

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 14, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Brian Hodgers (D2); Lorriane Koss (D2 Alt); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Morris Richardson, County Attorney; Paul Body, Planner III; Trina Gilliam, Planner II; and Jennifer Jones, Special Projects Coordinator.

### Approval of the July 17, 2023, P&Z/LPA Minutes

Motion by Debbie Thomas, seconded by John Hopengarten, to approve the P&Z/LPA minutes of July 17, 2023. The motion passed unanimously.

### Samir and Ilham Itani Revocable Living Trust

A change of zoning classification from AU (Agricultural Residential) to EU-2 (Estate Use Residential). The property is 11.13 acres, located on the east side of Ford Rd., approx. 226 ft. south of Guil Dr. (No assigned Address. In the Titusville area.) (23Z00031) (Tax Account 2101052) (District 1) This item was withdrawn by the applicant. Letter received 08/09/23.

### Robert A. Kline

A change of zoning classification from GU (General Use) to AU(L) (Agricultural Residential, Low-Intensity). The property is 1 acre, located on the north side of Oneida St., approx. 960 ft. from Dakota Ave. (3600 Oneida St.) (23Z00042) (Tax Account 2404044) (District 1)

Robert Kline, 3600 Oneida St., Cocoa, stated he would like to rezone to AU(L) for the purpose of having a horse on the property. He explained, six years ago, his daughter started therapy riding and it has helped with her strength and confidence. She is now doing well independently, and he would like to have a horse on his property where she can help with its care.

John Hopengarten asked if there will be a shelter for the horse. Mr. Kline replied yes, there will be a small shed or pole barn.

No public comment.

Motion by Debbie Thomas, seconded by Ron Bartcher, to recommend approval of a change of zoning classification from GU to AU(L). The motion passed unanimously.

### SRR Property Investment, LLC (Brian Russo)

A change of zoning classification from RU-1-7 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial). The property is 0.50 acres, located on the north side of Atkinson St., approx. 290 ft. west of Clearlake Rd. (No assigned address. In the Cocoa area.) (23Z00039) (Tax Account 2423790) (District 2)

Brian Russo, 121 Arabian Court, St. Augustine, stated he would like to rezone to BU-1-A to build a professional office.

John Hopengarten asked if the building will be 2,500 square feet. Mr. Russo replied approximately, but he does not have a site plan yet. He stated the building will be single-story, Florida coastal design, with a metal roof and wrap-around porch. He said ideally, he would like to position the building as close to Atkinson Street as possible so the parking can be on the back of the property. The goal would be to have the property fenced on the east, north, and west side, with a 6-foot privacy fence.

No public comment.

Motion by John Hopengarten, seconded by Brian Rodgers, to recommend approval a change of zoning classification from RU-1-7 to BU-1-A. The motion passed unanimously.

**Daniel A. and Lindsey E. Alf** (Bruce Moia)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.53 acres, located on the north side of Aurora Rd., approx. 140 ft. east of Johnson Dr. (No assigned address. In the Melbourne area.) (23Z00045) (Tax Account 2719528) (District 4)

Bruce Moia, MBV Engineering, stated the applicant would like to have outdoor boat and RV storage. He explained the map he gave the board is the corridor of Aurora Road where there is a County enclave from Wickham Road to Stewart Road, and it shows how much BU-2 is in the area. [Mr. Moia distributed a map to the board. The map can be found in file 23Z00045, located in the Planning and Development Department]

Ron Bartcher asked if Mr. Moia would agree to a BDP that restricts the BU-2 uses to outdoor boat and RV storage only, and any BU-1 uses. Mr. Moia replied he can talk to his client, but he doesn't think there would be an objection.

Public comment.

Chris Duvall, 440 Thomas Drive, Melbourne, stated the notice she received in the mail made it seem like it would be retail, warehousing, and wholesale commercial, and she knows the owners have a commercial landscaping business. She said her only concern is that the entrance to Alton estates is not used as an entrance to the subject property.

Ben Glover asked if the residential neighborhood could be used as access under the current and proposed zoning.

Jeffrey Ball replied that would be up to the engineers unless the board puts a condition in a BDP that access would only be from Aurora Road.

Mr. Moia stated his client only intends to have access from Aurora Road, and a concrete block wall will be required across the rear property line, so there cannot be access to the subdivision.

