

## LOCAL PLANNING AGENCY (PLANNING AND ZONING BOARD) MINUTES

The Brevard County Local Planning Agency (Planning & Zoning Board) met in regular session on **Monday, April 22, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales; Brian Hodgers; Scott Langston, Vice Chair; Mark Wadsworth; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; and Jennifer Jones, Special Projects Coordinator II.

### **Approval of the March 25, 2019, Minutes**

Motion by Mark Wadsworth, seconded by Scott Langston, to approve the minutes of March 25, 2019.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

### **Saint Patrick's Anglican Catholic Church, Inc.:**

A change of zoning classification from IN(L) (Institutional Use – Low-Intensity) to RU-1-11 (Single-Family Residential). The property is 1.03 acres, located on the north side of Fresno Street, lying between Curtis Boulevard and Hartford Road. (4797 Curtis Boulevard, Port Saint John) (19PZ00012) (District 1)

John Vaughan – I am Bishop John Vaughan, Director of Saint Patrick's Anglican Catholic Church, 4797 Curtis Boulevard, Port Saint John, Florida. We are endeavoring to take four lots and make them available for housing. It is not the entire property, it is just four lots on one side of the property. We are a small congregation and the sale of the property will help us enhance our own property. Originally, the property was 13 separate lots that were made into one lot for the purpose of building the church, and now we would like to take four of those lots and put them back into residential, which is what they originally were. To me, it seems it shouldn't be a difficult thing to do, because all of the studies have been done and it does not hurt the environment, and there's no threatened species, and it should not hurt the surrounding area because it is all residential.

No public comment.

Rochelle Lawandales – Was there a recommendation from Port Saint John?

Jennifer Jones – They unanimously recommended approval.

Rochelle Lawandales – I'd like to move approval of this request.

Dane Theodore – Second.

Henry Minneboo called for a vote on the motion as stated and it passed unanimously.

### **Joseph and Ruth S. Kaplet (Edward Springer, IV)**

Request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.13 acres, located on the east side of North Courtenay Parkway, approximately 0.21 mile south of East Crisafulli Road. (5780 North Courtenay Parkway, Merritt Island) (District 2) (19PZ00016)

Edward Springer – I'm Edward Springer, IV, 5135 Mallard Lakes Court, Merritt Island, Florida. We are requesting a change from Neighborhood Commercial to Community Commercial, because it is needed in conjunction with a zoning change from agricultural to commercial. We are currently the contracted purchasers for the property for our intended purposes and future use plan, which is in line with BU-1 (General Retail Commercial), hence the need to get the designation changed to Community Commercial.

No public comment.

Henry Minneboo – What did North Merritt Island do with this?

Jennifer Jones – They approved it unanimously.

Rochelle Lawandales – I'll move approval.

Ron Bartcher – Mr. Chairman, I feel that we need to restrict the uses of the BU-1 instead of allowing an entire wide-open BU-1 use, to have it be restricted in some way. For example, fast food restaurants or gas stations, as that kind of use in the future would not really be appropriate for this location. This is not a zoning issue, so we can't ask them to do a BDP (Binding Development Plan) here, but I'd like to, with the motion to approve, recommend that the Board of County Commissioners consider having a BDP added to the zoning request, that there be some kind of restriction on the BU-1 use.

Erin Sterk – Ron contacted me this weekend because he would have those comments associated with the zoning item that this board doesn't have to hear, except that there is no way to communicate that to the Board except for in the minutes, unless it's conveyed in your motion as a concern this board has. One of the things the Community Commercial necessitates, especially for high-trip generating uses, is location at an intersection and this property is not located at an intersection, so some of those highest impact uses have the potential to cause some concern at this location, so I think his concerns are justified, and however you want to communicate that to the board since you're not hearing the rezoning item is up to you.

Henry Minneboo – Ron, I agree, conceptually, but the problem is that in North Merritt Island they are so restrictive that for them to approve something, they have really put a lot of thought into it. In this case I let what I call "north of the Barge Canal" handle it.

