

Brevard County Board of County Commissioners

*2725 Judge Fran Jamieson Way
Viera, FL 32940*



Minutes

Thursday, May 4, 2023

5:00 PM

Zoning

Commission Chambers

A. CALL TO ORDER 5:04 PM

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

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.

C. PLEDGE OF ALLEGIANCE

Commissioner Feltner led the assembly in the Pledge of Allegiance.

D. MINUTES FOR APPROVAL

The Board approved the minutes from April 4, 2023, Regular Meeting.

Result: APPROVED

Mover: John Tobia

Seconder: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

E.1. Resolution, Re: Recognizing the Town of Malabar Town Manager, Matthew Stinnett, and the Town of Malabar Town Council.

Commissioner Tobia read aloud, and the Board adopted Resolution No. 23-039 recognizing the Town of Malabar Town Manager, Matthew Stinnett, and the Town of Malabar Town Council.

Commissioner Tobia stated he wanted to point-out why he put this on Matthew Stinnett, Town of Malabar Manager; he tirelessly worked between not only his Town Council, but many members of the Board of County Commissioners and County staff; he dealt with countless elected officials and did it far better than he himself could have; he did not think that Chapter 164 was going to be successful; he thinks Mr. Stinnett made the suggestion long before, that the parties needed to meet prior to that; and he thinks it would have been hashed-out. He expressed his thanks to Mr. Stinnett and stated he is an asset to Brevard County as well as the

Town of Malabar.

Chair Pritchett reiterated what Commissioner Tobia said; Mr. Stinnett had to handle the Board; she mentioned Commissioner Tobia is correct, as she cannot imagine trying to handle so many elected officials; she stated the Mayor did a great job and their council was delightful; and it was a very good process and she appreciates them.

Mr. Stinnett stated challenging decisions have to be made by elected officials on both sides and unfortunately, this was a conflict that was very important to a lot of very diversely opinionated residents, users, and interest groups; all of them listened to people across the County and eventually came to an agreement that does its best to serve the public's needs; and he thanked the Board and staff for their time as well.

Result: ADOPTED

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

F.1. Final Plat and Contract Approval, Re: Village 2 Center

Developer: The Viera Company District 4

The Board granted final plat approval and executed the final plat and contract for Village 2 Center – Developer: The Viera Company.

Result: APPROVED

Mover: Tom Goodson

Second: Rob Feltner

G. PUBLIC COMMENTS

Sandra Sullivan mentioned that today is The Day of National Prayer and she does a prayer for good decision making in the County each and every time she is present, not just on The National Day of Prayer; she is very concerned about transparency and accountability, which are critical for ensuring good governance in the public sector; transparency is unquestionably required for accountability; transparency and accountability are linked and mutually beneficial and they create trust; and it is very much of a concern to her when public comments are impeded upon by the County. She added in March there was a change to Policy BCC-97 that took away one of the public comments sections at the end of the meeting to the beginning; a person can only choose one or the other, so it is not like a person gets to speak twice and really does not matter; but if someone is coming from work at 5 p.m. and is present right after consent and public comment is done, they have missed their time to speak; and they may have obligations or get caught in traffic so they cannot be present sooner. She was very, very concerned when she read what was coming up next Tuesday, taking it a step further; the Board was not only going to restrict public comments to one time, but now are putting it to the end of the meeting after Board reports, and not record it; she wanted to put it out there to the Board; she asked if it smelled like what happened with the School Board and if the Board remembered the backlash by the public with that; and she asked if the Board does not think there is going to be a pushback from the public when it does not record the public and public comments. She further stated the board reports, which the County Manager has the authority to put things on the Agenda about cancelling the Budget Workshop and it is said that it is just a conflict on one of the Commissioner's schedule, but then it is never rescheduled; there was never an intention to reschedule it; when things like that come up, there is no transparency on the budget; then it goes to, why would the Board want to restrict transparency and accountability; the Board is supposed to be tenants of good government, to have accountability and transparency; and she

is just telling the Board she cannot even comprehend this.

