F. Rodriguez Arriaga requesting a change of zoning classification from AU to RU 1 9; application number is 22Z00058, tax account number is 2419383; and it is located in District 2.

There being no comments or objections, the Board approved the request for a change of zoning classification from AU to RU 1 9 for Tomas Manuel Guillen Arguelles and Elsa F. Rodriguez Arriaga.

Result: APPROVED

Mover: Tom Goodson

Seconders: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

H.7. Ronald Abbott; Abbott Manufactured Housing, Inc. (Kelly Hyvonen) requests a change of zoning classification from BU-1 with an existing BDP, to BU-2 and removal of existing BDP. (22Z00060) (Tax Account 3010400) (District 3)

Chair Pritchett called for a public hearing to consider a change of zoning classification from BU 1 with an existing BDP, to BU 2 and removal of the existing BDP for Ronald Abbott, Abbott Manufactured Housing, Inc.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for Ronald Abbott, Abbott Manufactured Housing, Inc. requesting a change of zoning classification from BU 1 with an existing BDP, to BU 2 and removal of the existing BDP; application number is 22Z00060, tax account number is 3010400; and it is located in District 3. He added at the Planning and Zoning meeting on January 9, 2023, that board voted to approve the request with the removal of the existing BDP and adding a new BDP retaining all BU 1 uses and limiting the BU 2 uses to boat and RV storage only.

Kelly Hyvonen, Land Development Strategies, stated she is representing the property owner, Ronald Abbott; she has a request for the property to rezone it from BU 1 to BU 2 for the desired future use of boat and Recreational Vehicle (RV) storage, indoor or outdoor; she displayed a map and pointed out the property which is near the Barefoot Bay community and Snug Harbor; this community has thousands of mobile homes with a high demand for boat and RV storage; she noted she outlined in red the on site Home Owner Association (HOA) locations where boats and RV's are being stored, which are 100 percent occupied with waiting lists; she noted the yellow boxes are private boat and RV storage that are also 100 percent occupied with waiting lists; and what she is wanting to be done at this location is to provide for the needs of the Barefoot Bay and Snug Harbor communities, as they would be the primary users of this site. She added the property owner has had a conversation with the Barefoot Bay manager and some residents and heard they are looking for boat and RV storage and that is what has been consistently said; right now, that is what the market would support at that location; while the market conditions point them in the direction of boat and RV storage, in case conditions change, which can happen, they want the flexibility to have other uses on that site in the future; during the Planning and Zoning board meeting, the request was for BU 2 with the removal of the existing Binding Development Plan (BDP), and the Planning and Zoning board requested a BDP that would allow all the uses in BU 1 plus the specific use of boat and RV storage; and they were caught off guard at that meeting. She continued to say after the meeting they went back and went through all the uses in BU 2 and found additional uses that they wanted to be allowed on that site in case market conditions change; they are lower intensity type uses and she displayed a list; if the Commission decides to go the direction of not just allowing a BU 2, but wanting to restrict those uses further, they would ask for the following uses to be allowed in BU 2 as well: plant nurseries, wholesale sales and storage rooms; with conditions it would be: auto and boat sales and storage, garage or mechanical service, mini warehouses, mobile home and travel trailer sales, outside sale of mobile homes, and warehouses; she reiterated they request a standard BU 2, but if the Board desires to restrict it further, they would be comfortable with this list of uses after having time to go through that; anything they want to provide on this site, they are looking to serve the nearby communities; and she will answer any questions the Board may have.

Commissioner Tobia asked if the limitations of that potential BDP on the BU 2 were presented during the Planning and Zoning meeting.

Ms. Hyvonen replied no; it was specifically said just BU 1 with boat and RV storage and they had not looked at what the uses were in BU 2, and they moved forward with that; then they had

a chance to look at the other uses that really make sense for this site that do not have high intensity and not a junk yard or recycling plant; and it was more of those high intensity uses that they did not want to see from BU 2.

Commissioner Tobia asked what the rationale is of those conditions on the BDP, not being vetted by Planning and Zoning before getting here.

Ms. Hyvonen replied it was brought up at the meeting and it kind of caught them off guard, as they did not have the opportunity to go through the code at that time to see what other uses from BU 2 might make sense, specifically mobile home and travel trailer sales, which would be another use that would really work here, if the conditions called for it.

Commissioner Tobia remarked he did not necessarily disagree but he thinks that probably it is best for Planning and Zoning to look at that again with those conditions; he is not opposed to them, but he does not think it is fair to come with the change and not give the advisory board the ability to make that determination one way or another; he does not want to step on their toes, as that is a lot of hard work those folks put into it; and he would like to get their opinion.

Ms. Hyvonen asked if that would mean to go back to the Planning and Zoning board and then back to this Board again.