Ron Bartcher – I read the minutes of their meeting and they didn't even consider the possibility of a future use, which I thought was surprising because they are usually much better than that. They are usually much more inquisitive about what's going on.

Henry Minneboo – Can we make that part of the record and approve this?

Erin Sterk – It's up to the person who made the motion, if they want to consider adding that detail in there for the Board to consider.

Rochelle Lawandales – I'm sorry, Ron, I don't really feel as strongly about that as you do, for a couple of reasons. It is on North Courtenay and I think the BU-1 uses would generally be appropriate. The North Merritt Island Board are going impose restrictions, or the zoning itself is going to impose restrictions in terms of what happens with concurrency. I'm okay with just dealing with the land use for what it is and let the zoning handle itself.

Scott Langston – I agree with Rochelle and I'll second the motion.

Henry Minneboo called for a vote on the motion as stated and it passed unanimously.

## **P&Z/LPA TERM LIMITS**

Ron Bartcher – I am opposed to this. I have spoken to the Commission against it when they first proposed the legislative intent, and I gave them numerous reasons why. I see no benefit to it, but before I talk about that, I sent several questions to Erin and she responded to those. My concerns were about the timing of it and which of us does it actually affect; when does it become effective, as far as each one of us individually. Is it from the day the ordinance is adopted, or is it from when we first got appointed? The answer is when we first got appointed. I had forgotten when I was first appointed, and I'm not sure if the rest of you are sure of exactly when, but Jennifer said she would bring that information to us so we could have it. I was looking at the ordinance and it says there is a waiver capability, and the waiver says a commissioner can request a waiver of term limits. Five years ago I would have said that's not a problem, but in today's political environment, people being the way they are and being more argumentative, I can see a case where first the Commission says, "No, we're not going to grant your waiver". I asked what would happen in that case, and the answer I got was that it probably means that the commissioner either has to find someone else or that spot will be vacant. If we want to make a recommendation to approve it, I'd like to see that waiver changed such that it says a commissioner may waive the requirement, rather than having the rest of the commissioners approve a request because one commissioner has trouble getting people. As you may or may not know, I'm a volunteer, I lead two volunteer organizations, and finding volunteers is extremely difficult. I pointed this out to one of the commissioners and he said, "I have tons of people waiting to volunteer for these boards." He happens to represent North Merritt Island and I know that is a very active organization, and he may very well be correct, but I don't think he's correct about the rest of the County. I certainly know it's not true in the area that I live, in North Brevard, because finding volunteers is difficult. Those are some of the things I thought about. Another comment I've got is, if they really want to make meaningful changes to the way the board is appointed, I would suggest they appoint a new member at least six weeks before the start of the term, and then provide orientation and training by the staff for that new member. That's currently something that doesn't happen. Or, if they don't like that approach, another approach would be to require a new regular member to be an alternate for at least a year and to have attended at least six meetings. That's another way to get job training. I know that when I was first appointed as an alternate I attended all of the meetings that I could possibly attend; it essentially became a regular job for me just as it is for the rest of you, even though as an alternate I didn't vote on but one or two items during my period as an alternate. I was looking at the wording of the ordinance and I have one more question for the attorney. Since the effective date will be when we were approved as a regular member, and since one of our members has already been appointed more than eight terms, does that mean that commissioner is going to have to request a waiver for that board member to serve the rest of his term this year?

Jad Brewer – We are of the opinion that the member can serve out his term.

Ron Bartcher – That was one of those questions about retroactivity I wasn't sure about. Another concern that I had, that I don't think is a problem, I voted as an alternate, I did vote on some occasions, so I'm wondering if the fact that I voted had any effect on the start date for me as a regular member. I'm assuming not, but I wanted to ask that question.

Jad Brewer – No, I don't think so.

Ron Bartcher – One last comment is that we are appointed by a commissioner, and it's the duty of the commissioner to monitor and evaluate our performance. If we're not doing an adequate job, it's the commissioner's responsibility to appoint someone else. I know at least one commissioner has said she has no problem in doing that; if she feels they are not doing a good job she will appoint somebody else. I just don't see a reason for term limits.

Henry Minneboo – All your comments are well taken, Ron. I don't know if we all have to agree, or how to handle it.

Rebecca Ragain – It is a proposed ordinance, so I think you would need to vote on it just like any other ordinance.

Brian Hodgers – Can we get clarification on the waiver aspect, because my understanding originally was if a commissioner wanted to waive the term limit requirement for their appointee, it was at their discretion. Is it now changed to where the entire Board has to vote on that waiver?

Jad Brewer – I'm not sure how it was originally formulated, but what it says is the commissioner has to make that request to the Board of County Commissioners, just like the appointments go to the Board of County Commissioners. Hypothetically, if a commissioner requests a waiver and the Board votes against it we would really have no choice but to have an empty seat.

Dane Theodore – Ron said he has asked your interpretation regarding the effective date of the 8 years, and the answer was that it began with the first appointment of that individual, correct?

Jad Brewer – Correct.

Ron Bartcher – The first appointment as a regular member?

Jad Brewer – As a regular member. If you were appointed as an alternant first, then when you became a regular member you would start your 8 consecutive terms.

Dane Theodore – The vast majority of the ordinances I've seen are not retroactive, but are effective the date they are passed. Do you believe that interpretation is the intent of the County Commission? Was it the intent that the effective date is the date the ordinance is approved?

Jad Brewer – I wasn't at that meeting either, but in reading through the minutes it did seem to be that was the intent. If the Commissioner has another intent they can always move to alter the ordinance.

Dane Theodore – But as written, your interpretation is that it begins with the first appointment of that individual?

Jad Brewer – The way I read it right now, it's from the first appointment date.

Ron Bartcher – I was at the meeting when they were talking about legislative intent, and it seemed to me to be pretty clear that at least one commissioner was very concerned about people who had been on this board for many years and it was his opinion that that was simply too long.

Rochelle Lawandales – I think a lot of what Ron had to say makes sense, but I have a question. In the section on term limits, the underlined section being added into the Code, the second sentence reads, "A member may be appointed as an alternate member after serving the maximum of 8 successive appointments. Does that mean a member could not be appointed until they have served 8 years, or, for example, if I don't serve a full 8 years I could not be appointed as an alternate? I think you all need to get that sentence clarified as to what that really means. I think, based on reading the intent of the ordinance, that a regular member can be appointed as an alternate, but this says they have to serve their whole 8 years.

Jad Brewer – I don't read it that way. Any time a commissioner makes appointments they can decide they would like person A to be the member if they haven't gone past the 8 years, and they'd like person B to be the alternate. I don't read it that way.

Rochelle Lawandales – It says, "A member may be appointed as an alternate member after serving the maximum 8 successive appointments". You might want to get a clarification of that because a qualifier of 'after serving' would seem to limit when they could be appointed as an alternate, in my reading. With that said, I

recognize it is the Commission's prerogative of how they handle their boards and who they put on their boards. I just think this board, as well as many of the other boards that the County has – and there are a number of them – have worked well and if it's not broken, it doesn't need to be fixed. I just don't really know that there's a need for it, but certainly it is their prerogative to do this. Eight years is a long time in the scheme of things, but it does go by very fast, and if you have somebody who has given more years than that to this board, God bless them, and if they still want to continue to serve and have done their job well, they should certainly be considered and able to do so. That's all I have to say.

Scott Langston – I agree with Ron and Rochelle. Of course, I've got a ways to go, and I'll probably be ready to go anyway. I'm okay with it, really.

Mark Wadsworth – I guess I'm with Ron and Rochelle. Who does this – am I even allowed to talk?

Henry Minneboo – Sure, you're allowed to talk.

Mark Wadsworth – But I'm an alternate.

Henry Minneboo – Yes, but you're still allowed to have say.

Mark Wadsworth – My term hasn't even started, is that correct?

Jad Brewer – Correct.

Mark Wadsworth – Back to what Ron was saying, Jennifer, you said you had a list of who this effects on this board?

Jennifer Jones – Right now, it would only affect Henry Minneboo. After that, Bruce Moia is at 7 years, he was first appointed in 2012; Rochelle Lawandales has been a member since 2015, so this is year number 4; Ron McLellan is at five years, first appointed in 2014; Scott Langston is at 2 years; Ben Glover is at 2 years; and everybody else is at one year or less. I'm sorry Ron, I first had you as 6 years, but after today's conversation you have only been a regular member for 2 years.

Ron Bartcher – I wasn't sure.

Jennifer Jones – I had 6 years for you, so made a note that you are 2 years as a regular member.

Jad Brewer – The ordinance clearly says, "A regular member shall not be appointed more than 8 terms".

Mark Wadsworth – As the new guy coming in, looking at this board, with all due respect to everyone here, look at the education, knowledge, engineering, planning, that's here, I don't even know why they would discuss this, and I'm an alternate. With Ron, Brian, Dane, Rochelle, Scott, Henry, and I don't think anyone wanted Henry's position, which is why he's probably been stuck here so long. Ron, I'm with you on this one, and Rochelle, I don't think this needs to happen. To go out and get this type of knowledge and experience, it's going to be difficult. I don't get paid for this; I don't know about anyone else. They said they used to, is that correct?

Henry Minneboo – Yes, we used to get \$15.00 per meeting.

Peter Filiberto – I agree with Ron and Rochelle on this. The expertise of this board has been developed over a long time. I was the new person here, and I didn't know you were younger than me because you're an alternate. Ultimately, I believe the commissioners hold the responsibility to appoint a new member, or to revise the role of a member if performance is lacking. I'm going to make a motion to deny this ordinance for that reason.

Brian Hodgers – Before there is a second, can staff clarify if somebody gets appointed to this board and it's 8 successive years, but if they were appointed by different commissioner throughout that 8-year period, do they restart the clock if they get reappointed by another commissioner?

Jennifer Jones – No. That was a question I asked when this first came up, but no, your total time on the board counts, no matter which commissioner made the appointment.

Brian Hodgers – What if it's from a different district, not just a different commissioner in that district?

Jennifer Jones – Same. That's what I was told.

Rochelle Lawandales – When this ordinance goes into effect upon its adoption, that does not start the clock ticking; it captures us where we are within our service? I've been on since 2015, so I'm starting my 4<sup>th</sup> year, so that's where I get locked in, in terms of how this new ordinance would be implemented, or does it start over? When the ordinance takes effect, is that when that 8-year term starts?

Jad Brewer – Our interpretation is no, when it kicks in, wherever you are, you are.

Ron Bartcher – I would like to pay money to see that first meeting if it were starting now, because 8 years from now everybody leaves and they would have a whole new board, I'd pay money to see the chaos of having a meeting like that.

Henry Minneboo – God bless the staff.

Mark Wadsworth – Exactly.

Henry Minneboo- Do we have a second on the motion?

Ron Bartcher – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Henry Minneboo – I'm going to explain this the best I can and try to be as politically correct as I possibly can. I grew up in this county, born here in 1945. When I came here I gave it my best throughout the school system, participated in the community and gave to this County 38 years of my life. I felt it was only appropriate, since a lot of these rules and regulations, I probably had a significant impact on them, that I tried to come back and give back and give to the County that I felt I took so much from. So, for somebody now to say we should have term limits, that's all well and good, but they need to know that way before many of you got here there were many of us that put a lot of time and effort into this County. It was probably going to be an easy decision for me this year; this has become more and more cumbersome for me to attend. My record here as far as attendance is probably second-to-none, and that's not taking away from anybody else, but certainly I've tried to give it my all for as many years as now, as some commissioners feel that I have done. I could go on and tell people more, but I sort of feel like it's probably more pointed at me than probably anybody else. I've given a lot of years back here because I think I could help. You probably right now have the best Planning and Zoning/Local Planning Agency board this County will ever have and I think Mark made a comment that we're all here, and you've got a tremendous cross-section. With that, I could go on, but I'm just going to leave it at that; it's not the end of the world for me, I'll be fine.

### **Adjournment:**

Upon consensus of the board, the meeting adjourned at 3:37 p.m.