Steven Ellison stated he is present to use the three minutes of public comment time that he is allowed; he understands the Chair can extend that if required, and she can cut him off at three minutes, but he will not be done; he is not present to dispute zoning staff's interpretation of regulations, he is present to dispute a process that put him in a name change rezoning to satisfy a Future Land Use requirement; he and his wife moved to Florida in July after being stationed twice at MacDill Homestead in the Air Force; she graduated from Palm Bay High School and grew up here; and a couple of months later, they purchased what they thought was going to be their dream lot, right on the Indian River, with the intention of building their forever retirement home there. He added the lot was real low so they applied for a retaining wall permit to secure the building pad, which was approved about a year ago; County zoning staff mentioned the RU-17 zoning specifically in the comments, as it dealt with setback and wall height, with no comment of a Future Land Use incompatibility; he is building an insulated concrete form house with polystyrene sides filled with concrete and rebar, as hurricane season would be a disaster if a wind event came through; they waited until February, applied for a permit, and found out that they were inconsistent with the Future Land Use; and they had ensured they were zoned properly when purchasing the lot, like anyone would, and had no idea about Future Land Use. He stated back in 1988 when the County designated the entire area RES 2, with some exceptions for RES 4, everybody is non-conforming in the entire area; nothing was done to fix it; the solution was administrative rezone, maybe administrative action waivers, maybe a variance, he did not know; he was told pretty much, the only solution for an unbuildable lot in any capacity was a regular rezoning, not an administrative rezoning; and the issue is the rezoning is a name change, looking at the descriptions, there are only two uses that were excluded in the new zoning, and they do not gain any new uses.

Chair Pritchett asked what district he is in.

Mr. Ellison replied three.

Chair Pritchett remarked it would be an advantage for him to see his Commissioner and spend a little time so that process can get a little bit ahead than when he comes to the Board.

Commissioner Tobia stated this applicant has done a great deal of time putting together these slides; unfortunately, given the schedule and the legal requirements that are statutory, as well as the well-established practice of taking zoning matters at zoning meetings, going through the process right now that will give Mr. Ellison some remedy the regular way is more expeditious than any of the four or five options that legally, he weighed-out; some of the things he wanted would have to be advertised and the Board could not do even if it wanted to; he reiterated this stuff can and will be handled, as he thinks most of what he is asking is not very unreasonable; but coming before the Board asking for a decision to be made without advertising or going through the process, is probably a bit unfair; and some of the suggestions are directly in conflict with statutes. He added he expects to see him back up here in July; and he is excited about this project, as he thinks that there is a lot of positive that is coming of it.

Mr. Ellison replied he would see the Board in two months.

H.1. Lake Geneva Group, LLC (Bruce Moia) requests a change of zoning classification from PIP and BU-2, with an existing BDP, to all BU-2, retaining the existing BDP; and a CUP for Overnight Commercial Parking. (23Z00014) (Tax Account 2411749) (District 2)

Chair Pritchett called for a Public Hearing on a request from Lake Geneva Group, LLC for a

change of zoning classification from PIP to BU-2, with an existing BDP, to all BU-2, retaining the existing BDP; and a CUP for overnight commercial parking.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.1. is being tabled to the July 13, 2023, zoning meeting.

Result: CONTINUED

H.2. Rebecca and Allen Potter request a change of zoning classification from RR-1 and AU to all AU. (23Z00011) (Tax Account 3006359) (District 3)

Chair Pritchett called for a Public Hearing on a request from Rebecca and Allen Potter to change the zoning classification from RR-1 and AU to all AU.

Jeffrey Ball, Planning and Zoning Manager, stated Rebecca and Allen Potter request to change the zoning classification from RR-1 and AU to all AU; the application number is 23Z00011; and it is located in District 3. He added this Item is also being tabled to the July 13, 2023 meeting.

Result: CONTINUED

H.3. Mehran Ghaeenzadeh (Scott Glaubitz) requests a change of zoning classification from BU-1 with an existing BDP to BU-2 and removal of existing BDP. (23Z00007) (Tax Account 2800735) (District 5)

Chair Pritchett called for a Public Hearing on a request from Mehran Ghaeenzadeh to change the zoning classification from BU-1 with an existing BDP to BU-2 and removal of existing BDP.

Jeffrey Ball, Planning and Zoning Manager, stated Mehran Ghaeenzadeh requests a change of zoning classification from BU-1 with an existing BDP to BU-2 and removal of existing BDP; the application number is 23Z00007; and it is located in District 5. He added this Item is also being tabled to the July 13, 2023 meeting.

Result: CONTINUED

H.4. 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 Account 3030132) (District 1)

Chair Pritchett called for a Public Hearing on a request from Austin A. and Kailey R. Mahan for a Small Scale Comprehensive Plan amendment to change the Future Land Use designation from NC to CC.

