

# **Brevard County Board of County Commissioners**

*Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida*



## **Minutes**

**Monday, November 9, 2020**

**3:00 PM**

**Commission Room**

## Call To Order

### Approval of Minutes - October 5, 2020

#### H. Public Hearings

- H.1.** Flor-Ohio requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 4 to NC. (20PZ00089) (Tax Account 2851597) (District 3)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)

Jack Spira, 5205 Babcock Street, Palm Bay, stated the property has been zoned BU-1-A since 1976; in 1988, the Comprehensive Plan was adopted and the property was given the RES 4 Future Land Use designation. His clients would like approval to change the designation back to Neighborhood Commercial to make the zoning consistent with the Comprehensive Plan.

No public comment.

Joe Buchanan asked if the change to the comprehensive plan was done the same time Melbourne Lakes was developed. Mr. Spira replied he does not know, but it is possible.

Mr. Buchanan asked how many units will be developed on the property. Mr. Spira replied two units.

Motion by Peter Filiberto, seconded by Ron McLellan, to approve the change of Future Land Use designation from RES 4 to NC. The motion passed unanimously.

**Result:** APPROVED

**Mover:** Peter Filiberto

**Seconded:** Ron McLellan

- H.2.** John Haley requests a change of zoning classification from RU-1-9 to RU-1-7. (20Z00025) (Tax Account 2611673) (District 4)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)  
[Public Comment](#)

John Haley, 1621 Bottle Palm Way, Melbourne, stated he lives immediately adjacent to the subject property to the south. He said he spoke to his neighbors about his project and they have no objections. He stated there used to be two residential structures and a garage on the property, and they have all been removed. He said he had concerns about the previous septic tank and has since had it removed and will replace it with the newer advanced septic system. He noted that his adjacent property was approved for oyster restoration and he imagines the subject property will be brought in as well, which will benefit the Indian River. He said the lot he lives on to the south is a 50-foot wide lot, which is what he is proposing for the subject property, two 50-foot wide lots for two houses.

No public comment.

Motion by Peter Filiberto, seconded by Ron McLellan, to approve the change of zoning

classification from RU-1-9 to RU-1-7. The motion passed unanimously

**Result:** APPROVED

**Mover:** Peter Filiberto

**Secunder:** Ron McLellan

- H.3.** Jason A. and Christina N. Spina request a change of zoning classification from GU and AU to all AU. (20Z00026) (Tax Account 2314129) (District 1)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)

Jason Spina, 5035 Pine St. Cocoa, stated he bought the property a couple of years ago, and the existing property he lives on is already AU and he would like to make both pieces AU.

No public comment.

Ron Bartcher asked if Mr. Spina plans on having commercial activities on the property. Mr. Spina replied no, he would like to have all five acres be zoned AU so he can have a large accessory structure.

Motion by Ron McLellan, seconded by Ben Glover, to approve the change of zoning classification from GU and AU to all AU. The motion passed unanimously

**Result:** APPROVED

**Mover:** Ron McLellan

**Secunder:** Ben Glover

- H.4.** Reid B. Hart and Gail Skinner-Hart request a change of zoning classification from GU to RR-1. (20Z00027) (Tax Accounts 2402986 and 2402987) (District 1)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)

Buchanan read aloud, and the Board approved

**Result:** APPROVED

**Mover:** Joe Buchanan

**Secunder:** Ron McLellan

- H.5.** Donald Minnick requests a change of zoning classification from AU and EU-2 with a BDP, to all EU-2 and removal of BDP. (20Z00028) (Tax Account 2112241) (District 1)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)  
[Existing BDP](#)

Donald Minnick, 1968 Turpentine Rd., Mims, stated he would like to rezone his property in order to make it buildable.

No public comment.

Jeffrey Ball noted changing the zoning does not make a lot buildable; there are other

regulations that would have to be met in order for the lot to be buildable. If approved, the zoning change would correct the split zoning currently on the property.

Ron McLellan asked about the BDP on the property. Mr. Ball explained the BDP contains stipulations about the open space for the nearby townhome development, and for some reason the subject property was platted as a separate lot, but the BDP does not pertain to the subject property.

Ron Bartcher asked if other properties with the golf cart path on them have easements. Mr. Ball replied the golf cart easement is a private matter, but he would not be able to place a structure in the easement.