Motion by Brian Rodgers, seconded by Debbie Thomas, to recommend approval of a change of zoning classification from BU-1 to BU-2. The motion passed unanimously.

**RNK Viera, Inc.** (Cliff Repperger)

A CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a PUD (Planned Unit Development) zoning classification. The property is 1.32 acres, located on the southeast corner of Lorkey Lane and Hennessy Place. (5475 Lorkey Ln., Melbourne) (23Z00050) (Tax Account 3024416) (District 4)

Cliff Repperger, 2101 Waverly Place, Suite 100, Melbourne, stated his clients are seeking a conditional use permit for alcohol for onsite consumption for Venezia Wine Bar.

No public comment.

Motion by Henry Minneboo, seconded by Brian Rodgers, to recommend approval of a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a PUD zoning classification. The motion passed unanimously.

**Thomas P. and Shannon Harmony**

A change of zoning classification from GU (General Use) to AU (Agricultural Residential) The property is 1.36 acres, located on the south side of Pluckebaum Rd., approx. 0.25 mile east of S. Range Rd. (2235 Pluckebaum Rd., Cocoa) (23Z00044) (Tax Account 2504668) (District 2)

Thomas Harmony, 2190 Rockledge Drive, Rockledge, stated they exchanged some property with a neighbor on Pluckebaum Road to make both lots easier to access and beneficial to each other. He stated they would like to change the zoning to AU because they board horses.

No public comment.

Ron Bartcher asked if Mr. Harmony would agree to rezone to AU(L), which is lower intensity and does not allow commercial uses. He stated eventually the property will belong to someone else and when that happens the zoning doesn't change, so if the property is zoned agriculture and the next owner wants to have chickens or hogs, the neighbors might object.

Ben Glover stated he does not believe AU(L) is necessary for the property.

Paul Body asked if the property is already being used for boarding horses. Mr. Harmony replied yes, it is. Mr. Body noted the boarding of horses would not be allowed in AU(L).

Motion by Brian Rodgers, seconded by Debbie Thomas, to recommend approval of a change of zoning classification from GU to AU. The motion passed unanimously.

**Island Cremations, Inc.** (Kent Bush)

A Small Scale Comprehensive Plan Amendment (23S.14) to change the Future Land Use designation from RES 6 (Residential 6) to CC (Community Commercial). The property is 0.25 acres, located on the southwest corner of S. Courtenay Pkwy. and Mark Ave. (415 S. Courtenay Pkwy., Merritt Island) (23SS00014) (Tax Account 2427231) (District 2)

**Island Cremations, LLC** (Kent Bush)

A change of zoning classification form RU-1-11 (Single-Family Residential) to BU-1 (General Retail Commercial). The property is 0.25 acres, located on the southwest corner of S. Courtenay Pkwy. and Mark Ave. (415 S. Courtenay Pkwy., Merritt Island) (23Z00054) (Tax Account 2427231) (District 2)

Paul Mazzone, 405 S. Courtenay Parkway, Merritt Island, stated he would like to change the zoning to make the subject property into a parking lot for the funeral home. He said the new lot would provide 14 to 16 new parking spaces which will allow more chairs inside the funeral home. He explained, much of the business is cremation, and they do 1,400 per year; no other funeral home in Florida does that many. He stated currently, he can only have 20 to 25 chairs in the chapel, and adding a parking lot on the subject property will allow more chairs. He added, a parking lot on the subject property will clean up the lot, which has been overgrown and currently has a pool on it that is sinking and has to be removed.

No public comment.

Motion by Henry Minneboo, seconded by Brian Hodgers, to recommend approval of a change of zoning classification from RU-1-11 to BU-1. The motion passed unanimously.

**Malcom R. Kirschenbaum** (Cole Oliver)

A Small Scale Comprehensive Plan Amendment (23S.15), to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial) to all CC. The property is 1.90 acres, located on the west side of S. Courtenay Pkwy., approx. 256 ft. south of Cone Rd. (No assigned address. In the Merritt Island area.) (23SS00015) (Tax Account 2501390) (District 2)

**Malcom R. Kirschenbaum** (Cole Oliver)

A change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) with an existing BDP, to BU-2 (Retail, Warehousing, and Wholesale Commercial), with removal of existing BDP, and adding a new BDP. The property is 1.90 acres, located on the west side of S. Courtenay Pkwy., approx. 256 ft. south of Cone Rd. (No assigned address. In the Merritt Island area.) (23Z00053) (Tax Account 2501390) (District 2)