Jeffrey Ball, Planning and Zoning Manager, stated he would read both H.4. and H.5. into the record simultaneously, as they are companion applications; discussion can be had on both the Items, however, the Board will need to provide separate votes on each of them; Item H.4., Austin A. and Kailey R. Mahan request a Small Scale Comprehensive Plan amendment to change the Future Land Use designation from NC to CC; application number is 22SS00013, located in District 1; Item H.5., Austin A. and Kailey R. Mahan request to change the zoning classification from AU to BU-2; and application number is 22Z00054, located in District 1.

Chair Pritchett stated this is a good project and it is in her district; and she asked for a motion.

The Board conducted the public hearing and adopted Ordinance No. 23-07, setting forth the twenty-first Small Scale Comprehensive Plan Amendment of 2022, 22S.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), entitled the Future Land Use Map 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: Rob Feltner

Seconders: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.5. Austin A. and Kailey R. Mahan request a change of zoning classification from AU to BU-2. (22Z00054) (Tax Account 3030132) (District 1)

Chair Pritchett called for a Public Hearing on a request from Austin A. and Kailey R. Mahan for a change of zoning classification from AU to BU-2.

Morris Richardson, County Attorney, asked for a clarification; the recommendation of the Planning and Zoning Board on that one was for approval of the zoning with a BDP retaining all BU-1 uses, limiting the BU-2 usage to kayak storage only, and limiting egress only to E.R. Smyth Drive with ingress and egress to U.S. Highway 1; and he asked if that was included as part of the motion.

Chair Pritchett replied yes, she missed that; and she asked Commissioner Feltner if he was good with that.

Commissioner Tobia remarked his second holds.

Commissioner Feltner replied his motion holds as well.

Attorney Richardson asked if the applicant was in favor of that and agrees to those conditions on the BDP and understands them.

The applicant responded affirmatively.

The Board conducted the public hearing and approved the request to change zoning classification from AU to BU-2 with a BDP retaining all BU-1 uses, limiting the BU-2 use to kayak storage only; and limiting egress only to E.R. Smyth Drive, with ingress and egress to U.S. Highway 1.

Result: APPROVED

Mover: Rob Feltner

Seconders: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.6. Matthew and Christine Morak request a change of zoning classification from AU to RR-1. (23Z00010) (Tax Account 2004738) (District 1)

Chair Pritchett called for a Public Hearing on a request from Matthew and Christine Morak for a change of zoning classification from AU to RR-1.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.6. is a request from Matthew and Christine Morak for a change of zoning classification from AU to RR-1; application number is 23Z00010; and it is located in District 1.

Chair Pritchett stated this is her district and there is no BDP on this one; and she is good with it.

The Board conducted the public hearing and approved the request of changing zoning classification from AU to RR-1 for Matthew and Christine Morak.

Result: APPROVED

Mover: Rob Feltner

Seconders: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.7. Melanie Rondeau and Zakry Corter request a change of zoning classification from GU to RRMH-1 (22Z00056) (Tax Account 2000693) (District 1)

Chair Pritchett called for a Public Hearing on a request from Melanie Rondeau and Zakry Corter for a change of zoning classification from GU to RRMH-1.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.7. is a request from Melanie Rondeau and Zakry Corter for a change of zoning classification from GU to RRMH-1; application number is 22Z00056; and it is located in District 1.

The Board conducted the public hearing and approved the request of changing zoning classification from GU to RRMH-1 for Melanie Rondeau and Zakry Corter.

Result: APPROVED

Mover: John Tobia

Seconders: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.8. Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and RES 4 to CC. (22SS00017) (Tax Accounts 2400694, 2400695, 2400696, 2400697, 2400698, & 2400700) (District 1)

Chair Pritchett called for a Public Hearing on a request from Terrance P. and Peggy A. Mulreany for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and RES 4 to CC.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.8. and H.9 are companion applications and he will read them into the record together, however there will need to be separate motions for them; Item H.8. is a request by Terrance P. and Peggy A. Mulreany requesting a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC and RES 4 to CC; application number is 22SS00017; and it is located in District 1. Item H.9. is a request by Terrance P. and Peggy A. Mulreany to change its zoning classification from GU to BU-2; application number 22Z00073; and it is also in District 1.