Commissioner Tobia replied he would feel more comfortable; he reiterated he cannot unilaterally make that decision, but that would be his recommendation; and he would like to hear where the rest of the Board is and if they would like to go forward.

Commissioner Feltner commented he thinks that is fair; and to send it back to Planning and Zoning.

Ms. Hyvonen asked for a second to confer with her client because the other option is to just go with the single use, but that limits them so much.

Commissioner Zonka asked if that is what Ms. Hyvonen was asking for when she went to the Planning and Zoning meeting.

Ms. Hyvonen replied they were just asking for BU 2.

Commissioner Zonka remarked Ms. Hyvonen claimed there was an intended specific use and now it is like the opportunity opened the door so now they want the five possible uses; and that part makes her a little nervous.

Ms. Hyvonen replied they did explain that is what they wanted to do, but the market is all over the place right now; and that is what they intend to do but they would not want to close the door on mobile home and travel trailer sales.

Chair Pritchett asked Commissioner Tobia if he means to approve it if they stick with the Planning and Zoning recommendation tonight.

Commissioner Tobia replied yes.

Chair Pritchett asked if it could be brought back up at the end of the meeting after Ms. Hyvonen has talked to her people, before deciding to table this.

Ms. Hyvonen asked if it were possible to have 30 seconds.

Chair Pritchett responded that she would like to table this and let Ms. Hyvonen come up after the next one.

H.8. NDA Merritt Project Zenith, LLC; and SES Merritt Project Zenith, LLC (Ross Abramson / Kim Rezanka) request a change of zoning classification from BU-1 and BU-2 with two existing BDP's, to PUD and removal of two existing BDP's. (22Z00062) (Tax Accounts 2428002, 2428157, 2428161, & 2428163) (District 2)

Chair Pritchett called for a public hearing to consider a change of zoning classification from BU 1 and BU 2 with two existing BDP's, to Planned Unit Development (PUD) and removal of two existing Binding Development Plans (BDP) for NDA Merritt Project Zenith, LLC and SES Merritt Project Zenith, LLC.

Jeffrey Ball, Planning and Zoning Manager, stated this Item is for NDA Merritt Project Zenith, LLC and SES Merritt Project Zenith, LLC requesting a change of zoning classification from BU 1 and BU 2 with two existing BDP's, to PUD and removal of two existing BDP's; application number is 22Z00062, tax account numbers are 2428002, 2428157, 2428161, and 2428163; it is located in District 2; during the Planning and Zoning meeting, the request was approved with seven conditions, with the additional eighth condition to read "a condition of one access to be provided on Harbor Woods Drive and one access to be provided on Fortenberry Road"; and since then, the applicant has revised their application to request the correct waivers, one waiver for the open space, and the other is to reduce the number of access points that are required by code.

Kim Rezanka, present on behalf of the applicant, stated with her tonight is Ross Abramson, the contract purchaser and developer with Woodfield Acquisitions, LLC; also with her is Ken Good with Atkins Global, who will be the engineer of record, and James Taylor, the traffic engineer on the project; this is a request to change the zoning from BU 1 and BU 2 to PUD with the recommendation of approval of a preliminary development plan and removal of two BDP's which limited the property to just commercial uses; this is a planned luxury apartment complex of 370 units with related amenities; and they are not seeking to rezone the wetlands, as many of the public comments seem to think. She continued to say the current zoning map shows BU 1 and BU 2, and no wetland zoning, which is in the packet; also, the Future Land Use map is not changing, which is community commercial, so there could be very high intense commercial uses here at 60 feet tall because it is next to RU 2 30, with 15 foot setbacks; what is proposed here is a luxury apartment complex with a much less intense use that could be on this property; it is the site of the old paintball field that also had a store and outdoor skate park; and looking at the aerial map, the mall is to the north, two banks to the west, a rental property to the south against Plumosa Street, two story condominiums which have been there since the 80's, and the Veteran's Memorial Park to the east. She stated this PUD has been revised several times and Mr. Abramson will explain that because she has heard some concerns about being too close to different areas, so everything has been pushed to the center; looking at those, the setbacks are pretty intense; coming from Plumosa Street, which is on the west side, there is a wetland that will be preserved with the wetland distance from Plumosa Street to the first building of 316 feet; looking from the south, the first building is 147 feet, nine inches from the south boundaries; the middle building has a 95 foot setback from the south boundary; there is 116 feet from the east, Harbor Woods Boulevard, which is a publicly owned right of way that used to have an easement for Harbor Woods Boulevard; and they are working with County staff on that issue, as there is a question of who maintains it, but that is intended to be the access. She went on to say this is intended to have only two accesses, one directly off of Fortenberry Road and one off of Harbor Woods Boulevard, which is an existing access for