Motion by Joe Buchanan, seconded by Ben Glover, to approve the change of zoning classification from AU and EU-2. The motion passed unanimously.

**Result:** APPROVED

**Mover:** Joe Buchanan

**Secunder:** Ben Glover

- H.6.** Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L). (20Z00030) (Tax Account 3008729) (District 3)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)  
[2019 Lazy River Draft BDP](#)

Laura Young, with the law firm of Dean Mead, 7380 Murrell Rd., Melbourne, stated she knows the board is familiar with the property, as this is the third time the applicant has been before the board in the last 18 months seeking to zone the property properly to be consistent with the current Future Land Use. Currently, the property is zoned RU-1-13, along with most of the properties in the area that were zoned prior to the 1988 Comprehensive Plan adoption, and is now inconsistent with the current Future Land Use, which is one unit per 2.5 acres. The requested AU(L) would make the property consistent with the Future Land Use, and it would be a down-zoning of the property from RU-1-13. She said in an effort to develop the property consistent with the surrounding residential properties, the applicant came before the board on two other prior occasions with zoning applications, both of which the Planning and Zoning Board approved. The first request was for a large scale comprehensive plan amendment to amend the Future Land Use from RES 1:2.5 to RES 1, with a BDP to preserve the development to be consistent with RES 1. She said the request was denied by the Board of County Commissioners, but if it had been approved it would have yielded approximately 20 lots on the property. She stated the second application was for a BDP to limit the property to eight units, and that was in an effort to address some of the concerns from the neighbors of the number of units on the property. That request for a BDP was also denied by the Board of County Commissioners. She said in working with staff, her clients are now seeking a zoning designation compatible with the current Future Land Use that would limit the site to eight lots, or 1 per 2.5 acres. The request is the first step in the process for development. Staff recommended either AU or AU(L), as they are compatible with the Future Land Use and consistent with the surrounding residential area. She said her clients chose the AU(L) zoning classification because it limits the type of agricultural uses by permitting only those that are of a personal, non-commercial, nature, which is more consistent with the residential uses in the area. The AU(L) zoning requires a minimum of 2.5 acres per lot, which is larger than many of the lot sizes that have been developed in that area because they were developed consistent

with the RU-1-13 zoning classification. The site faces other development challenges and it may be difficult to engineer the site to be able to yield eight lots, and AU(L) affords some flexibility for lot configurations.

Public comment.

Bruce Moia, MBV Engineering, 1250 W. Eau Gallie Blvd., stated he represented the property owners the last two times in front of the board. He said there are three ways to make the property buildable: one is to change the zoning; one is to change the Future Land Use; and one is a BDP. He said they tried all three and they did not get approved. He said this request is similar to the Item H.1. on the agenda. In 1988, the County adopted a Comprehensive Plan, and whatever the existing zoning was on property, whether it was consistent or not, the Comp Plan got adopted and the County said it was going to make everybody who owns property that is not consistent come in and ask for it to be consistent. The request to AU(L) will make the zoning consistent with the Comp Plan. He said this is the last way the property can be brought into conformance and it's the simplest.

Ben Glover clarified that this request is the least-dense option for the property that the board has heard.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-13 to AU(L). The motion passed unanimously

**Result:** APPROVED

**Mover:** Ben Glover

**Secunder:** Joe Buchanan

- H.7.** Watermark Investors, LLC (Bruce Moia) requests an amendment to an existing PUD. (20Z00032) (Tax Accounts 2317197, 2317198, and 3017165) (District 1)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)  
[Watermark PUD Submittals 10-15-20](#)

Bruce Moia, MBV Engineering, 1250 W. Eau Gallie Blvd., Melbourne, stated the project is a fairly large residential development on U.S. 1 and Camp Rd. He said when the PUD zoning approved they didn't have a lot of information, so after they got the zoning they got the tree surveys, topographical surveys, and environmental reports, and made a formal submittal to the County for subdivision review. Some of the comments in the review process uncovered some issues that were not addressed in the first approval, and one of those was that the number of units required three access points, not two. Today, there is an interested developer who wants to phase the project, and it was not phased in the original submittal. He said they also now know what kind of trees are on the property, so large preservation tracts have been made for those trees, thus reducing the lot count. He said they are not changing the size of the open space, but approximately half of it will be put into preservation because of the number of trees on the property, but there will still be active open space amenities, just condensed in a small area, so it is a reduction of what was previously approved. He stated they are also asking for two waivers, one for the open space, and one for the 15-foot perimeter buffer tract on the west end because there is an existing industrial driveway that encroaches onto the property. He said there was a comment from staff about making the third access for emergency only, but his clients would like it to be an open driveway so it will be available for everyone to use. He noted the request also includes a 40-foot minimum lot width.