Cole Oliver, 516 Delannoy Avenue, Cocoa, stated the purpose of the land use and zoning change with a BDP is to be able to use the property for interior boat and RV storage, and the reason for BU-2 is because there is a code requirement that there cannot be electricity in the individual units unless in BU-2 zoning. He stated people who store boats and RV's want to be able to plug in equipment to the triple chargers while keeping the vehicle's battery charged. He said the proposed BDP is for the one use of indoor boat and RV storage so the public will not be subject to all of the BU-2 uses. He said a landscape buffer is also proposed along the side of the property that abuts residential.

Public comment.

Michael McGraw, 60 N. Tropical Way, Merritt Island, stated he lives on the southwest side of the subject property. He said it is an issue of quality of life, and he wants to make sure the indoor storage facility doesn't turn into a body shop in the future. He said his quality of life has already been reduced because the lot has been entirely cleared of all vegetation. He stated he understands the property owner has a right to improve his property and sell his property, but he doesn't have the right to inflict financial hardship on the neighborhood, or quality of life issues. He mentioned a nearby flight school at the Merritt Island airport that has touch and go aircraft every 30 seconds, regardless of the day of the week or holidays. He stated he would like a binding development agreement that states the use is limited to an indoor boat and RV storage facility only. He said he also does not want businesses to be run out of the storage units.

Jeffrey Ball explained a BDP is a legal document that is recorded in the public records, and any changes to the stipulations in the BDP would have to come back to the board through the public hearing process. He stated the code requires a 6-foot masonry wall along any side of the property that abuts residential zoning.

Mr. Oliver stated the building is being designed as masonry construction all the way around, so it is 100% contained, but the building walls are not on the property lines, so he plans to do a masonry wall all the way around, and then landscape buffering along the side of the residential property with a vinyl fence behind it to provide double opacity and avoid the need to have two masonry walls, one on the property line and another being the back side of the building.

Mr. Hopengarten stated the proposed BDP mentions a vegetative buffer, but no vinyl fencing, and it stipulates it is not allowed on the south property line, which is where the residential homes are.

Mr. Oliver replied the intent with that was that it is a vinyl chain link fence, as was proposed on the other boundaries, and there would be a solid fence along the south wall, but not masonry, either wood or PVC.

Mr. Hopengarten asked the height of the building. Mr. Oliver replied the engineering has not been completed, but it will be designed to accommodate RV's, and it will be a one-story product.

Mr. Minneboo asked if the board can deal with the fencing in the BDP to eliminate two fences.

Mr. Ball stated there is code that deals with buffering during the site plan phase. If the board has more concerns than what the current code allows, then certainly any additional buffering the board suggests could be incorporated into a BDP, but the code already addresses requirements.

Mr. Minneboo stated Mr. Oliver has two potential issues there with fencing. Mr. Oliver replied his client doesn't not want two masonry walls because of the expense and maintenance.

Mr. Ball stated staff will work with the applicant on the appropriate buffering that meets the code.

Motion by Debbie Thomas, seconded by Ben Glover, to recommend approval of a Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from NC and CC to all CC. The motion passed unanimously.

Motion by Henry Minneboo, seconded by Ben Glover, to recommend approval of a change of zoning classification from BU-1-A with an existing BDP (Binding Development Plan), to BU-2, with removal of existing BDP, and adding a new BDP.

**Colleen Mary Golub Revocable Trust** (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment (23S.12), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.72 acres, located on the southeast corner of N. Wickham Rd. and St. Andrews Blvd. (No assigned address. In the Melbourne area.) (23SS00012) (Tax Account 2627864) (District 4)

**Colleen Mary Golub Revocable Trust** (Kim Rezanka)

A Major Amendment to a PUD (Planned Unit Development). The property is 1.72 acres, located on the southeast corner of N. Wickham Rd. and St. Andrews Blvd. (No assigned address. In the Melbourne area.) (23Z00051) (Tax Account 2627864) (District 4)