The Board conducted the public hearing and adopted Ordinance No. 23-08, setting forth the twentieth Small Scale Comprehensive Plan Amendment of 2022, 22S.20, 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), entitled the Future Land Use Map 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: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.9. Terrance P. and Peggy A. Mulreany (Kelly Hyvonen) request a change of zoning classification from GU to BU-2. (22Z00073) (Tax Accounts 2400694, 2400695, 2400696, 2400697, 2400698 & 2400700) (District 1)

Chair Pritchett called for a Public Hearing on a request from Terrance P. and Peggy A. Mulreany for a change of zoning classification from GU to BU-2.

The Board conducted the public hearing and approved the request of changing zoning classification from GU to BU-2 for Terrance P. And Peggy A. Mulreany.

Result: APPROVED

Mover: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.10. Norman Leigh Sherman, Jr., and Karen Denise Turowski request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from AGRIC to RES 1:2.5 on 3.4 acres, and AGRIC to RES 1 on 1 acre. (22SS00014) (Tax Accounts 2002089 & 2002090) (District 1)

Chair Pritchett called for a Public Hearing on a request from Norman Leigh Sherman, Jr. and Karen Denise Turowski for a Small Scale Comprehensive Plan amendment to change the Future Land Use designation from AGRIC to RES 1:2.5 on 3.4 acres, and AGRIC to RES 1 on 1 acre.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.10. is a request from Norman Leigh Sherman, Jr. and Karen Denise Turowski for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from AGRIC to RES 1:2.5 on 3.4 acres, and AGRIC to RES 1 on 1 acre; application number is 22SS00014; located in District 1; also Item H.11. is the companion rezoning application for Norman Leigh Sherman, Jr. and Karen Denise Turowski to request a change of zoning classification from RRMH-1 to AU; application number is 23Z00016; and it is located in District 1.

The Board conducted the public hearing and adopted Ordinance No. 23-09, setting forth the eighteenth Small Scale Comprehensive Plan Amendment of 2022, 22S.17, 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), entitled the Future Land Use Map 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: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.11. Norman Leigh Sherman and Karen Denise Turowski request a change of zoning classification from RRMH-1 to AU. (23Z00016) (Tax Account 2002089) (District 1)

Chair Pritchett called for a Public Hearing on a request from Norman Leigh Sherman, Jr. and Karen Denise Turowski for a change of zoning classification from RRMH-1 to AU.

The Board conducted the public hearing and approved the request of changing zoning classification from RRMH-1 to AU for Norman Leigh Sherman, Jr. and Karen Denise Turowski.

Result: APPROVED

Mover: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.12. David D. Ramage and Cynthia R. Ramage Trust (Jack Kirschenbaum) requests a change of zoning classification from BU-1 to BU-2. (23Z00006) (Tax Account 2103340) (District 1)

Chair Pritchett called for a Public Hearing on a request from David R. Ramage and Cynthia R. Ramage Trust for a change of zoning classification from BU-1 to BU-2.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.11. is a request from David R. Ramage and Cynthia R. Ramage Trust for a change of zoning classification from BU-1 to BU-2; application number is 23Z00006; and it is located in District 1. He added for the Board clarification, the Planning and Zoning Board has recommended a BDP to limit to BU-1 uses and RV and boat storage to the rear.

Chair Pritchett asked the applicant if they were agreeable to the conditions.

Jack Kirschenbaum replied affirmatively; he pointed-out there was a little sliver of property that was in the contract, but through an anomaly between his office and Chair Pritchett's staff, was not advertised; it was not staff's problem, it was his problem; he is going to meet with staff tomorrow and apply for the rezoning of the sliver that was not included; and he just wanted to advise the Board of that.

Chair Pritchett remarked she is so sorry; she asked staff if was alright to approve this tonight without the sliver; and she asked if Mr. Kirschenbaum was good with the BDP as well.

Staff replied affirmatively.

Mr. Kirschenbaum replied yes.

The Board conducted the public hearing and approved the request of changing zoning classification from BU-1 to BU-2 with a BDP retaining all BU-1 uses, limiting the BU-2 use to a mini warehouse with outdoor RV and boat storage only, and limiting the storage of RV's and boats to the rear of the property for David D. Ramage and Cynthia R. Ramage Trust.