Public comment.

Patricia Baxter, 5700 Friendly St., Cocoa, stated she received a courtesy notice in the mail, and she owns rental property on MacArthur Circle, which is between Camp Road and Broadway Blvd. She asked if what is being request will involve her property.

Mark Wadsworth stated property owners within 500 feet of the subject property are notified of the request. Ron McLellan stated the notice is to inform her of what it going on, but it will not affect her property. Ms. Baxter stated she does not have a problem with the request.

Mr. Wadsworth asked Mr. Moia to re-state the requests. Mr. Moia stated the requests are for 40-foot lot sizes, 15-foot perimeter buffer on the west end, and the active open space requirement from 5.5 acres to 2.6 acres. He said the County has a good preservation requirement, and it was cost prohibitive to clear out vegetation, so it was in their best interest to do more preservation.

Motion by Peter Filiberto, seconded by Ron McLellan, to approve the request with 40-foot lots, the 15-foot buffer waiver on the west end, the 5.5 acres to 2.6 acres for open space, and that the third access point be open to the public. The motion passed unanimously.

**Result:** APPROVED

**Mover:** Peter Filiberto

**Secunder:** Ron McLellan

- H.8.** Tropical Manor Holdings, LLC (Kenneth Metcalf) requests a change of zoning classification from RU-1-7 and RU-2-30 to RU-2-12 with a BDP limited to a maximum of 85 units. (20Z00033) (Tax Account 2417034) (District 2)

**Attachments:** [Administrative Policies of the Future Land Use Element.pdf](#)  
[Staff Comments](#)  
[GIS Maps](#)  
[Draft BDP](#)  
[Boundary Survey](#)

Kenneth Metcalf, 101 E. College Ave., Tallahassee, stated Tropical Manor is a 1950's Section 8 affordable housing project with 85 units. He said the property has split zoning; RU-1-7 only allows single-family homes at one unit per acre; most of the property is zoned RU-2-30, which allows 30 units per acre, and his client would like to make the multi-family use conforming by requesting RU-2-12. He stated there is a contract purchaser that has a HUD application in process to do some improvements, such as recreational amenities, and will add some parking spaces to improve the ADA compliance. He stated there was one letter of objection from someone who mistakenly thought there were going to be 85 units added to the property, but there will be no units added.

Mark Wadsworth asked how many units they are seeking. Mr. Metcalf replied they are not seeking any additional units, they are just requesting the rezoning to make the property conforming. He said his client has also agreed to a binding development plan that makes clear that the property will be maintained with only 85 units.

Joe Buchanan stated the project was approved for 127 units, but they were never developed. Mr. Metcalf replied that is correct, and there are only 85 units on the property.

Public comment.

Tom Doerr, 5470 Lovett Drive, Merritt Island, stated all of the homes in the area are nice homes on large lots. He said 85 units would be more than three times the amount of homes that are there. In addition, that is the headwaters for Sykes Creek, and all the additional septic tanks will drain into the Banana and Indian Rivers. He said the project will dilute the quality of living in the area.

Ben Glover stated from the aerial map, it looks like there are already people living on the property. Mr. Doerr stated there are not 85 units on the property. He further stated that all of the neighbors he spoke to object to the project.

Ron McLellan stated if the neighbors object, they should be at the meeting. He suggested the applicant meet with the neighbors to explain the project.

Ben Glover asked the applicant if there are 85 units on the property. Mr. Metcalf replied yes, there are 85 units currently on the property, and there will not be any units added. He stated the units are served by central wastewater facilities, so there will not be any septic tanks.

Motion by Peter Filiberto, seconded by Ben Glover, to approve the change of zoning classification from RU-1-7 and RU-2-30 to RU-2-12 with a BDP limited to a maximum of 85 units. The motion passed unanimously.

**Result:** APPROVED

**Mover:** Peter Filiberto

**Secunder:** Ben Glover

## **Public Comment**

### Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>