Kim Rezanka, Lacy Lyons Rezanka, stated the purpose of the request is to allow a car wash with one tunnel on 1.72 acres. [Ms. Rezanka distributed handouts to the board. The handouts can be found in file 23Z00051, located in the Planning and Development Department] She stated from the 2005 plat, Lot 1 is the lot at issue, and it is the lot with access off of Wickham Way, and also a driveway off of St. Andrews Boulevard, but she is not sure if they have access there or not. She said moving north on Wickham Road, there is a Marine Trust bank with a drive through, a Dunkin Donuts, a Marathon gas station, and a 7-Eleven gas station, so it is a commercial corridor. She noted there is residential to the west, but across from the site is a retention pond, so it should not impact anyone in the residential area. She said the reason for the CC land use request is for the drive through element. The second request is to amend the 1984 PUD ordinance to allow BU-1 uses, essentially creating development standards in the PUD ordinance that were not there before. The PUD started with the PDP for Suntree in 1976, and at that time it was 1,977 acres; and it was amended in 1984 to 2,509 acres with commercial components and is part of the Suntree Commercial Center. She stated there is a declaration of covenants that goes over the land, and the declaration of covenants from 1986 has in it that all BU-1 zoning shall be allowed, and it includes automobile washing. As to traffic, it is 78 trips per peak hour in the p.m.

Public comment.

Rosemary Bratch, 1785 Old Glory Boulevard, stated she is speaking on behalf of her daughter who lives in Tangle Run, which is adjacent to the subject property, facing Wickham Road and St. Andrews Boulevard. Across the street there are a lot of businesses, but not on the side of Wickham Road; there are businesses above St. Andrews, but at St. Andrews it all becomes residential until further down Wickham Road. The subject property was for sale recently and did not sell, so this is why they are trying to change it, and she doesn't believe a drive through is conducive to the residential neighborhood that it was designed to be.

Ms. Rezanka stated the subject property is the commercial center of Suntree and it was intended to have BU-1 uses, including automobile washing, by the declaration of covenants. The subject property is on the east side of Wickham Road, not the west side; there are condos on the west side. She said she mailed a notice to property owners within 500 feet of the subject property, which equated to 26 letters, and Tangle Run is on the west side of Wickham Road.

Motion by Ben Glover, seconded by Debbie Thomas, to recommend approval of a Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from NC to CC. The motion passed unanimously.

Motion by Ben Glover, seconded by Debbie Thomas, to recommend approval of a Major Amendment to a PUD. The motion passed unanimously.

**Chelsea Lee James**

A Small Scale Comprehensive Plan Amendment (23S.13) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1). The property is 1.18 acres, located on the southeast corner of D Johnson Ave. and Merritt St. (4585 D Johnson Ave., Mims) (23SS00013) (Tax Account 2002343) (District 1)

**Chelsea Lee James**

A change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home). The property is 1.18 acres, located on the southeast corner of D Johnson Ave. and Merritt St. (4585 D Johnson Ave., Mims) (23Z00052) (Tax Account 2002343) (District 1)

Chelsea James, 5205 Citrus Boulevard, Cocoa, stated the property does not meet the 5-acre minimum lot size of the current GU zoning, and she would like to rezone in order to build a small home.

No public comment.

John Hopengarten asked if she is going to put a mobile home on the property or a tiny home. Ms. James replied it would be a mobile home while she's in the process of building a home.

Motion by Brian Hodgers, seconded by Ron Bartcher, to recommend approval of a Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from AGRIC to RES 1. The motion passed unanimously.

Motion by Brian Hodgers, seconded by Ron Bartcher, to recommend approval of a change of zoning classification from GU to RRMH-1. The motion passed unanimously.

**Tracey C. and Teresa B. Higginbotham** (Randy Rodriguez)

A change of zoning classification from GU (General Use) to AU (Agricultural Residential). The property is 3.55 acres, located approx. 0.20 miles north of Port St. John Pkwy., and approx. 0.35 miles east of Golfview Ave. (No assigned address. In the Cocoa area.) (23Z00024) (Tax Accounts 2312731, 2319995, 2319996) (District 1)

Tracey Higginbotham, 6545 Birch Drive, Cocoa, stated he would like to rezone three parcels from GU to AU so in order to have the same zoning as his other adjacent properties.

No public comment.

Ron Bartcher asked if Mr. Higginbotham is aware that the staff comments note the property does not have access to a county-maintained road that would be required for a building permit. Mr. Higginbotham replied yes, he is aware. Mr. Bartcher stated it is also noted that substantial improvements would be needed to allow development of the property. Mr. Higginbotham replied he is aware of that.

Motion by Ron Bartcher, seconded by Brian Hodgers, to recommend approval of a change of zoning classification from GU to AU. The motion passed unanimously.

**IR Tiki, LLC** (Kelly Hyvonen)

A Small Scale Comprehensive Plan Amendment (23S.08), to change the Future Land Use designation from NC (Neighborhood Commercial) and CC (Community Commercial), to all CC. The property is 1.72 acres, located on the east side of U.S. Highway 1, approx. 735 ft. south of Suntree Blvd. (6533 S. U.S. Highway 1, Rockledge) (23SS00008) (Tax Account 2605971) (District 2)

**IR Tiki, LLC** (Kelly Hyvonen)

A change of zoning classification from RU-2-10 (Medium Density Multi-Family Residential) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2. The property is 1.72 acres, located on the east side of U.S. Highway 1, approx. 735 ft. south of Suntree Blvd. (6533 S. U.S. Highway 1, Rockledge) (Tax Account 2605971) (District 2)

Kelly Hyvonen, Land Development Strategies, stated the purpose of the requests is to have consistent land use and zoning on the entire property. The requests are consistent with the property owner's desire to obtain permits for site improvements for expansion of the Pineda Inn restaurant, which includes a deck with outdoor seats, a tiki hut, parking, stormwater, and vegetative buffering. She stated her client has been in contact with County staff on how to bring the site into compliance, and these requests are the next steps before obtaining site plan approval and building permits.

No public comment.

John Hopengarten asked the nature of the Code Enforcement issues. Ms. Hyvonen replied there used to be two duplexes on the property and after they were demolished the lot became more parking for the restaurant. There were also improvements made to the decking and tiki hut, but the owner intends to fix everything by changing the land use and zoning.

Motion by Debbie Thomas, seconded by Brian Hodgers, to recommend approval of a Small Scale Comprehensive Plan Amendment, to change the Future Land Use designation from NC and CC to all CC. The motion passed unanimously.

Motion by Brian Hodgers, seconded by Debbie Thomas, to recommend approval of a change of zoning classification from RU-2-10 and BU-2 to all BU-2. The motion passed unanimously.

**Amendments to Chapter 46 – Environment, Article IV. – Noise, and Section 62-2271. – Noise, of the Brevard County Code of Ordinances.**

Morris Richardson, County Attorney, stated the amendments were initiated by the District 2 Commissioner in response to some noise complaints where it was reported to him by the Sheriff's Office and Code Enforcement that because of the relative antiquity of the noise codes, there was some difficulty in enforcing the existing noise regulations. The direction given to staff was to create something that would be more uniform and enforceable, and would meet constitutional requirements regarding enforcement so that when the Sheriff does want to bring a case, that the State Attorney will want to move it forward. Right now, the noise regulations are set forth in two places. One is under Chapter 46, Environment, Article IV, Noise, and also in the Land Development Regulations, Chapter 62, Section 62-2271, which is within the Performance Standards. Chapter 46 contains noise restrictions based on something called a loud and raucous standard, and it is considered to be very subjective. The County is moving to something a lot of jurisdictions in the State have already done, which is get away from 'loud and raucous', and go to something called a 'plainly audible' standard.



'Plainly audible' is measured so that when you are within a certain distance from a noise source or the property line from a noise-emanating source, and you can clearly hear that noise, then it's in violation. There is no subjectivity of whether a reasonable person would like it or not like it; if it can be heard from that distance, it is too loud. What staff has used are numbers that are in line with a number of jurisdictions; there are some that are more restrictive, but because this is for unincorporated Brevard County, which has become more urbanized in places, but is still more rural than an urban city environment, it is a more moderate standard. He said the numbers in the ordinance are 300 feet away during daytime hours, which is 7:00 AM to 10:00 PM; and 150 feet away during nighttime hours. Most noise complaints are in the form of recurring or repeat violations, and the Sheriff's Office or Code Enforcement can make reference to the Property Appraiser's Map, and usually there is a complainant and you can go to their property and you know how far it is from the property line of the noise-generating source. There will be times when some judgement or estimate may be made, but the courts have upheld that with regard to things like Chapter 316 F.S., there is a 25-foot plainly audible standard that is applicable to motor vehicles, and the courts have upheld that as constitutional, whereas, they have thrown out their old standard, which was similar to the loud and raucous standard. Chapter 62 is where the County currently has standards where there are maximum sound levels based on decibel readings. Those were adopted a long time ago, and they are a little archaic in describing the equipment that is used. The County calls for equipment capable of making a printout; those meters are hard to get and they are expensive; for the entire County, the Sheriff's Office has one, and Code Enforcement has a couple. The proposed ordinance would move away from some of the old equipment to more modern equipment that is still reliable and is required to be calibrated. Most significantly, right now the County only enforces noise on an A-weighted decibel standard, which is dBA; everything is staying the same with the dBA as far as allowable sound levels, but the option is being added to also measure with a C-weighted scale, dBC, which is much better at picking up vibratory noises, bass noises, and things that rattle and shake. Currently, to violate the decibel regulations, you take the average noise level over 15 minutes. The proposed ordinance reduces that time to 30 seconds, which is what is needed to average out the sounds to determine how loud it is with a decibel meter. He said the ordinance maintains the structure where there are some noises that are prohibited under any circumstance, such as operating a motor vehicle without a muffler. The proposed ordinance also maintains some exemptions such as residential lawn work during certain hours, rocket launches, and police training. The major changes are from loud and raucous to plainly audible, and adding the C-weighted decibel scale, and moving from the 15 minute average to the 30-second average.

Henry Minneboo asked if there will ever be a uniform policy that will take into account the cities, and have the entire county under one ordinance.

Mr. Richardson replied that would be nice in a lot of areas, but the cities have home rule and they like to adopt their own regulations. He noted he wrote an ordinance for West Melbourne two years ago, and what is being proposed for the County is very similar to West Melbourne's, but it is a little more lenient as far as the distance of measurement of plainly audible. He said he compared all of the decibel levels allowed for all of the jurisdictions, and this is largely in line with those, if maybe a little more lenient than some of the cities.

Ben Glover stated going from 15 minutes to 30 seconds is pretty drastic and asked what Mr. Richardson has seen on average throughout the municipalities.

Mr. Richardson replied it is 30 seconds. There is room built into the ordinance for officers to have some discretion and consider the source of the sound and other factors when determining how it should be measured. There are certain sounds that are associated with a legitimate business use that would be treated differently than others.

John Hopengarten stated he believes the proposed ordinance is arbitrary. He said decibel meters are being eliminated and it will be at the discretion of the law enforcement officer to determine if something is noisy or not, which he thinks is questionable.

Mr. Richardson replied that is the exact opposite of what the proposed ordinance does. Not only does it not eliminate decibel meters, it adds a decibel measurement in the weighted dBC scale.

Mr. Hopengarten asked if Code Enforcement is going to have hearing tests for their officers. Mr. Richardson replied no, they are not going to have hearing tests, they will have to be of ordinary hearing without enhancements such as hearing aids. He stated the County is moving from a standard where someone has to determine arbitrarily whether noise is loud and raucous to them, and moving to a plainly audible standard where the only question is, at a given distance can it be heard or not heard.

Mr. Hopengarten stated sound that travels at night travels further, and changing it to 150 feet would reduce that, it should be the other way around; it should be extended because people will hear it easier. He said he doesn't like noise, and he doesn't like grass blowers that landscapers use because they are very noisy and go beyond the dBA's, and that's an exemption in the old document, but in the new one it's still an exemption, and he would like to have quiet. He said he understands the rationale behind it is that no one wants loud parties, but he doesn't believe this document does that. He stated there are too many loopholes in it that if someone coughs loud or their car alarm goes off, they could be cited, and that's troublesome. He added, the 30 second duration is too stringent, but yet certain things are allowed that are very loud and disturbing. He asked if Code Enforcement is going to get another budget to handle the complaints under the new ordinance.

Mr. Richardson stated he would encourage Mr. Hopengarten to review the proposed ordinance again and compare it to the existing ordinance, because there are exemptions for things like air travel and space launches. He said it comports with the direction from the Commissioner which was to remove the subjectivity in the loud and raucous standard that prevented the State Attorney from bringing cases under that provision, and move to a plainly audible standard which the State Attorney will bring forward and the courts have enforced.

No public comment.

Motion by Henry Minneboo, seconded by Brian Hodgers, to recommend approval of Amendments to Chapter 46 – Environment, Article IV. – Noise, and Section 62-2271. – Noise, of the Brevard County Code of Ordinances. The motion passed 7:1, with John Hopengarten voting nay.

Upon consensus, the meeting adjourned at 4:38 PM.