Result: APPROVED

Mover: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.13. Ranger Storage, LLC (Jim Trauger) requests an amendment to an existing BDP in a BU-2 zoning classification. (23Z00009) (Tax Account 2601558) (District 4)

Chair Pritchett called for a Public Hearing on a request from Ranger Storage, LLC for an amendment to an existing BDP in a BU-2 zoning classification.

Jeffrey Ball, Planning and Zoning Manager, stated Item H.13. is a request from Ranger Storage, LLC for an amendment to an existing BDP in a BU-2 zoning classification; application number is 23Z00009; and it is located in District 4. He added the Planning and Zoning recommendation included a BDP to limit the indoor storage of RV's; and the proposed BDP includes that as well as the ability to have boats.

Commissioner Feltner stated he is fine with it; but there is a card from one of the neighbors.

Robert Usherson stated if the BDP provides us...he thinks he saw in the online agenda materials, BU-1 uses and the only BU-2 use would be the indoor storage of boats and RVs; he is very thankful the condition was added to the BDP that was not there when they first appeared before the planning board; he assumes the other standards of the BU-2 district apply and not the general standards of the BU-1 district, since it is in a BU-2 zone with a BDP; and he asked if that was a clear understanding.

Mr. Ball replied that is correct; the property already has BU-2 zoning so the BDP would limit the uses to all BU-1 uses, and the indoor storage of RVs and boat storage only if the Board decides to approve that request with the BDP.

Mr. Usherson asked if the standards of the BU-1 district would apply and only the one BU-2 use would be allowed, or the standards of the BU-2 district apply.

Mr. Ball replied the standards of the BU-2 would apply, however the uses would be limited to what is approved in the BDP.

Mr. Usherson remarked he is present on behalf of his Homeowner Association President as well, and they no longer object to this application, as they did that; the one point that he wants to stress is this area is about 100 acres which has one outlet through the intersection of Welty Road and Wickham Road, a two-lane undivided street collector with very little clearance time; it has a very long cycle time, and no opportunity for the County to add clearance time because there are other signalized intersections very close by; this area begs for some planning so that these 90 acres that are going to be carpeted with many warehouses, with hundreds of businesses in there; and the BU-2 zoning district that currently applies, without BDP's, is going to create a jam session trying to get out of there. He added it really needs to be planned, and frankly, a zoning overlay would be appropriate to strip-out some of the more noxious uses; there is a range of uses that would be fine; there is a host of uses that really should be stripped out, then people do not have to go to the Board with BDP's to limit uses; it could be a clean zone; and they could just come in and not have to go to hearing, they could go to staff to get their permits, with a lot less administration. He went on to say it begs some kind of cleanup of the zoning regulation that governs this area; also noisy uses like forklifts with beepers, his concern in the BU-2 zone, allows a 60-foot building; if it is boat storage, maybe they are going to put rack storage up in there with forklifts with beepers all hours of the day and night; these are little details that can get cleaned up with a good clean zone that would be compatible with the adjacent neighborhood and still allow a lot of liberal business; but it really begs some traffic calculation to back into what the FAR and the total use should be in here for people to clear out of that one quick light without filtering through his little, tight, substandard Suntree neighborhood street, as he now sees more large trucks and trailers and things trying to escape

from that area. He stated it begs for some planning; he reiterated an overlay zone would be wonderful and applicants would not have to come in for BDP's, as they could go straight and get their permits and conformance with a cleaner zoning district standard.

Commissioner Feltner stated he would say to his friend from Suntree that he is aware of the traffic; he lives at Wickham Road and Pineda Causeway so he shares his concerns; he knows the neighborhood very well as he has friends there; he thinks ultimately this will be fine there for what Mr. Waelti wants to do; and he made a motion to include the BDP.

Chair Pritchett mentioned the person is not here for the BDP; and she asked if the Board was okay with approving it with a BDP.

Morris Richardson, County Attorney, addressed Jim Trauger, and asked if his client was in favor; he believes he actually submitted the draft BDP; and he opined that presumably the client is agreeable to the BDP.

Mr. Trauger remarked his client is fine with it; this is what he wants to do; and as soon as they get through the process, they are ready to work with staff and get this thing built.

The Board conducted the public hearing and approved the request for an amendment to an existing BDP retaining all BU-1 uses and limiting the BU-2 use to indoor RV and boat storage only in a BU-2 zoning classification.