those condominiums and an access point for parking for the Veteran's Memorial Park to the south of Harbor Woods Boulevard; they are seeking two waivers, one is a waiver of 1.1 acre of open space from the 5.5 acres required pursuant to the County code; applicant is providing 4.45 acres of open space where the requirement is 5.5 acres; this is because the PUD allows for preservation and to have flexibility, so they are preserving the wetlands, not impacting the wetlands, and the Veterans Memorial Park is a world class amenity with playgrounds, walking trails, nature trails, and access to the water; and with that next door, the amenities are not as necessary at this apartment complex. She stated waiver two is seeking a waiver on one access point from the three access points; they were unaware of that, as when going above 350, there is supposed to be another access; the only potential access would be to Plumosa Street, which none of the residents want, as no one wants to increase traffic on Plumosa Street; they would have to impact that wetland as described earlier and the developer does not want to impact the wetlands; they had initially asked for a setback waiver, but found out it was unnecessary and it was withdrawn; and they started with five waiver requests and are now down to two waivers. She added the Merritt Island Redevelopment Agency (MIRA) board reviewed this on December 8, 2022, and unanimously recommended approval and that report and the reason for their approval are in the packet; the Planning and Zoning board reviewed this on January 9, 2023, and also recommended approval unanimously, asking for an eighth condition which was only two access points, one on Fortenberry Road and one on Harbor Woods Boulevard; this kind of conflicts with staff's seven conditions, but those are site plan issues, not intensity or density issues, and will be reviewed in depth by County staff; there was a community meeting held on January 4, 2023, inviting 150 people and only nine showed up; there were concerns about traffic, intersection safety, storm water, and all the things that people are concerned about with new development; and these are all things that will be addressed during the site plan. She mentioned the traffic engineer will discuss a little bit about traffic and Mr. Good can answer any stormwater questions, but County staff is going to review that; they initially believed that this was all in the Veteran's Memorial basin, but part of it drains south to the Aurora Park basin and Mr. Good has spoken to staff and they are willing to bring this all in to the Veteran's Memorial Park storm basin which will actually improve any flooding at Harbor Woods or anything that drains into that Park; there are many public comment emails, about 10, although there is about 50 pages; most of the people do not even live here and it looks as if a mass email was sent out to say wetlands were being rezoned, which they are not; and they are worried about traffic, which will be addressed as they come through. She shared the renderings that have been updated to show they are all five story, which initially were thought to be some three story and some five story, with elevators; and she showed another viewpoint.

Morris Richardson, County Attorney, interjected to say that Commissioner Goodson is only available by phone here, so anything she wanted to introduce as evidence would need to already be in the record or outside.

Ms. Rezanka replied Commissioner Goodson has seen these; she met with him a week ago and there is nothing new; she introduced Ross Abramson with Woodfield Acquisitions, who has been in business for 17 years and completed 70 luxury apartment complexes; and he is going to talk about a little bit of the changes that have been taking place that Commissioner Goodson is aware of.

Mr. Abramson stated a few years ago, his company contracted a property in Palm Bay and have now closed on that property and are in for site plan approval and hoping to break ground this year; that will be about a 450 unit project, about \$125 million total investment; they are really excited about Brevard County and want to expand on their investment here; and his company only develops class a, luxury, multi family projects, and that is what is being proposed

here. He mentioned one of the comments from a neighbor was about their experience in the park; the broad side of one of the buildings was facing the park, so they flipped the bottom right buildings so that the short side of that building would be facing the park, allowing for a much better experience from the park; they think that this is a fantastic site plan; they have engaged top tier consultants and the architect, MSA, is one of the best multi family specialist architects in the State; and they have excellent landscape architects, interior designers, and engineers and are really proud of the plan that is put forth today.

James Taylor stated he is the transportation engineer for the site; he did a traffic study for this based on the methodology of Brevard County staff; he met with staff and presented a methodology and did the analysis based on that approved methodology by both parties; the site is generating about 150 trips during the a.m. and p.m. peak hour; it is kind of in a gridded system where one could go east or west once distributing those trips out, which they did per Department of Transportation's (DOT) adopted travel demand model; and they did not find any new deficiencies as a result of these project impacts. He added no turn lanes are needed along Fortenberry Road but there were concerns about the impacts to Plumosa Street; at the Fortenberry Road and Plumosa Street intersection, it currently has three approach lanes headed westbound and that intersection, overall, is operating at an acceptable level of service; the one intersection in the study area that was found, was a background deficiency, not because of the project; as a result of the coordinated timing along State Road 520 (SR 520), they do not recommend any improvements there, as DOT will prioritize the primary street direction; and they looked at a scenario where the signal timing was reduced, but it will be DOT's call and he does not expect that DOT will want to coordinate the entire corridor for that one intersection.

Chris Wallace stated he has lived in this neighborhood for years, whether it was at his parent's house or his own home, and in that time, he has seen flooding that has been catastrophic; the County has come in and repaved the roads but there is still standing water whenever it rains and he has to go out in waders or bare feet and shorts to clean the drains so the water will drain at some reasonable level; along with that, the pump station is right there, and the County owns that; his real issue is where the waste is going to go from this new construction, plus there is already new construction going on over by the airport; and the pump station that is currently there has to get everything pumped out of it during every hurricane. He added the last two hurricanes, the County had to run trucks continually pumping out the waste and carting it to a facility to have it processed; that is definitely going to be impacted by this project; they can say it will not impact the wetland, but unfortunately, putting that much more concrete in, no matter how much they try to force it over to the Veteran's Park, or how much piping and plumbing that is put in, water is always going to go to the lowest level and unfortunately, his neighborhood is 60 years old; Harbor Woods is 40 years old, and Penn Place is another one that is going to be impacted by where they want to send that water; and he has over 100 petitions signed by people impacted in these areas. He continued saying Merritt Island needs development, but hurting and impacting his area on ingress and egress, his neighborhood is a cut through that everyone uses to get from Plumosa Street to State Road 3 (SR 3); in the past, the neighborhood petitioned and got speed bumps put in, but now drivers just speed up to see how much air they can get; with the new project, he asked how much more traffic is that going to bring into the neighborhood; his 60 year old neighborhood was built at a different level, now this development is going to go in and it is going to be at least four feet high and then five story buildings and all the blacktop and pavement; and that is going to negatively impact the neighborhood no matter how they try to cherry coat it. He went on to say it is going to change the way they live because he already fears for his neighborhood as it is like a lake, a bowl; the very back part in the Bel Aire neighborhood, there is a turn that basically becomes a lake; he lives at the corner of two streets which turns into a lake; just last year the water was so high

that when his child came home, it ripped the front of the bumper off because there was so much water; a child is inexperienced, so anybody else that comes in the neighborhood has the same issues with cars being flooded out; and they are totaled because the water is that deep. He stated other people that come in that area that do not know the area will be flooded out; he asked how many cars will have to wait for the tow truck to come after the water recedes; he noted truthfully, that is every time it rains heavily, it does not have to be a hurricane; himself, as well as the 100 other people, are all opposed to this project; and it is not because they do not want new building. He added MIRA does not speak for him, as he did not elect them to their positions; for MIRA to say they approve this project, well, he asked who gave them his words and the chance to say anything; he does not agree with the project; and that is where he is at.

Phil Cohen stated he owns the property to the south of this project, on Plumosa Street; he is against this project as slated if the Board is willing to grant the waivers that are being asked for; he read a letter that he wrote to the Board, "I'm writing this email to urge you not to approve the zoning changes for this project requested on the four parcels with all of the waivers in which they have requested. This huge development is being requested through waivers in a manner that does not respect the current demands of the County zoning for a project of this scale. As a property owner adjacent to the project on the south, I oppose the project as they are presently requesting it of you. The players in the project have the options and the means of meeting all of the County code requirements to do a project of this scale. I strongly oppose it without meeting all the necessary requirements presently on the books in Brevard County for a project like this. The waivers they are requesting are not necessary and it would not be fair to the County and all its present tax paying residents and the people surrounding, because this is what they are asking for. They are 1.1 acres shy of meeting enough green space for the County for a dense property of this size. 1.1 acres, yes, they have wetlands they are going to keep, but they are still shy 1.1 acres. They are requesting some setbacks of the buildings that are too close and they plan on developing parking all the way up to the property lines." He added as Mr. Wallace said, all those areas flood all the time; he gets flood waters from his neighbor to the south of him because of their entrance road at Sir Walter's Uniform, as they do not have enough retention on their property, so it runs off into his property; they are requesting, and this is a big one, only two entrances and exits; a development of this size requires three per the County Code; this is a huge emergency and safety concern, not to mention all the traffic in and out of the complex would then be overrun on Fortenberry Road which, at this point, has trouble handling the traffic in its present state, without turning lanes into that area; and the one entrance they want to use is Harbor Woods Boulevard, which is one way in and one way out, so if they put an entrance on Harbor Woods Boulevard, then without cutting through the island in the middle, they are going to have to turn to the south and do a U turn to get out to Fortenberry Road by the mall. He went on to say he also understands that that strip of property in between their property and the County right of way of Harbor Woods Boulevard is like a no man's land, nobody owns it; it has some beautiful oak trees on it, and he is afraid all that would go away as well; they are also requesting and planning this project without any means of water run off retention on their own property, which he believes is absurd; they are planning on piping every bit of water run off from a 10 acre project like this into the lake at Veteran's Park; and that lake at Veteran's Park was built to handle the run off of the future development that is already in the Plan for Veteran's Park. He stated there is supposed to be an amphitheater parking and other things; the mall has its own water retention on their property; if one has parking and buildings, one needs to retain the water on their own property; that goes with Mr. Wallace's concerns of the flooding everywhere; all the area is very low lying, presently has major water run off issues without any buildings and pavement at the present time; and to consider a project like this without them handling their own run off would be a gross misstep on the County's behalf. He advised his concerns, and they should be the Board's as well, is as follows: Merritt Island sewage and wastewater infrastructure's ability to

manage a project this size, the pump station on Plumosa Street is already overloaded and has ongoing issues in keeping up with the volume of waste as it is.

Ms. Rezanka pointed to a map and asked Mr. Cohen if that was his property.

Mr. Cohen responded it was his property.

Ms. Rezanka asked if the property to the south is also his.

Mr. Cohen replied yes it is.

Ms. Rezanka asked what is being stored on that property.

Mr. Cohen replied there are some trailers and some buildings that he is working with the County on right now, as he has a Code Enforcement issue on it and he is cleaning it up.

Ms. Rezanka remarked she did not know that, she only knew there was a lot of storage; and she asked if it was rental properties.

Mr. Cohen replied it is an investment property, not a rental property.

Ms. Rezanka inquired if he rents them.

Mr. Cohen replied no.

Ms. Rezanka advised on January 9th, Mr. Cohen spoke at the Planning and Zoning (P&Z) meeting and he said he had no problems with the project if done correctly; but he did not state any of these concerns at the P&Z meeting.

Mr. Cohen replied his concerns are, every time he comes to P&Z about his property, and future development on it in the past, he hears that it does not meet Code and he cannot do this, or if he wants to do that, he cannot do this; so, he has to follow the rules and meet all the Codes of Brevard County; it appears that this big conglomerate is wanting to come in and say it cannot meet the Codes presently, so it would like all these waivers; but they do have the means of meeting all the requirements and there are options on the table for them to get that additional green space, have an additional entrance and exit on Plumosa Street, which would make that third entrance and exit. He added the only reason he is against it is if they do not meet what the Code requirements are; and if they are willing to step up and acquire the additional properties to be able to meet all the Code requirements, he does not have a problem with the project at all.

Commissioner Zonka asked Mr. Cohen what he meant by they have options to meet the Code for the property.

Mr. Cohen advised they have options to purchase adjoining properties.

Commissioner Zonka asked if he was suggesting that they purchase property from another private person.

Mr. Cohen replied he has spoken with the parties involved and told them if they would want to purchase more property to be able to meet all these needs, they could go into negotiations and he would be willing to put his 1.5 acres...

Commissioner Zonka interjected and asked if he meant his property.

Mr. Cohen responded yes, if they were willing to; and that is the only other adjoining property.

Commissioner Zonka remarked that is where she figured this was going.

Ms. Rezanka asked if they denied Mr. Cohen's offer.

Mr. Cohen replied no, they have not denied it, they said they would consider it but did not think that they needed it; and if they are granted waivers, they would not need it.

Commissioner Goodson asked Mr. Cohen if he had retention ponds on his property to handle his water.

Mr. Cohen replied his property was built in 1952, and there is a swale behind the house that handles the run off that comes off of that house; and if he were to build any other property on it, he would increase the water retention, just like the County requires everybody else.

Commissioner Goodson remarked but right now, Mr. Cohen has no retention to hold water before it goes into the swale; and he asked if that was correct.

Mr. Cohen replied the swale, yes, the property itself will hold water.

Greg Henderson stated he has a couple of issues here; one is he is pretty ignorant about this, as he lives within about 1,200 feet of a fairly major development going in, and he only heard by chance that there was a petition going around; he had not heard anything about it and it would have been nice to have some information about a major development that would impact their quality of life; and that is neither here nor there right now, but he is just putting it out there that there were 150 notices that went out and he did not get one. He mentioned he lives pretty close, at the corner of one of these temporary ponds that was heard about with the flooding; this happens all the time and his concern that he does not know enough about this to know whether it is a good thing economically; he does not know as he is ignorant and completely admits that; he does know he has concerns about flooding, infrastructure, sewage, and traffic; but he cannot have proper concerns because...he asked where was the proper information on this. He added this is a major development right next to Bel Aire; he asked does the community matter here and the effect it is going to have on them; that is a big concern to him, as he does not know; he asked if this is going to impact them negatively, and he thinks it might; but he beseeches the Board, as they represent their interests. He stated he can only say that if this is going to happen, it is going to happen; all he can ask is that their feet are held to the fire and made to do it correctly by handling run off, sewage, and improvements to the basic infrastructure that is not going to negatively impact their community of hard working folks; he mentioned there were not many folks here, as everyone in his neighborhood works all day; he just happened to be off and thought he should probably come because he heard about it off hand; and he cannot say he is adequately prepared to speak on this at all. He went on to say all he can do is present his concern that the Board represent them in this to make sure it is done correctly and that all the issues that might affect them and the community, that might affect their lives adversely, and to please make sure it is not going to happen just to make someone...; development is needed, he agrees; it sounds like it is going to be a really nice place, but not at the expense of the neighborhoods that are already there; and that is all he asks.

Chair Pritchett remarked just so he knows, that is also the concern of this Board; what is being done now is changing zoning, but all those items still have a long path to make sure it is done correctly; and she asked Tad Calkins, Planning and Development Director, if this was properly posted and advertised.

Mr. Calkins replied yes; Florida Statute requires that it is advertised in a paper, 15 days before the public hearing, which was done; it also requires that the property is posted, which was posted on Fortenberry Road; and as a courtesy, notices were sent out to all the property owners within 500 feet of the property boundary.

Sandy Wilk mentioned she only had about two days to prepare for this, so this is just a short list of her observations; if this is allowed to go through as it stands, there will be a substantial increased volume of traffic with, according to the plans, 664 parking spaces; that is a potential of 664 vehicles coming in and out; there is only just over one acre of land designated for green areas, which is insufficient for the number of units; the run off of water from the wetlands will increase the flooding in the area; and she has personally witnessed to the west side of Harbor Woods during the last hurricane where it completely flooded and she saw fish swimming in the parking lot trying to find their way to something. She added the decrease of water pressure from the residents next door, where they are already low in pressure as it is, potential of traffic accidents from the backup of vehicles waiting to go through their gated entrance, risk to school children waiting at the intersection of Harbor Woods Boulevard and Fortenberry Road with this increase of vehicles, and the loss of frontage signage for Harbor Woods; there has been nothing she has heard spoken about this and how it is going to impact people finding them in the development; the increase of noise from the property, increase of carbon monoxide and pollutants from all of these vehicles, the destruction and decrease of vegetation for migrating birds, and wildlife; and aesthetically, this will be an eyesore for anyone who has appreciated a park like setting on the north side of the Harbor Woods property, where some lived for decades. She stated there is a gentleman by the name of Paul D'Arelli, listed as the registered agent for the SES Merritt Project Zenith, LLC, who heads up zoninglawgroup.com, where he has a case study that begins on page 13, which states in part "a community relations strategy to help the neighbors embrace as positive is essential; in some cases, no amount of design accommodation will pacify the neighbors, but a financial contribution to a homeowners association to help them meet an unfunded need or participation in delivering other off site improvements or amenities of importance to the neighborhood can go a long way toward overcoming neighborhood concerns"; and she objects to this project 100 percent, not only as it stands, but even if the waivers are approved, as this is not something she wants in her backyard.

Ryan Jordan stated he is really concerned about this proposed building complex with 370 units being right in the area; he moved to Merritt Island because he really enjoyed the family aspect of it and the smaller neighborhoods and people who are really in tune with the neighborhood; he believes the complex will increase traffic, which is already pretty bad in the area; it is going to have a huge impact in draining and it could potentially increase crime; and he asked sincerely for the Board to consider this and think about how it can be improved and think about the concerns and opinions of the neighborhoods around the area.

Becky Kennedy stated she has owned property in the Bel Aire subdivision for over 20 years; it is a very calm and peaceful place; she walks Fortenberry Road and Plumosa Street daily with her dog and enjoys the peace and safety; the additional traffic will take away from that peace and safety; earlier in her life, she lived in Houston, Texas, and Santa Clara, California, so she knows what congestion is and how loud it can get; if the complex is built, there will be

Courtenay Parkway on one side of her neighborhood and the apartment complex on the other; and they will be in a noise sandwich and it is not fair. She added she moved to Merritt Island to avoid congestion and the added traffic, as the congestion makes her worry for her current lifestyle and safety; she noticed there is nobody present from Merritt Ridge, which butts up against Bel Aire subdivision, just south of her, and they have a bigger flooding issue than she does; it is a serious condition; she does not want this to come to fruition; and she knows Merritt Island needs to grow, but she does not think this is the way it wants to grow. She went on to say she does not think it wants to integrate five story apartment complexes on their little island and take away from their lifestyle.

Brian Bell stated he and his wife have lived in the neighborhood for 15 years, and in Brevard for 25 years; he asked the Board to deny the rezoning request for these parcels for all of the reasons that have already been heard, and then some; people look to the community leaders to make good decisions about the quality of their lives; let him share his neighborhood and the scene in his neighborhood in Bel Aire on Andros Drive, which has been heard from the others; when it rains hard, they walk out into the street and their driveways are backed up with water between knee deep and waist deep with the whole street in both directions as far as one can see is this river of still water; and they are afraid to drive their cars through it and crack the engine block. He went on to say the sidewalk in front of his home has a construction barrier that has been there almost two years; it was put up for refurbishing the sidewalk that has irregularities to the point where people cannot walk on it; they have to walk on the street to have a smooth and safe walk; they called the County and asked them what is the deal with the barricades, and the County responded that is a project that we lost the rest of the funding for and to not expect a completion for that; and in the meantime, the hurricane comes through and they have to go out and get the heavy metal barricades off the sidewalk, bring them into their home to protect them, because their money paid for them, and they do not want them whirling through the neighborhood, damaging their properties. He added that this is the quality of life that in their late 60's, he and his wife have to live day in and day out from their nice sleepy, quiet, peaceful neighborhood of Bel Aire; on one side of them is SR 3, which narrows down into one lane, and there is where the turn is to Carib Drive, the entry way into the Bel Aire subdivision; there is a commercial project that was completed on the right side of the road, the west side of SR 3, just as the road narrows into one lane, with no regard to ingress or egress in or out of this commercial property; the lanes were not modified at all to allow traffic to go in and out of this commercial property, yet everybody has to stop for someone turning left into his community; and on the other side of his community is the only other entryway, which is going to be subject to all of the additional traffic of this newly proposed apartment complex. He asked if he was correct in understanding there is 20 percent Section 8 housing built into this; he hopes the Board will make good decisions that their neighborhood will have to live with for many, many years to come; they are not in favor of this; he belongs to the East Merritt Island Homeowner's Association and they are organizing to retain legal counsel to pursue this if the Board decides to go along with the proposal; it is not a healthy change for them and he has to say that they all like progress, but no one seems to like change; and they get it, but this is not a good move.

Chair Pritchett commented she wanted to assure that whatever is done tonight will be legal.

Ms. Rezanka responded to Mr. Bell that these are luxury apartments, not Section 8 housing, and no set asides for affordable housing of any shape or form; she explained, as she and the Board knows, the applicant is not asking for a variance, as it is not something out of the ordinary; the PUD allows for flexibility and asks for these waivers; they are not asking for waivers to height, or set back; they are asking for waivers to an entrance way so there are not more entrance ways on Fortenberry Road; they could have two on Fortenberry Road one on

Plumosa Street, which might impact a wetland, but the idea is not to impact Plumosa Street at all, which is where Bel Aire and Merritt Ridge enter onto; the PUD encourages and permits variations in development by allowing deviations; and waivers and deviations are the same, as the Board knows. She added the applicant is asking for two deviations, one to the access and the other to the open space; there is 4.45 acres of open space, not one acre as Ms. Wilk stated; they are asking for a 1.1 variance to open space in order to save the wetlands and also because of the Veteran's Park; the Veteran's Park was developed for more than just the Park, as it was to take all the stormwater from SR 520, as she is sure the Board is aware of because it was sitting here through that process; there is capacity there, and if that does not work, the conditions require them to change the Plan, make it less dense, and put stormwater on site; and the intent was to allow stormwater to go to that process. She stated all that has been heard regarding traffic, emergency, or what belongs to the County, as there is no vacant strip of land, it all belongs to the County, this is something that has to go through the site plan, final development plan, and the County will review all this; they will meet the Codes, ask for the two deviations, and meet performance standards; the condition two, which the applicant has no problem with, was to depict three entrances, yet P&Z only asked for two entrances; and condition six was to provide an updated BDP correcting the waivers, which they have done. She continued by saying they have no problems with the Board approving all of the conditions to make it simple; they have met what the Code requires and asked for two deviations; she asked that the Board approve the rezoning, approve the Preliminary Development Plan (PDP) with the waivers as requested, and removal of two BDP's; the two BDP's were for a golf course or a skate park and for those commercial uses only; and she asked for any questions.

Chair Pritchett asked Ms. Rezanka if she understood the staff's seven conditions they want to make.

Ms. Rezanka replied they are fine with them and have already met two of them; and one of them is not appropriate; and if the waivers are granted to two accesses, then that condition two does not make sense.

Chair Pritchett remarked that is good because staff is going to help make this project.

Ms. Rezanka stated if the Board approves the waivers, with one of them being to the two access points instead of three, then that would be unnecessary.

Commissioner Goodson asked about Bel Aire presently flooding and where the water goes to, which ditch does it go to.

John Denninghoff, Assistant County Manager, replied Bel Aire drains through a ditch system and pipes and goes into the alum pond, which is located south of the proposed project and west of the Veteran's Memorial Park.

Commissioner Goodson asked if this is built and they retain their water on site, will it correct the flooding in Bel Aire.

Mr. Denninghoff replied it will not.

Commissioner Goodson stated Bel Aire was built prior to retention ponds, as it was built in the 60's; the builders have got to follow St. Johns River Water Management and the County, and they are not going to be able to put water back on Bel Aire; and he asked if that was correct.

Mr. Denninghoff replied that is correct.

Commissioner Goodson remarked he would like to motion for approval, as long as they follow the Code and water does not come back on Bel Aire.

Chair Pritchett asked if he was good with putting the seven staff conditions that they are agreeing to on the PUD and removal of the two existing BDP's.

Commissioner Goodson replied yes.

Attorney Richardson asked if he is including approval of the two requested waivers, the waiver to the open space requirement and the waiver to the three access requirement.

Commissioner Goodson responded his motion would do the three-access requirement; and for the waiver for the green space, he would like for them to do everything possible to meet that waiver (inaudible).

Chair Pritchett mentioned on the Agenda, she thinks it is broken down to just asking for items three and four; and she asked Ms. Rezanka if that is correct.

Ms. Rezanka stated they are requesting approval of the PUD, approval of the PDP with the two waivers, one for an access and one for the open space of 5.5 acres required to allow for a waiver of 1.1 acre for a total of 4.4 acres; and the staff has requested eight conditions, one of those conditions is that they give a PDP with the right waivers; and one is that they depict three entrances on the County roadway but they have only depicted two because P&Z only recommended two.

Commissioner Goodson remarked his motion would include those two waivers.

Chair Pritchett stated she knows this project does not include any workforce housing, but that would have made it a little bit sweeter, because the Board is working very hard on that; people say Section 8, this is just young families having a hard time; they are not bad people; and she is always in favor of that as the County helps young families find safe living.

The Board approved the request from NDA Merritt Project Zenith, LLC, and SES Merritt Project Zenith, LLC, for a change of zoning classification from BU 1 and BU 2 with two existing BDP's, to PUD and removal of two existing BDP's as recommended, with the following two waivers and eight conditions: 1.) A waiver from Section 62 1446(c), to allow a 1.1 acre reduction to open space. Required open space may be satisfied by either active recreation or passive recreation open space, as defined in Section 62 1102; 2.) A waiver from Section 62 2957(c)(1), to allow a reduction of the number of access points from three to two. Conditions: 1.) Prior to site plan approval, the applicant shall demonstrate the site has the ability to use the alum pond/regional stormwater system. Should the site not be able to use said pond, site shall be redesigned to accommodate on site retention, as required by the Code of Ordinances of Brevard County, Section 62 3751, Exhibit A – Stormwater Management Criteria as well as the St. Johns River Water Management District; 2.) Prior to site plan approval, the applicant shall depict three entrances connected to the County roadway system on the PDP, as required per Section 62 2957(c)(1), if the waiver is not granted; 3.) If the waiver is not approved, the applicant shall depict a minimum of 5.55 acres of Common Recreation Open Space on the approved site plan, as required per Section 62 1446(c) and meeting the definitions in Section 62 1102; 4.) Prior to site plan approval, applicant to provide a traffic study demonstrating any necessary roadway improvements based on anticipated traffic volumes; 5.) All design elements shown on the PDP require conformance with Brevard County Code and

requires permits; 6.) Provide an updated PDP depicting the correct waivers granted; 7.) Should any of the aforementioned redesign be deemed a substantial change by the zoning official, a PDP Amendment would require Board approval; and 8.) To allow one main access point from Harbor Woods Boulevard, and one secondary access point from Fortenberry Road.

Result: APPROVED

Mover: Tom Goodson

Seconders: Kristine Zonka

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

H.7. Ronald Abbott; Abbott Manufactured Housing, Inc. (Kelly Hyvonen) requests a change of zoning classification from BU-1 with an existing BDP, to BU-2 and removal of existing BDP. (22Z00060) (Tax Account 3010400) (District 3)

Commissioner Tobia stated he would like to give Ms. Hyvonen the opportunity to convey what she heard from her client.

Kelly Hyvonen stated she appreciated the opportunity to give her a chance to discuss this case with her client; and they find the request and the recommendation of the Planning and Zoning board to be acceptable.

The Board approved the request from Ronald Abbott, Abbott Manufactured Housing, Inc. of changing the zoning classification from BU 1 with an existing Binding Development Plan (BDP), to BU 2 with removal of the existing BDP, adding a new BDP retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only.

Result: APPROVED

Mover: John Tobia

Seconders: Kristine Zonka

Ayes: Pritchett, Goodson, Tobia, Feltner, and Zonka

L.7. Rita Pritchett, Commissioner District 1, Chair

Chair Pritchett mentioned Nathan Slusher came to her office and mentioned Robert Klimkowski has moved out of the area; she wanted the Board to be aware of that; County staff is looking into it; and the Board may need to pick a new representative for the affordable housing board.

Commissioner Feltner stated he spoke with him a few days ago and he did not mention that; and he offered to reach out to him.

Upon consensus of the Board, the meeting adjourned at 6:31p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

RITA PRITCHETT, CHAIR

BOARD OF COUNTY COMMISSIONERS

BREVARD COUNTY, FLORIDA