Result: APPROVED

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.14. FMKT Mel Owner, LLC (Bruce Moia) requests a Small Scale Comprehensive Plan Amendment (23S.02), to change the Future Land Use designation from PI and CC, to all CC. (23SS00002) (Tax Account 3011945) (District 4)

Chair Pritchett called for a Public Hearing on a request from FMKT Mel Owner, LLC for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI and CC, to all CC.

Jeffrey Ball, Planning and Zoning Manager, stated Items H.14. and H.15. are companion applications but they will need separate votes; Item H.14. is a request from FMKT Mel Owner, LLC for a Small Scale Comprehensive Plan amendment to change the Future Land Use designation from PI and CC, to all CC; application number 23SS00002, located in District 4; Item H.15. is a request from FMKT Mel Owner, LLC for a change of zoning classification from BU-1 and BU-2, to PUD; application number is 23Z00008; and it is located in District 4.

The Board conducted the public hearing and adopted Ordinance No. 23-10, setting forth the second Small Scale Comprehensive Plan Amendment (23S.02) 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), entitled the Future Land Use Map 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: Rob Feltner

Second: Tom Goodson

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.15. FMKT Mel Owner, LLC (Bruce Moia) requests a change of zoning classification from BU-1 and BU-2 to PUD. (23Z00008) (Tax Account 3011945) (District 4)

Chair Pritchett called for a Public Hearing on a request from FMKT Mel Owner, LLC for a change of zoning classification from BU-1 and BU-2, to PUD.

Commissioner Feltner asked to clarify something; he made a note on Item H.13. to disclose that he talked to Mr. Hopengarten, from Planning and Zoning, briefly in his office; they talked in general terms about BDP's; and he thinks they were talking about Ranger Storage, so he wanted to make that clear.

The Board conducted the public hearing and approved the request of changing zoning classification from BU-1 and BU-2, to PUD for FMKT Mel Owner, LLC.

Result: APPROVED

Mover: Rob Feltner

Second: John Tobia

Ayes: Pritchett, Goodson, Tobia, and Feltner

H.16. Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. (22SS00016) (Tax Account 2412341) (District 2) This item has been withdrawn by the applicant. Letter received 04/20/23.

Chair Pritchett noted that Items H.16. and H.17. have been withdrawn.

Result: WITHDRAWN

H.17. Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP. (22Z00071) (Tax Account 24112341) (District 2) This item has been withdrawn by the applicant. Letter received 04/20/23.

This agenda item was withdrawn.

Result: WITHDRAWN

J.1. Legislative Intent and Permission to Advertise RE: Code Revisions to Planned Unit Developments (PUD)

Commissioner Tobia stated first of all, he wanted to answer a couple of questions as to why he is asking for this Legislative Intent, just because of the massive amount of staff time that will go into this; his understanding is that it is going to be more than 100 hours; and if the Board is against this, he does not want to put staff through this exercise. He added before he tells what this will do, he wants to tell what it will not do; for Planning and Development, it still will require staff review; staff will work with the applicant to assist in resolving any potential issues; and it still will be processed through the applicable workflow and go through multi-agency review, such as Planning and Development, Natural Resources, and Public Works if applicable, as well as senior staff review. He went on to say it will make no changes to procedures for courtesy notices, and at least two public hearings would still need to take place each time – one hearing for Planning and Zoning and one hearing for the Board; the question is, what is the benefit to a whole basic rewrite, even though it is called an amendment, it is basically a rewrite; amending Code would have benefits to a whole bunch of parties; so he will talk about the parties and

what the benefits would potentially be; and for developers there would be more flexibility and usability, and staff can discuss how taking three Planned Unit Development (PUD) classifications and putting them in one would accomplish that, based on some PUD applications that have been received very recently. He stated number two, a benefit for the Board, would greatly lessen the need for BDP's, as it is sometimes difficult for the Board when it negotiates or talks about BDP's at the last second; if the Board is rewriting the PUD, that could all be handled well-before it ever landed on a Commissioner's desk; number three, the public would be provided with more transparency and could see what is in the PUD before it got in front of the Board; there would be no need for BDP's, as that would all be hashed-out; and for staff, it creates a more unified Code with flexible standards across-the-board, instead of having three separate PUD sections to code. He stressed that none of this has been written right now; he has not provided any documents of suggested language of any significance to staff; the reason he is saying that this is important is because he would like this to be a collaborative process where any of the Board members that have had issues with PUD's and how to make them more flexible; he encouraged the Board members and their staff to get involved in the writing of this, as this is pretty substantial work; and he wants it to benefit all the districts. He added he is willing to answer basic questions on this because this is just the framework; he would be more than willing to punt this over to staff to discuss it in more detail; he reiterated this is just to get the Board's thoughts as to whether or not to move forward with this, before staff is asked to go through the whole process; and he stated he is open to questions or comments.

Tad Calkins, Planning and Development Director, remarked he thinks Commissioner Tobia summed it up pretty-well; he thinks that PUD is an underutilized zoning classification for this County; Mr. Usherson just talked about things that he felt were necessary; PUD could be a mechanism for applicants to look at that; he thinks that one of the few ones that the County has had is, in essence, folks coming in and doing variances to some of the development standards where if a PUD was established, one could look at those holistically and get a better idea of what the development was going to look like built out; one of his concerns with the Board is making sure that staff is doing an adequate job of giving it an idea of what it is going to be like when it builds; and he thinks this is a helpful application for that.

Commissioner Tobia reiterated that he would ask the Board members to get involved; he knows this sounds a little out there, but this would have a great impact near their districts, as they understand their districts better than his; and whether it comes to minimum size of a PUD, or what should or should not be allowed, he encouraged them to get with staff and the Board can come with a product that will have benefits, not for just one, but for all the districts.

Chair Pritchett mentioned she has learned if she gets with the wonderful staff and starts talking about her district, they will help with ideas of how to frame this for the district so that it will cause no harm and help greatly; and she appreciates staff's brains, as they are wonderful.

The Board granted legislative intent and permission to advertise amendments to Article VI, Subdivision V, Zoning Regulations regarding PUD zoning.

Result: APPROVED

Mover: John Tobia

Second: Rob Feltner

Ayes: Pritchett, Goodson, Tobia, and Feltner

K.6. Rita Pritchett, Commissioner District 1, Chair, Re: Board Report

Chair Pritchett stated in her district, there are almost 90 percent of the dirt roads and it is a real problem because most of the residents want them paved; when moving into a neighborhood, all the houses have already paid for their dirt roads so the County cannot really put it on every taxpayer to have to pave people's roads if they have not paid for them; what she is hoping to do is to put together an Municipal Service Taxation Unit (MSTU) to put on the ballot that will be specifically just for those areas; and if they want them paved, they can vote for it and the funds will go towards paying for their own roads. She added she wanted the Board to get their heads wrapped around this, as she is probably going to look at what to do for the Canaveral Groves taxpayers, and the Mims/Scottsmeer area; it will be up to them if they vote for it, then the County can work with them to do this; and if they do not, they will just have to remain dirt roads. She mentioned another item she wanted to bring up again is whether there has been a way found to obtain funds for lifeguards; she knows the Board is not allowed to directly use Tourist Development Council (TDC) funds, but if there is a way to pick-up some of that to open-up funds left for the lifeguards; because it is definitely a TDC project that should be there, but the County just cannot do it; she asked the Board for any ideas on how to fund the lifeguards; and if some of those funds are moved over, then it frees up General Funds to do that.

Morris Richardson, County Attorney, mentioned, for the record, he believes there might be a way to use Tourist Development Tax (TDT) for lifeguards, potentially, based on some changes in legislation since some older Attorney General opinions that are out there; and it is not set in stone, but he does not want to have the position out there that, definitively, it cannot be done, because he thinks there is a potential vehicle to do that under statute now.

Commissioner Goodson commented that as a Board, they should look at what cities are paying for lifeguards; his staff has been working on that for him; and some of them might partially subsidize one or two, then let all of it fall back on the County; yet they collect parking fees for the beach and stuff like that; he is not saying that the County cannot fund it or are not going to fund it, but it needs to look at all things; and the cities need to be involved too.

Chair Pritchett remarked she agrees, especially the ones charging parking fees.

Frank Abbate, County Manager, stated he is glad to hear Commissioner Goodson raise that issue; he can say that he will have a very comprehensive report within two weeks that will address all those issues, will provide a lot of data about what cities are doing in Brevard, as well as what is happening in various counties and cities throughout Florida; he thinks the Board will be very pleased with the report; and it will be submitted to the Board before the May 23, 2023, meeting.

Upon consensus of the Board, the meeting adjourned at 5:47 p.m.

ATTEST:

RACHEL M. SADOFF, CLERK

RITA PRITCHETT, CHAIR
BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA