

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 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, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Approval of November 5, 2018, Minutes

Motion by Rochelle Lawandales, seconded by Ron McLellan, to approve the minutes of November 5, 2018. The motion passed unanimously.

Chair and Vice Chair Nominations

Motion by Rochelle Lawandales, seconded by Ron McLellan, to nominate Henry Minneboo as Chairman of the Planning and Zoning Board for 2019. The motion passed unanimously.

Motion by Ron McLellan, seconded by Mark Wadsworth, to nominate Scott Langston as Vice Chairman of the Planning and Zoning Board for 2019. The motion passed unanimously.

Items 1 and 2 will be heard at the January 28, 2019, Local Planning Agency meeting.

3. LTM of Florida Holding, LLC:

(Kim Rezanka) requests a change of zoning classification from GU (General Use) to RU-2-12 (Medium Density Multi-Family Residential). The property is 2.90 +/- acres, located at the north end of Dixie Highway, approximately 0.22 mile west of U.S. Highway 1. (No assigned address. In the Palm Shores area.) (18PZ00086) (District 4)

Kim Rezanka – Good afternoon, Chairman, and the members of the Planning and Zoning Board. This matter came before you on a commercial rezoning about a year ago; there is an access issue with this property and litigation involving this. We have reached a settlement agreement with the Town of Palm Shores and the County Commission. It will go to the Town of Palm Shores on January 29th for approval, and if approved we will be withdrawing this request completely, but we would like to have time to get that through the system, so we are requesting a continuance to March 11, 2019.

Motion by Rochelle Lawandales, seconded by Ron McLellan, to table the request to the March 11, 2019, Planning and Zoning Board meeting. The motion passed unanimously.

4. Alberto and Biviana Roman:

(Ralph Kennedy) request an expansion of a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a restaurant, in a BU-1 (General Retail Commercial) zoning classification. The property is 0.24 acres, located on the southeast corner of North Grove Street and Tangerine Avenue. (170 North Grove Street, Merritt Island) (18PZ00114) (District 2)

Ralph Kennedy – The Roman’s currently operate the El Tucan Mexican restaurant on Sykes Creek, so they own the liquor license, and this facility is too small and does not have enough seats to qualify for a full-liquor license required by the State, so they are willing to transfer their license because their current restaurant meets that requirement. We know the staff comments are primarily about parking, and if you’ve been to Merritt Park Place you’re aware that parking is a little bit tight, but there is on-street parking allowed and there is on-street parking in the area. The Roman’s intend to re-do the parking on the Tangerine Avenue side, which is 10 spaces of grass parking now, to brick pavers to replace the existing driveway there that was marked as a handicapped spot, and they’ve modified that for parking and loading zone area. They have on-street parking that’s County-owned on the west side. Additionally, they will address the handicap parking when they do the parking on the Tangerine Avenue side to coincide with the new handicap ramp that will be on the new entrance on the west side of the Grove Street side of the property. Catty-corner to the property is La Casa, a retirement home assisted living facility that has an employee parking lot that will be available in the evenings and they have said they are glad to have the Roman’s as neighbors, so that parking will be available for customers. We talked to the pastor of Merritt Assembly of God, across the street on Grove Street, about using the grass parking lot towards the west end of their property for employee parking if needed, and he has graciously agreed. We have also spoken with the owner of what used to be the realtor building at McLeod Street and Myrtice Avenue, and it is now a veterinary hospital, and their parking will be available at night, too, to help keep everything off the street. La Casa said the public parking that’s in front of them is hardly ever used during the evenings, so there’s a lot of on-street parking there. Currently, the plans are only to be open from 5:00 p.m. to 10:00 p.m. Tuesday through Saturday; they will be closed Sunday and Monday, and they are not open for lunch. This is something intended to be something we don’t have on Merritt Island right now, which is nice. We have a lot of chain restaurants, but not really anything that competes with what is in Cocoa Village, and that is going to be his market, who all offer liquor. It is not intended to be a bar, it’s not intended to be anything you won’t find in any restaurant for patrons who want to come in and have a mojito or margarita, and it will be Cuban-based cuisine. I think it will be a welcomed addition to get this building back in good condition; it is in pretty rough shape right now, so it will take a lot to get it up to meet current codes, but they are willing to invest the money into the property to do it.

Henry Minneboo – Do you have anything in writing from those places?

Ralph Kennedy – I don’t, but I can get it. With the holidays I’ve been out of town and didn’t get a chance to do it, but there is enough parking in the area as it is, and Merritt Park Place re-did the requirements in that area anyway, so there’s enough on-street parking in the vicinity to meet the requirements that we need. Having La Casa allowing us to park on their property, and Merritt Assembly of God allowing employees to park, is a bonus.

Henry Minneboo – How large is the building?

Ralph Kennedy – The building is approximately 3,000 square feet.

Henry Minneboo – Wasn't that a restaurant at one time?

Ralph Kennedy – It was Courtyard on the Grove, and it has been about three different restaurants.

Scott Langston – Have you already applied for any of the permitting for the additional parking?

Ralph Kennedy – No, we're still in design, we're just trying to go through this process for now. I'm not really sure what he would do because there's existing parking there now, and all they are talking about doing is replacing grass parking with pavers. We did stormwater in that area a number of years ago to address those concerns, because there wasn't any in the area to start with, and because there is such a mixed use of businesses and residential, it's such a hodge-podge that in order to make it work and make it viable, the County had to acknowledge that kind of downtown flavor and let the people park where they can and walk to the businesses that they need.

Scott Langston – What's the occupancy?

Ralph Kennedy – I think it's 120.

Henry Minneboo – I'm going to add to Scott's concern here, and what has happened to us is an applicant will come up here and say they are going to park here or there, and then the next thing you know, that's not exactly what the truth is, and I think we'd feel better if we had something in writing.

Rochelle Lawandales – With 120 seats for this one, how does that compare with the others? Are they the same size?

Ralph Kennedy – No, this will be a little bit larger, only because they're adding and trying to meet handicap accessibility. They are adding a porch to the west end of it that will add four tables, which is 16 more seats; they're re-configuring the courtyard area to add a couple of tables, and that's what makes the difference.

Rochelle Lawandales – My next question is for staff. Is anyone from the Merritt Island Redevelopment Agency here?

Erin Sterk – I don't think so.

Rochelle Lawandales – We have a couple of restaurants on the agenda today, and I love the use, I think it's appropriate, suitable, and needed, but I'm wondering what the Agency's plans are for working within Merritt Park Place to maybe create additional parking areas, or if they have some acquisition, or own some property that they can create some parking so that there's enough to allow for this activity and momentum in the redevelopment district.

Ralph Kennedy – I did present this to the Merritt Island Redevelopment Agency and they supported it unanimously. I went to them before I came here. There was always a restaurant there before, and the busiest times were Friday and Saturday nights, and it always worked out.

Rochelle Lawandales – Are they not going to do a lunch business? And if they so, would they be willing to enter into a binding development plan to restrict the hours that you talked about.

Ralph Kennedy – They do not plan to open for lunch, but they would agree to that.

Rochelle Lawandales – I think that would help in balancing the parking situation, and maybe some assurances for this board that there would be available spaces in those hours.

No public comment.

Erin Sterk – I spoke with the Merritt Island Redevelopment Agency board and they heard this item before the staff comments were compiled, so some of the deficiencies in the area they didn't thoroughly evaluate, so they have offered to hear the item again at the end of this month so we can talk about things like shared parking agreements and things they have under their control, and infrastructure improvements that they can make with their redevelopment funds.

Henry Minneboo – But we can approve or deny this today?

Erin Sterk – You can. It's really for conversation purposes, because we already have the recommendation for approval on the record.

Rochelle Lawandales – In light of that, I'd like to move approval of the Conditional Use Permit with the stipulation that they enter into a binding development plan for hours of operation and that cross parking agreements be entered into to the satisfaction of the County Attorney.

Erin Sterk – You can condition the approval of the Conditional Use Permit rather than a binding development plan.

Scott Langston – I'll second the motion.

Erin Sterk – Can you clarify the hours of operation?

Ralph Kennedy – Can we ask that the hours be limited to 4:00 p.m. to 10:00 p.m. for any deliveries made before 5:00 p.m.

Erin Sterk – It would just be for the service of the alcohol that would be limited, not your overall operational hours.

Ralph Kennedy – Correct.

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

5. Martin Family Trust; Joseph P. Martin and Sarah Martin; Craig A. Sater and Jennifer Martin-Sater:

(Jennifer Martin-Sater & Craig Sater) request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 1.39 acres, located on the west side of U.S. Highway 1, approximately 600 feet south of Cross Road. (3645 North U.S. Highway 1, Cocoa) (18PZ00117) (District 1)

Erin Sterk – This applicant could not be here today and would like to be tabled to the 28th.

Henry Minneboo – Is there a motion?

Rochelle Lawandales – I move to table the request until January 28th.

Ron McLellan – Second.

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

6. Sylvia Properties, Inc.:

(Fernando Ortiz) requests a change of zoning classification from TU-2 (Transient Tourist Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 5 acres, located on the northwest corner of U.S. Highway 192 and Columbia Lane. (No assigned address. In the Melbourne area.) (18PZ00120) (District 5)

Fernando Ortiz – I own the property just north of the subject property, and I've been there for 15 years. My business has grown, so I purchased the property to the south so I can extend my warehouse by building a canopy.

Henry Minneboo – You have a total of 5 acres and you want to utilize the whole five acres?

Fernando Ortiz – No, just two-and a half acres.

Henry Minneboo – You don't have a preliminary site plan or anything?

Fernando Ortiz – No, nothing at all.

Ron McLellan – Explain to me again what you want to do.

Fernando Ortiz – Just north of the property is where my business is located, it is called Stone and Surface Designers, and we are a wholesale distributor of granite. We have been at that location for 17 to 18 years, and I have material everywhere now, and it shouldn't be like that, I bought the property south of me, and what I need to do is extend the canopy from my building so I can sort everything inside. I need to attach a canopy to my existing warehouse, but to do so I need to make both properties one single property.

Ron McLellan – So, you want to make more warehousing?

Fernando Ortiz – Yes, exactly.

Darcie McGee, Natural Resources Management – I just want the board and the applicant to be aware of that our Floodplain Protection Ordinance contains criteria within it that addresses fill footprint and allowable land uses in the riverine floodplain, which is what this is. We determine the floodplains based on existing elevations, and we don't have any topographical survey to know, so we just want to make you aware that we'll need to assess that. We can set up a meeting with you after this meeting to help you with that to see if it potentially could affect your development there.

Henry Minneboo – I'm not overly whelmed about putting all that kind of zoning for five acres.

Ron McLellan – No, I'm not either.

Scott Langston – No, not without a plan or anything.

Henry Minneboo – Historically, we don't just give a guy zoning and see what fits.

Ron McLellan – Every time we do that we get ourselves in a box.

Rochelle Lawandales – Erin, there are two properties, parcels 10 & 12, and is that what totals the five acres? Or is it just parcel 10 that is five acres?

Erin Sterk – His property is parcel 12, where his existing business is located, and parcel 10 is the parcel he acquired. He wants to expand to the south, but he's requesting the rezoning on the whole piece.

Rochelle Lawandales – I know in the past, along Highway 192, we have allowed for there to be BU-1 on the front and BU-2 on the back. I think that might be very appropriate here. That way, he could have some BU-2 to combine with parcel 12, but keep the frontage in the BU-1, which is very consistent with everything along Highway 192. Do you know how much room you actually need for the expansion?

Fernando Ortiz – It won't be a very large warehouse, it will be 13,000 to 14,000 square feet.

Rochelle Lawandales – Two and a half acres?

Fernando Ortiz – Two and a half acres would be more than enough.

Rochelle Lawandales – We can always lower the request, so we could stipulate, if it pleases the board, that the front two and a half acres be restricted to BU-1, and the back half be allowed to go to BU-2.

Fernando Ortiz – Is it possible just to keep the TU-2 in the front as it is today and just change the back two and a half acres?

Rochelle Lawandales – Yes, if that's your preference. That is certainly consistent with the area as well, and then we can help support his business. In the interest of disclosure, I bought my granite from you 13 years ago, but I don't think I get any gain from this. It's a great operation and a great business, so I really hope we can find a way to allow him to expand.

Dane Theodore – What is the least intensive zoning classification that could get this gentleman what he wants?

Erin Sterk – It's BU-2. Limitations on the BU-2 could be provided that would limit him to his existing use rather than allowing him to go in and put in self-storage mini-warehouses in addition. Those are tools at your disposal with his agreement, but I don't know if you see that is necessary. There are rights within the BU-2 zoning that would be more intense than his current business.

Tuck Ferrell – Tuck Ferrell, 1300 Pine Tree Drive, Indian Harbor Beach. I have mixed emotions because my wife is a sculptor and I've bought stone from this gentleman, but I own the land across the street and we've got four properties, and we're trying to do a \$300 million development there, and this is not a particularly compatible use. If you can put warehouses, and under BU-2 then you can have metal buildings, that would be a horrible thing for us if this was allowed to be BU-2 and big metal warehouses went up on this property, it would really hurt us. I've talked to some of the other property

owners, including Mike Renfro, who has 271 acres. I have 160 acres. I'm not much in favor of this; I think the diminution of property value might blow up the whole deal. We're trying to do an upscale development and it's just not compatible to put commercial warehouses along Highway 192; it's a creep of commercial coming down to Highway 192, it's a bubble of really nice development that is planned. TU-2 is compatible with us, and that's what I had before I went into West Melbourne, and it allows hotels and retail, but this is a different animal. What scares us is if this whole thing goes warehousing and we have warehousing across the street, that's just going to mess up the window of what we're trying to do, and what other people are trying to do there. From the back we're getting a different use, we're getting a quasi-industrial use with the BU-2, and we're getting warehouses, and that's a real concern to us and some of the other property owners. The other property owners asked me to come today, and I sent a letter, but we're concerned that it could hurt us, especially the steel building, that's one of our biggest concerns because it's not compatible with the upscale thing we're trying to do, and this is going to be across the street from it, exactly where our driveway is going to be coming out. The stone yard is not pretty right now; I appreciate stone yards, but like somebody else said earlier, you could have a hodge-podge of zoning, and it creates things that are not compatible. This is a window coming into Melbourne and West Melbourne, and it's a shame. I've turned down over 30 truck stops on that property; I've turned down construction yards; I've turned down FP&L when they wanted to put a junky construction yard there; I've turned down so many things because we're trying to keep it clean. I appreciate what this gentleman is trying to do, and I'm not normally against business, but I'm really concerned that it could affect what we're all trying to do to make it pretty there. I don't know what he's going to do and what it's going to look like. There should be a site plan or something. I don't know what the bottom line is for us. There should be some buffer there of a different zoning because it's just not compatible, industrial is not what we have there, and that concerns us with what we're trying to do. I've talked to some of the other property owners, including Mr. Renfro, who asked me to speak for them.

Rochelle Lawandales – Would your objection go away if the front two and a half acres is left as TU-2?

Tuck Ferrell – That would be a lot better. I'd still hate to see metal buildings. I still don't know what they're doing. They are selling stuff out there and it would be good to get it inside, I guess, but I don't know the size of this, and I still don't know what's happening and that's a little bit of a risk. I like your idea of trying to buffer Highway 192 because it really needs it, because I don't think we need warehousing in the front with hotels and the things that are going to happen there. We have a lot of people signed up; we've got anchors, and I might lose the whole thing over something that's unsightly. I don't know what they're planning, it could be very unsightly and it could blow everything up. There are a lot of plans, with the new parkway there and all the other things that are happening with the new interchange. If we get too much industrial it's not going to mix with the multi-family, the residential, the hotels, and the retail. Apparently, this is not a showroom, it's warehousing for his stone; if it was showroom it might be a little different. I don't know, but your idea is better than nothing. Thank you.

William Turnbaugh – William Turnbaugh, 4910 Suapres Lane, off of Columbia Lane. I've known this gentleman for 17 or 18 years and the entire street, as you know, is compatible with BU-2, BU-1, and TU-2. The front piece that you suggested as TU-2 for a certain distance south, and then the BU-1, whether it's industrial or commercial, I would think that if you worked with the gentleman that can be done. I own the adjacent frontage across from Mr. Ferrell, so we're all going to look for commercial compatibility in there to enhance Mr. Ferrell's property. These are very good business people, so I'm not asking for leniency, I'm asking for knowledge.

Henry Minneboo – There is no site plan, no one has any idea. If it's good, everyone else did it; and if it's bad, then it's this board's fault. In light of what you've heard, do you have any help for us?

Fernando Ortiz – I totally agree with the property as TU-2 in the front, so it is compatible with whatever project he is hoping for. What I'm actually doing is attaching a canopy to my existing building; I have two other canopies attached to my existing building because of growth. The building is just going to have one more canopy attached to it; it's already there and it won't really change anything. It's not a huge canopy, it is 12,000 to 13,000 square feet.

Henry Minneboo – That's what we needed.

Fernando Ortiz – I couldn't start working on anything before knowing I could attach both properties into one property, because I wanted the canopy to be attached.

Henry Minneboo – Theoretically, you're only going to put a canopy on roughly one-third of an acre.

Fernando Ortiz – Yes.

Henry Minneboo – Can we rezone one-third?

Erin Sterk – I think so. I would ask, without some type of survey delineation that we are fairly specific in what portion of the property we're rezoning today. If it's the northern one-third, that's reasonable.

Henry Minneboo – Can you live with the northern one-third?

Fernando Ortiz – I don't think one-third will allow me to do what I want to do.

Scott Langston – My suggestion for you is to go and see exactly what you need and bring it back with a more detailed plan, and I'm sure your neighbors would be less objectionable if they knew your plan, specifically. Then we can make a better suggestion on whether it's a half-acre, we give you a development plan, or whatever. If we approve it, then it's a full BU-2, and he's correct, you can do a lot of different things there. We're trying to make everyone happy, but we do want to help you.

Fernando Ortiz – I'm going to do a site plan as if everything was possible.

Scott Langston – You pay for it and do what you want to do and just get an idea, then we can better help you.

Henry Minneboo – If that's the case and he agrees upon it, then lets table it.

Rochelle Lawandales – I was going to offer another idea, because we're dealing with a small business owner here. I think there's a way to accommodate everybody; I think we can limit the use to his business under a binding development plan; I think we can limit the acreage, but I wouldn't go with one-third of an acre, I would say at least one or two acres so that he can accommodate moving the product in and out; that there be no metal buildings; and that the remaining front property be left as TU-2. I think that solves everybody's issues. He can't do anything without doing a site plan, so we don't need to see the site plan, so I just think we can help everybody and preserve the appearance of the area if we do it in this scenario. I think that gives him room to do retention and movement.

Erin Sterk – Can I ask for clarification? The request for a limitation on uses by the applicant for the expansion of his existing business, is that how you want to word that, or is there a specific use within the Code? We need to be very specific that he knows what he's agreeing to.

Rochelle Lawandales – Expansion of his existing business is what I'm talking about.

Erin Sterk – The parcels are not combined now, so that business is not on this property which would be encumbered by this language, so we would need to refer to that business by Tax Account number, or something in the language of that condition. That would mean you couldn't do any other BU-2 uses in there. Regarding metal buildings, does that mean if he were to want to put in a second metal building later, because I'm under the impression your existing structure is metal, and your intention is to do a metal addition. Are you trying to prohibit the addition of new metal stand-alone buildings, accessory structures, or things like that.

Rochelle Lawandales – Correct.

Erin Sterk – I'm clear with what I think you're looking for, and the northern two acres, is that accurate?

Rochelle Lawandales – That's what I was proposing.

Erin Sterk – Would you mind restating the motion?

Rochelle Lawandales – I'll make a motion and we'll see what happens. I'd like to move approval of this item for Sylvia Properties, 18PZ00120, with the condition that a binding development plan be drafted and approved by the County Commission that would limit the use to Mr. Ortiz's existing business, that it would be limited to the rear two acres of Parcel 10, that the front three acres of Parcel 10 remain TU-2, and that there be no additional metal buildings constructed on the property.

Fernando Ortiz – Will a canopy be allowed?

Rochelle Lawandales – Yes, because that's part of your existing, but no additional buildings, no separate additional buildings.

Fernando Ortiz – That's exactly what I'm here for.

Erin Sterk – The only clarification I would ask for is that in the front and back we be sure that we're rezoning the northern piece.

Rochelle Lawandales – Correct.

Henry Minneboo – And only the northern.

Dane Theodore – Second.

Ron McLellan – I just don't like the idea of starting this, because every time we do something like this we end up coming back in two or three years and adding more and more. I know that area very well, and the more traffic you get in there with trucks and semi's that close to that area, right across from I-95, that's a brand new Hampton Inn there, and that area is for that, and if we let this keep going, I'm afraid we may be shooting ourselves in the foot.

Ben Glover – I fully support Rochelle’s motion. As a small business owner, I’m sure this gentleman worked very hard to buy this land to expand his business, and I don’t think it would be right for us to deprive him that right, so I fully support this motion.

Henry Minneboo called for a vote on the motion as stated, and it passed 8:1, with Ron McLellan voting nay.

7. Peggy Townsend:

(Dale Townsend) requests a change of zoning classification from AU (Agricultural Residential) and RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The property is 0.69 acres, located on the south side of Bevis Road, approximately 540 feet south of Lucas Road. (No assigned address. In the Merritt Island area.) (18PZ00123) (District 2)

Dale Townsend, Jr. – My name is Dale Townsend, Jr., 1435 Taurus Court, Merritt Island, Florida. Right now, this property is two different zonings, RU-1-9 and AU, and neither one of them conform. The AU doesn’t fit the acreage and RU-1-9 doesn’t fit the lot size, so we’re trying to rezone it to RU-1-7 to make it fit and make it all uniform into one lot, and then we want to build an 800 square-foot, two-bedroom house for my mother. The area has five houses around it, two houses are under 800 square feet, and the other three are over 800 square feet, so that’s pretty much what the area is supporting.

Dane Theodore – What is the minimum square footage?

Dale Townsend, Jr. – 700 square feet, but she’s trying to build an 800 square-foot house. We’re just wanting a house so my mom can be closer, right now she’s in Texas.

No public comment

Ben Glover – I’ll make a motion to approve the applicant’s request.

Brian Hodgers – Second.

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

8. CP Venture Five-AMC, LLC:

(Venkar Puskar) requests a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with an Indoor Family Entertainment Center, in a PUD (Planned Unit Development) zoning classification. The property is 40,000 +/- square feet, located on the east side of Colonnade Avenue, approximately 0.24 mile east of Lake Andrew Drive. (6729 Colonnade Avenue, Unit 130, Viera) (18PZ00124) (District 4)

Venkat Puskar – This is for an indoor entertainment park in the old Sports Authority space. This is basically for parties, company parties, or birthday parties, and it will have bowling, laser tag, and rock climbing, among other things. It will be the largest indoor entertainment park in Brevard County.

No public comment.

Scott Langston – I make a motion to approve.

Rochelle Lawandales – Second.

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

9. Market Street Viera Senior Real Estate:

(William Watson Jr.) requests a change of zoning classification from IN(L) (Institutional Use, Low Intensity) to BU-1-A (Restricted Neighborhood Commercial). The property is 3.66 acres, located on the northeast corner of Murrell Road and Crane Creek Boulevard. (6865 Murrell Road, Viera) (18PZ00126) (District 4)

Phil Nohrr – My name is Phil Nohrr, 1795 West Nasa Boulevard, Melbourne. We're here today to request a rezoning from an Institutional, Low Intensity, zoning, to BU-1-A. Originally, this property was designed with the idea that it was going to be part of an extension of an assisted living facility, which is our neighbor immediately to the north. That has not worked out well, and as a result of that, we are seeking a change of use of the property to bring in someone that is the largest real estate facility in the north and central part of Florida, Watson Realty. The use of the property is going to be not only for selling real estate, it's going to be all inclusive and include things like mortgages, title insurance, insurance, and it will cover the spectrum of someone coming into the area and looking for help in real estate development. They are already in the area, on Wickham Road, they have been a good neighbor and we believe they will be a good neighbor in the future. As important as that is, our property owner to the immediate north is in favor; they are the seller; and they look forward to this possible rezoning. With me today are two of the principals of Watson Real Estate, and they can answer more specific questions. There is nothing in the staff comments that indicates it is not compatible; there is plenty of access; there is access on Murrell, and there's access on Crane Creek Boulevard, so we think this particular parcel will fit this use very well. I'd be happy to answer any questions you have; otherwise, I'd request that you approve this rezoning.

No public comment

Rochelle Lawandales – Erin, in the staff comments you talked a little bit about access management and cross access. Do you feel there's a problem with accessing Crane Creek Boulevard?

Erin Sterk – We just wanted to ensure that because of the limited opportunities to make a left coming out. If there wasn't access provided to the north through a cross access easement, then there may be potential for a request for a driveway cut onto Wickham Road, and that would be a right-in/right-out situation, so we're just commenting on that. They've reviewed the plat, which evidently we missed when compiling our staff comments, and there is platted cross access to that site to the north, so turning should be covered.

Rochelle Lawandales – I make a motion to approve.

Ron McLellan – Second.

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

10. Clark A. and Patricia A. Simms:

Request a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-2-4 (Low-Density Multi-Family Residential). The property is 0.93 acres, located on the west side of North Tropical Trail, approximately 685 feet north of Lucas Road. (700 Saint Lawrence Lane, Merritt Island) (18PZ00130) (District 2)

Henry Minneboo – Is the applicant here? I don't see anyone.

Rochelle Lawandales – Mr. Chairman, I'll move to table.

Ben Glover – Mr. Chairman, in the history of the board, has an item been denied if there is no notification of them not showing up?

Henry Minneboo – We try not to, only because it's very costly to come in front of us, and they could have blown a tire out here or something trying to get here.

Ron McLellan – I'll second the motion to table.

Rochelle Lawandales – What meeting are we tabling it to?

Henry Minneboo – It has to be the 28th.

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

11. Nestle Larracas and Tony Andrade De La Torre:

Request a Small Scale Comprehensive Plan Amendment 19S.01, to change the Future Land Use designation from Residential 1 to Residential 6. The property is 0.18 acres, located on the west side of Highway A1A, approximately 83 feet north of Cardinal Drive. (5970 Highway A1A, Melbourne Beach) (18PZ00134) (District 3)

12. Nestle Larracas and Tony Andrade De La Torre:

Request a change of zoning classification from RR-1 (Rural Residential) to BU-1-A (Restricted Neighborhood Commercial). The property is 0.18 acres, located on the west side of Highway A1A, approximately 83 feet north of Cardinal Drive. (5970 Highway A1A, Melbourne Beach) (18PZ00133) (District 3)

All documents submitted by the applicants and speakers are in files 18PZ00133 and 18PZ00134, located in the Planning and Development Department.

Tony Andrade – Tony Andrade and Lian Larracas, 2575 Bent Pine Street. We used to live at 250 Heron Drive, in the Melbourne Shores area. We lived there from 2014 to 2015. We really liked the area, we really enjoyed it, it's really peaceful and quiet, near the beach, access to the ocean and the river, and we loved the school district. We decided to buy a lot, 5970 Highway A1A with the intention of building commercial/residential, which is a BU-1-A zoning status. It was previously zoned as BU-1-A. The owners before us had rezoned it to RR-1 and we'd just like to change it back to BU-1-A so that we can do what we want to do and build a small bakery for my wife on the first floor. What I want to point out to you is that we bought on A1A only because that was the area that tends to have both

commercial and residential, so we felt like that was a good spot to put our small bakery and our residence as well. There are other lots within Melbourne Shores that were available, but we saw the best opportunity was right there along A1A, so that's where we purchased the lot. We just got approved for a variance in late December, so we got approval for a five-foot setback on the backside, and we got approval for a variance of 1.5 feet on the side, because for BU-1-A we needed at least a minimum of 75 feet of width, and we only had 73.5 feet. Our site plan shows what it will look like. It meets the 50-foot setback from the front, and then we have a 20-foot setback on the rear, with 5 feet on one side, and 15 feet on the other side. We have a 3D rendering of our house/commercial; it is primarily a house, it's going to be our home; we have three children, a two-year old, a 6-year old, and a 16-year old, so this is the place we're going to live, but we also want to put a bakery inside of it, because my wife has a dream to retire in a place where we have a bakery on the bottom. The only commercial part will be the first floor. It's a 2-car garage, 3-bedroom home. This is our ideal house we'd like to live in and eventually retire in, and have a small bakery.

Brian Hennessey – Brian and Theresa Hennessey, 5960 Highway A1A, the property right next door on the north side. In looking at this, it's an extremely small lot at .179 of an acre. The future zoning use of it is Residential 1. Each block in the neighborhood has one commercial and the rest are residential; there's not adjacent commercial lots, so 75% of that block is already residential. The owner was saying there are multiple other BU-1-A zoned lots, there is one 1,000 feet away, so it's not like there's anything special about this lot, just that it's small and affordable. One of the things we had to do when we built our house was look at the sewage requirements that dictated the size of house we could build. At .179 of an acre, that's 268 gallons per day, and the rendering I saw looks like about 2,000 square feet, which is questionable whether or not that's with pretty strict regulations. They also have sewage flows for a 500 square-foot bakery, and just that alone is nearly double the daily allowable limit. In looking at the Future Land Use, I know Residential 6 requires city water, and we're all on septic and well down there. It's supposed to have centralized potable water. It's not in accordance with the neighborhood; at the end of each block there is one commercial, but everybody wants to keep it as residential, this has settled as a residential area. The fear is that if it turns out that it's not feasible as a zoning for a bakery and a house, it could be used as anything, and I have a list of all the different things that this could be turned into if the zoning is granted. It seems like it's wildly incompatible with the regulations with the water and sewage, so I don't see how at some point it's going to be used for its intended use.

Henry Minneboo – Is the area down there still on water and sewer?

Theresa Hennessey – Septic.

Henry Minneboo – You're on a well?

Brian Hennessey – Yes.

Henry Minneboo – If it wasn't a bakery, would that disturb you?

Brian Hennessey – Actually, it's a wholesale bakery.

Henry Minneboo – If they didn't have a bakery, you wouldn't have an objection?

Theresa Hennessey – If it was a single-family residence we would have no problem with it. Any commercial property we'd have a problem with, not just a bakery. It's an online wholesale catering

bakery that's already got an established website; it's not just a small bakery where we could meet for coffee. They are shipping in the morning, there's trucks, there's pollution, there's traffic.

Brian Hennessey – There's a school bus stop there as well, so kids walk right by.

Theresa Hennessey – We also presented a petition with over 100 neighbors' signatures against it, the commercial, not a single-family residence. When we bought our land in 2015 we did a feasibility study, we did all of our due diligence for all of the requirements before we built our home for our retirement, and both lots were residential. We built everything according to Code to retire there and have residences next to us. Our problem is that regardless of whether it's a wholesale bakery, if it's changed to BU-1-A, in the future if they sell, it's already rezoned and it can be a used car lot, it could be a motorcycle club, a laundromat, or anything qualifying under BU-1-A, which would definitely lower our property values and hurt the peace and quiet of our 5-block community.

Henry Minneboo – There's methods here that we have that can control that, but that's not what we're talking about.

Rochelle Lawandales – As the Chairman just said, we can control what the uses are, so if it was just limited to the bakery would you have any problems with that?

Theresa Hennessey – Yes, because it's a wholesale bakery, it's not a bakery where you can go sit, it's going to have trucks coming in the morning, shipping, catering, online ordering, and we're worried about the traffic, the bus stops, the pollution, the noise, the dumpster, and vermin. We don't have a problem with a single-family house, we have a problem with any commercial, including this bakery.

Delores Conway – I'm Delores Conway, I live at 123 Cardinal Drive, and that's on the street about 83 feet south of the lot. The first thing that they mentioned was that it's peaceful, quiet, near the beach, and there's a bike path that goes past it. The reason they want to live there is the same reason we want to live there, the quiet enjoyment, and it's safe to send your grandkids to the beach. Our beach access is right across the street, and just down a little bit from the bike path of joggers and cyclists; it's the last unspoiled area of Melbourne Beach. If they are allowed to do this there's going to be a blind driveway; it won't be on the end of a street where you expect a car to come out, or a truck; it's going in the middle of a block, and it's going to come right out on the bike path and there may be delivery trucks picking up or delivering right in front of that area where they cross over from the beach. That's my main problem. Then, it's not just traffic, it's where the traffic is. When we had the variance meeting on December 16th, it was basically saying to the residents that they want a house with a 500 square-foot bakery, very minimal impact. Then, today, at this meeting, I see that they want a future zoning for Residential 6, not just the house and the bakery on top of that. Our neighborhood has gone residential; it's basically not commercially oriented. One of the things to prove that is we've had restaurants that were there and they have all gone back to residential, except Chuck's Steak House. We had the Sebastian Inn, which was a restaurant that closed permanently last month, and they have gone residential also. This bakery as proposed will have to have a prep area for cooking, ovens, cooling racks, counter space, shipping and receiving, and a dumpster. The other problem is my niece owns the lot right behind theirs, so it's definitely going to impact them, and they probably won't even build. Those were the points I wanted to make.

Ron McLellan – The adjacent parcel to the south is zoned BU-1-A and has a mixed use of commercial/residential.

Delores Conway – My niece’s lot is right behind, she’s right behind their lot, but it faces Cardinal Drive.

Ron McLellan – My point is that BU-1-A is all along there, and the parcel to the south of these people is doing the same thing that they’re wanting to do. How in the world can we tell them no?

Delores Conway – They were already in business, it’s a hair salon, and it’s a corner property.

Ron McLellan – But, all along Highway A1A there’s BU-1-A.

Erin Sterk – I can clarify the difference between the standard request for commercial zoning and what’s before you today. If they were just seeking BU-1-A zoning there’s multiple paths to get there, and those are outlined in the Comprehensive Plan report. One of those is with the existing Future Land Use designation of Residential 1. They could be considered BU-1-A, and could be considered consistent with Residential 1 if it were to be deemed transitional. That would be a decision that this board would need to make that we did not evaluate in the staff comments because that would leave them with the development rights for just the commercial component. In our conversations with the applicant, they have not indicated that they want to go from residential to commercial. If that were to be the board’s wishes, they have declined taking that as a potential outcome. They only want to have the commercial rights if they retain residential development rights, so that eliminates that one path with the current Future Land Use designation. The other option available to the applicant to get BU-1-A would be to propose Neighborhood Commercial Future Land Use designation. That, again, would just leave them with just commercial development rights and no residential rights. So, the only way to get both residential and commercial development potential from this property is to get the Residential 6 Future Land Use designation, which gets them one unit on .18 acres, and then to rezone to BU-1-A consistent with that. The challenges with that are that Residential 6 requires connection to potable water, where Neighborhood Commercial does not require that. If they were proposing to go to BU-1-A it would be much more feasible, but the Residential 6 is really the decision that this board is faced with in this area of the South Beaches.

Rochelle Lawandales – From a standpoint where the Comprehensive Plan would require potable water and it’s not available, they would have to be allowed to go on septic until such time as public water and sewer utilities were there. Is that correct?

Erin Sterk – The question is whether or not this board should consider approving it without that available.

Rochelle Lawandales – I think that’s a legal issue. If it’s not available, what are those limitations?

Erin Sterk – We talked to the applicant about multiple ways to get BU-1-A zoning, and those other options weren’t possible to them.

Henry Minneboo – What does legal think about this?

Jad Brewer – It’s in your staff report that staff is saying it’s not consistent with the land use regulations, but the applicant is applying, so it’s up to this board to decide on a recommendation to make to the County Commission.

Rochelle Lawandales – If the board were to go down one path of approving it, could they stipulate approval of the Residential 6 that they be allowed to use septic until such time as there is public water and sewer utilities available? Since there are none in the South Beaches and there are no plans to provide them.

Erin Sterk – I think there are plenty of properties that have a land use designation that don't meet all of the criteria for that, and if they have the zoning generally they get to a place where they can submit development plans if they already have that zoning. The question is whether or not they should be granted those rights today without meeting those criteria.

Rochelle Lawandales – And it could be stipulated that there be no more than one unit, in a binding development plan, even though it doesn't, just by virtue of the math.

Erin Sterk – Yes, by the math you can't get more than one single-family residence.

Rochelle Lawandales – What would the regulation be on a home occupation?

Erin Sterk – Can you restate the question?

Rochelle Lawandales – What would the regulation be on a home occupation, if they built their home, could they have a home occupation to sell muffins?

Erin Sterk – There are allowances, and maybe George can speak to this more technically, but there are allowances for them to operate a bakery, it's one of the uses permissible by the State without the commercial zoning as a home occupation.

George Ritchie – The Department of Agriculture has a use as a Cottage Food Operation where you can actually get a license from them to sell bakery items and certain other items directly from the residence.

Rochelle Lawandales – That might be the best answer all around.

Delores Conway – Without changing the zoning? That would definitely be a good thing, it wouldn't affect the residential zoning in that area. The main thing is that it is mid-block, it's in the middle of the block. We have cyclists go by there because there's only two lanes, one going north and one going south, no turn lane, and the bike path. There are a lot of cyclists every day, especially on the weekends there's many of them and they come from all over, and they go down one side and up the other. And like I said, it's unique to this area, this little block, that they wouldn't have if they just went half a mile down the road and got a different kind of property. This one is right near the beach access, kids come from our neighborhoods and cross over with fishing rods, surfboards, I mean, it's something to see if you want to come by and see it.

Henry Minneboo – The issue with A1A for years has always been spattered commercial, starting at Sebastian Inlet going north. I think someday it's all going to be commercial.

Delores Conway – But the community doesn't support it; the restaurants come in and they go out, all of them.

Henry Minneboo – That's just Melbourne Beach, unfortunately.

Delores Conway – This is Melbourne Shores.

Dane Theodore – I'm looking at this presentation by the neighbors and it talks about onsite sewage capacity for that size of lot, 265 gpd for .179 acres, which is a maximum. That's a threshold of 3 bedrooms at 300, so the 265 allows two bedrooms between 751 to 1,200 square feet, and that doesn't include a bakery. Is that a correct interpretation of this package?

Erin Sterk – I can't speak to what the applicant provided because that's not Brevard County that does that, the Department of Health manages that criteria, but it's certainly something that if the applicant had done the due diligence and gotten with the Department of Health that could demonstrate that what they're proposing could be constructed and the site would post that, but I haven't seen any of that information provided.

Dane Theodore – I have a question for the applicant. I don't know if you've done enough due diligence on sewage flows, but my question to you would be, if in fact the maximum buildable area, based on Department of Health sewage, is 1,200 square feet and two bedrooms, and that doesn't include a bakery, are you still willing to go forward with this?

Tony Andrade – Yes, we have hired a septic designer engineer, and he is designing the septic system that's called a Performance Based System, which allows us to put more. Just the zoning itself, we're required to use performance based, but he also stated that we can consider the lots, and not only the plotted lot, but the lot between the street and the line that goes to our lot, he said there's a rule that allows us to include that space as well, because when the water flows out when it rains, the flow the septic has when it expels its water, it's allowed to go onto the streets and we're allowed to include that in the design. The Performance Based System would meet the requirements, so we have done our due diligence and talked to a septic designer, and he's willing to do it. The only thing we're waiting for is to get this rezoning because he charges \$7,000 to do the design.

Dane Theodore – So, you're relatively confident that you can build what you want to build?

Tony Andrade – Exactly.

Cheryl Hernandez – My name is Cheryl Hernandez, 122 Pelican Drive. With the BU-1-A classification, it says, 'limited retail shopping and personal services to serve the needs of the nearby low-density residential neighborhoods'. Their website advertises wholesale bakery online sales, and things like that, so my question is would BU-1-A allow that, because it's not serving just the low-density residential neighborhood, it's opening it up to a much greater area and would increase the traffic and the business that's going on there, greatly.

Henry Minneboo – Erin, I don't think that's going to have an impact, do you?

Erin Sterk – Do we anticipate a significant amount of trip generation from the bakery?

Henry Minneboo – The fact that they're wholesale.

Erin Sterk – I don't think the evaluation that we did at this level looked at those differences. The Institute of Transportation Engineers that we use for the trip generation rates, I don't think they break it down that far about wholesale versus a commercial location.

George Ritchie – The BU-1-A zoning does not allow wholesale, it only allows retail. They would not be able to get a Business Tax Receipt for any kind of wholesale operation with this zoning.

Delores Conway – That was my question, because they do advertise that they are a wholesale business. Thank you.

Mitchell Roffer – My name is Mitchell Roffer, I live at 6025 Highway A1A, Melbourne Beach, about 500 feet away from the proposed change. We welcome them to the neighborhood, we enjoy having new people in the neighborhood in a residential type of development, not in commercial. You talked about the traffic, and my mailbox was taken out about two weeks ago, and it was a metal mailbox. If I had been standing there getting my mail I'd be dead right now, so the traffic is an issue in our neighborhood and we wish something would be done about it. Adding more commercial businesses to our neighborhood is going to change the composition of the neighborhood. We all want to see the composition that we have, and I don't believe A1A will be commercial. We plan on living there until we die, and I think everyone here in our neighborhood as well. We just put together a half-cent tax to Save Our Lagoon, now we're bringing in another commercial operation that's going to use an excess amount of water; the neighborhood already suffers from flooding, from over-saturation of water, regardless of this supposed new septic system they have, the water doesn't just disappear, it goes downhill. There, at the northern top of the neighborhood, that water is going flow and the neighbors to the south of them are going to suffer from the water that's coming down the street into their houses. In addition, I don't know if you've ever lived near a bakery, but at certain times of the day and night they re-heat the ovens and that smells. That's commercialization and it stinks, to be honest with you. I've lived by bakeries before when I lived in New York and when I lived in Miami. This is not a pleasurable experience in a residential neighborhood, so this is not what we're looking for. We're happy to have them as residential in our neighborhood, but changing this to commercial at all times of the day and night is something we don't like. Thank you.

John Mueller – My name is John Mueller, I live at 118 Cardinal Drive, Melbourne Shores, and I'm 75 feet from the proposed zone change. I don't know if you've been provided the petition with all the signatures from our neighborhood. I'm pretty sure you didn't get the pictures of the wildlife sanctuary, which I'll get into when I talk about it, and also about the bike path and beach access. I'm opposed to the proposed zone change for other reasons than previously stated. The pedestrian traffic is quite an issue, we have two school bus stops on Ibis and A1A, and Flamingo and A1A, and I have pictures of that right here, where they are next to the proposed lot. (Pictures shown by Mr. Mueller were not given to staff). There's a lot of kids in our neighborhood, the school bus stops there and unloads kids, so there's always traffic. People coming to the beach access use the bike path; bikers use the bike path; and now you're dealing with a commercial piece of property that is going to have trucks coming in, they're going to be dropping off goods, they're going to be picking up goods. There's no turn lane on A1A whatsoever, and that's a busy street, people go flying there. There's no alley for any kind of commercial trucks in order to drop off the stuff. As far as a dumpster location, the lot is very small, so you put a big house on it, and a parking area, because there has to be parking, so where is the dumpster going to be located? There cannot be just a couple of trash cans, there has to be a dumpster, and which of the three neighbors get the dumpster alongside of their house? It's a small lot less than 75 feet wide. There is noise when the dumpster is emptied, Waste Management picks up the dumpster, flips it up and then it bangs. The closest street is DeAngelo's restaurant and they have pickup and I hear it at 5:00 a.m. all the time, and it is quite noisy. That is a little bit more distant than if it was at Brian and Theresa Hennessey's house right next to this property, and to the back, which is the Conway's. Which neighbor actually gets that dumpster? They won't empty it every day, so there

will be a build-up, and remember it's not dry goods. Melbourne Shores, our neighborhood itself, sits by a bird and wildlife sanctuary, and we also border the Maritime Sanctuary, and that means there's a lot of animals. I have a bobcat coming through my yard all the time. What we don't need is more attraction for animals to come into the neighborhood. Having a residential house with a regular trash can will not cause more attraction of animals. By allowing the zoning change you'd be almost granting a strip mall effect, which is not a Melbourne Shores residential neighborhood character. We don't want to be a Town Star, but at least with Town Star just to the south of us, they have a blinking yellow light, which means there's really high traffic. Somebody was killed there years ago and they put a blinking yellow light there. So, you will have two businesses now between Cardinal and Flamingo, so now you're creating that strip effect. To me, we don't mind residential, everybody in the neighborhood would welcome them as residents. There are plenty of businesses, or lots, that are available for business that would meet all of their conditions rather than trying to change an RR-1, which it is now. They bought the property knowing it was residential, the realtor who sold it to them sold it as residential, and now they want to come in with intentions of changing it to BU-1-A. If that was the case, why did they buy residential? If you allow that to happen on the other side of the Hennessey's property, there's another empty lot, so if you grant this variance on this south side of the Hennessey's lot, then what happens to the one on the north side? Yes, you're setting a precedent, which means they could also change from RR-1 to BU-1-A again, so then the Hennessey's who bought their property as residential knowing either side was residential, now all of a sudden they have a beautiful home and their flanks are now business. I don't think that's fair to the existing people that are already here. I just wish that they would reconsider and find another place for their business. I just don't think they have the room to support the cars, the dumpster, and the house itself; they got the setbacks last month, but there was no plan on the house itself. We, as neighbors, never even knew exactly what was going to be built, so now we see that we're dealing with nothing but concrete out there, so now we don't have the vegetation the wildlife needs. I'm dead against the variance change for these reasons, not including all of the other logistics that have already been stated.

Jane Mueller – My name is Jane Mueller, 118 Cardinal Drive, within the 200-foot range. What I wanted to mention was the Comprehensive Plan. With what has been proposed by the couple, it doesn't look like you have the trees, or the vegetation, and these are things that all of us in the neighborhood have complied with through the years; I've been there 20 years, and I remember people coming to my house asking how many hardwoods I had. I realize that probably doesn't happen at this point, but that's an important aspect of our community and the entire area where we are with the sanctuary next door. We are very compliant and try our best to deal with the vegetation, animal, and wildlife there as well. I don't see that in the picture that was shown, I see concrete. I realize it is a very small lot, and I just don't feel like it fits in with the rest of our neighborhood, and I feel the Comprehensive Plan is a very important aspect to all the people that live in our neighborhood and the surrounding area. Thank you.

James Tuohig – My name is James Tuohig, I live at 113 Cardinal Drive. I'm concerned that this is going to become a commercial hub of the South Beaches area. This is the only area where two contiguous properties are going to be zoned commercial. Melbourne Shores is a very tight little residential area; we have all of these kids going by these driveways to get to the entrance to the beach. I'm astounded that the County does want to make this a commercial hub; it's very interesting because we have all types of places in all types of areas north and south of us that aren't heavy residential. This is very tight little residential community, and another business does not belong there. I'm dead-set against this. We have 100 signatures, but we could have had 300, except it was just right before Christmas and I didn't have time to get them. Nobody wants it, and certainly everybody

with kids are really upset because of the bus stop and because of the entrance to the ocean. Thank you.

Tony Andrade – We agree with them 100%. That's why we like the community, we lived there before and we love that it is quiet, it is isolated. We're not trying to change things, we're moving in there to conform, we have kids ourselves, so safety is a big issue. James talked about it being a commercial hub, and yes, my wife has started the business. She started it in California.

Lian Larracas – My name is Lian, I've been baking for a very long time, and for me it's therapeutic. I'm currently a full-time electronics engineer and a part-time baker. What started as a hobby evolved into a bakery business in California in 2013, and I started it in my home under the cottage food law, and then moved into a rental wholesale kitchen, which eventually the wholesale business aspect wasn't where my business income was coming from, and eventually it went to my storefront bakery. Most of my transactions were pre-orders for weddings, caterings, birthday parties, farmers markets, and festivals, most of which are transported to those locations through pick-up or delivery. My bakery was a place where I baked and the storefront had always been used minimally off the main street in a busy part of Santa Clarita in California. I would like the same in Melbourne Shores where I can continue the venture in a small town community.

Tony Andrade – Really, her business is not bringing traffic into it. She had rented a bakery on Main Street as well, in California, and what happened was we were surprised to know we didn't get a lot of traffic; the business was sustainable with just foot traffic. As a matter of fact, her business was sustainable by her doing events, going out and doing stuff like the small cottage, but she needed a bigger kitchen. This was all valuable to the people that needed the service, and they liked it. I feel like this is a service that the whole community would eventually like. I feel like we can make this work, I really do. The commercial hub, I don't see it happening, it didn't happen in our last business in Santa Clarita; we didn't have delivery trucks, and we didn't create any more traffic coming into it, and we did everything based on the vehicles we already owned, we didn't have a business truck, so I don't think increased traffic is a concern because we own two cars. Another issue they had mentioned is the mailbox and the commercial aspect of it. I'm sorry his mailbox got hit by increased traffic, but I don't think we'll be causing a lot of traffic because history shows from our previous business that it didn't create any additional traffic. We're hoping to service people that are already going through there. We don't plan to expand this larger than that 500 square-foot area; we want to keep it at a small scale; we don't want to expand it beyond what we already have built.

Henry Minneboo – Do you have established hours of operation?

Lian Larracas – No, not at the moment. Right now, I'm working full-time.

Henry Minneboo – People are under the impression it's open 24 hours a day.

Tony Andrade – No, it's not. We're talking about a process that's going to take a few years and we're not going to build this thing and start baking on day one. We still have to get the materials, the kitchen going, we have to get health and safety involved so they can do their inspections, and then eventually we have to buy equipment. We're doing this out of our own income, we're not a corporation, we're small business owners, so it's going to take time for us to accumulate, but we just want to get this rezoned because we know that's our end goal. We want to retire here, we want to have our children grow up in this area, so safety is a big concern with us as well.

Henry Minneboo – Generally, with commercial you do have a dumpster.

Tony Andrade – There's going to be a dumpster, but we haven't really thought that far into it, but if it's required by the State and the Health Department we're going to have to have a dumpster.

Rochelle Lawandales – Is there a reason you couldn't do this as a Cottage Industry and as a home occupation? I think that would be the best compromise solution to allow you to bake and for it to stay residential.

Lian Larracas – I started as a Cottage Industry, but under the cottage food law, the bakery wouldn't be under the regulations of the Health Department, which wasn't desirable to the consumer, so I went into a licensed bakery. If I were to continue as a cottage bakery it would be unlicensed and I wanted this to be regulated under the Health Department.

Rochelle Lawandales – Doesn't the Health Department regulate any kind of food production, not just the Cottage Industry.

George Ritchie – If it was run from the house as a home business, the Cottage Food Industry is not a full bakery, it gives you a range of which items could be done and which items could not be sold, so they actually want you to sell them from the residence and not on the internet or a marketing scheme that takes the product away from the house. Under the home business as a home occupation you're limited to the family members living there on the site and one non-resident employee, and we limit visitation that would come to the property, so you're limited to two parking spaces, so we don't have a lot of traffic coming to the home. There is a big difference in how you want to license the business.

Lian Larracas – Also, if we want to serve coffee, cottage food won't allow certain drinks, and it has to be packaged with plastic and labeled. Based on my experience starting as a cottage food industry it was undesirable with the consumers, so I transitioned to a licensed bakery.

Rochelle Lawandales – Where would you sell coffee? Would you have seats outside?

Lian Larracas – No, it's a take-out bakery, and if we had seating we would have to accommodate with public restrooms, which we do not have capacity for.

Tony Andrade – We're balancing a home being built and bakery being built, and the issue a lot of people brought up is it's going to increase traffic and it's all concrete. We're required to put in three levels of vegetation, so what you saw in this picture, the draftsman didn't put what was required by Brevard County. The neighbors do have a petition, and when we found out they had a petition, we went out to our neighbors, including Amy's Salon, which is right next door to us, and is also BU-1-A, and she was okay with it. We talked to other residents along that street. There is a realtor that is BU-1-A and he is fine with it. We went deep into the neighborhood and asked people if they signed a petition against us, because I felt like we needed to explain what we're really trying to build because somebody mentioned that we were going to build a bar, and no, we have kids, we don't want a bar, we want to build a family-safe environment. We chose the lot on A1A because we thought that was a good place to put a commercial residence. We didn't pick anything where all the houses were, we picked A1A, and I thought we picked a good location. You can see all along there's empty lots within Melbourne Shores that are BU-1-A, and we're preventing someone else going in there and building what they don't want to have built. We bought the lot and our intentions were to convert it, but it was previously zoned BU-1-A, so we just want to get it back to its original zoning.

Brian Hodggers – From what I've heard from the people in opposition, it seems as if the main issue is that this is a wholesale thing that's going to create traffic. I heard from them that they don't want anything commercial, I get that, but I haven't heard from you guys directly, and it sounds like you want to maybe sell coffee and do a little bit here and there, but to me it does sound like a wholesale commercial application. You're not going to have a lot of people coming to the property to purchase things, it's possibly going to be some shipment by FedEx or UPS, so can you give us, for our own edification, are you really looking for foot traffic, are you looking for people to walk up and buy things from you, or is this really a wholesale online thing only?

Tony Andrade – This is not wholesale only. We do want people to come to our house and look at all the baked goods and make a decision for them to see the product they like and come back. We kind of wanted a storefront.

Brian Hodggers – There won't be seating?

Tony Andrade – No, there's no seating.

Brian Hodggers – They will come in and see a display case?

Tony Andrade – Yes, and pick their items. We want to retire in a home where we can do this and have a business downstairs.

Lian Larracas – Also, the wholesale, it's a different requirement from a regular bakery. There's a lot more requirements from the Health Department to build a wholesale, requiring an office, a drainage system, and a separation. It's not a wholesale bakery, and that wouldn't be allowed in BU-1-A.

Erin Sterk – Mr. Chairman, at the opening of this hearing, I read into the record Item 11, but usually if there's an associated item I read both into the record. Just to clarify, we're talking about the Comprehensive Plan amendment to Residential 6 and the rezoning to BU-1-A, so we'll need separate actions.

Henry Minneboo – We have 18PZ000134 first.

Rochelle Lawandales – The problem as I see it is that they want to do a mixed use like that which exists on the corner. I think that's very compatible. I think you've got BU-1-A all up and down A1A; I'm looking at a zoning map, so I don't know whether the community understands that, but at every endcap, with the exception of the south corner of Flamingo and A1A, it's all BU-1-A.

Henry Minneboo – How long does that BU-1-A run?

Ron McLellan – It's the whole block.

Henry Minneboo – Through all of Melbourne Shores?

Rochelle Lawandales – It is all BU-1-A.

Ron McLellan – I don't see how we can legally tell this man he can't do that, with BU-1-A next to him doing the same exact thing he wants to do.

Scott Langston – It was already zoned that before. We understand, too, the fact of the residential close by, but it's kind of going that way because of everything else around there, according to our maps.

Rochelle Lawandales – I do have concerns, and I think we can't go into this blindly. I think we have to recognize that there are concerns. From the standpoint of the mixed use, I don't have a problem with the mixed use, the problem is how you get there. The other problem that I have is, I think you look at the structure and see a residence, what goes on inside, whether she stays up from 2:00 a.m. to 6:00 a.m. baking and sells at farmers markets, I can't imagine that anybody would care about that. They can't do wholesale because that's not allowed by the zoning. I see problems with dumpsters, I see problems with accessibility, but I also see just a house and somebody who wants a home occupation. If it's going to be a house and a home occupation, I can vote today very easily. If they want to go for the BU-1-A, I think there's a lot of reasons to do BU1-A; if they are going to stay residential, that's easy.

Ron McLellan – Would there be any way we could do that if there's a binding development plan, to satisfy the neighbors?

Rochelle Lawandales – I think you can.

Ron McLellan – When I was a kid, my fondest memories are of riding my bicycle to the bakery in the morning and getting a hot donut. That's how I see this; I don't see it as commercial with people coming in, I see it as a neighborhood bakery. I think we put some kind of binding development plan on them where they have walk-ins and take out service, no parking. I think it would work, and I think these people would like it.

Ben Glover – And we limit it to just the bakery?

Ron McLellan – Yes, and then they can't do anything else.

Erin Sterk – You could do a binding development plan if the applicants were amenable to those conditions.

Brian Hodgers – Can you have a mixed use in a BU-1-A?

Ron McLellan – Yes, there's one right beside it.

Erin Sterk – The one beside it is a tricky question. The answer about how the one beside it came to fruition is a mystery because our records retention requirements do not go as far back as when that was developed. They permitted the property, and we can see that they've pulled a single-family residential septic permit on that property south of them. We do not have the plans, so whether or not they identified that there was a salon component of that development to the south, it's certainly not something that the zoning and land use would have allowed for. If it was missed on the plans we don't have those plans because it's beyond our records retention timeframe. If it was there it was missed and it should not have been approved. The zoning and land use on the property to the south would not allow for that to be developed today.

Rochelle Lawandales – That's why they have to go to the Residential 6 land use in order to allow the residence and the BU-1-A to allow for the bakery.

Ron McLellan – It states it right here in our staff comments.

Erin Sterk – It is there, we just do not find a record that it was permitted appropriately. We have the numbers of the permits, we just don't have the plans, so we can't tell whether or not that commercial component on the first floor was identified in the plans, or if they converted it after the fact.

Mark Wadsworth – The zoning restricts the footprint, the 500 square feet?

Erin Sterk - No, if they had the BU-1-A zoning, even if they go to the Future Land Use and the zoning, they could build a commercial component much larger than that depending on what the stormwater would allow for.

Dane Theodore – I'm looking at the land use map and everything is Residential 1, everything north and south and east. We're contemplating changing this one lot within this huge swath of Residential 1 to Residential 6, simply to manipulate the Future Land Use and the zoning to allow this bakery. How does staff feel about that? It just seems that it's spot land-use.

Erin Sterk – The history of the Comprehensive Plan in this area is interesting. When this was proposed to have the entire area reduced to Residential 1, some of you may have worked for the County then, it came before the Board and the Commission decided not to take action on that, and they put that decision to referendum, and when this property became Residential 1 it was a vote and a no action. To undo that and potentially change a piece of property to Residential 6 after that action occurred, to allow for a new use on a lot this small, it is a serious decision to make. You can see it has not been changed in that area since that time.

Rochelle Lawandales – That sheds a different light on things to me. How do you reconcile all of the other BU-1-A properties that are there in light of the Residential 1 land use? If somebody came in for BU-1-A business license, or a site plan to do something, how would you deal with that?

George Ritchie – In the BU-1-A zoning classification one of the listed uses is a single-family residence, that's what's causing the land use amendment part of this request. They can do commercial operations with no residence as long as they are considered a transitional use to buffer the properties west of A1A, so we can put in the BU-1-A west of A1A. We can put in the BU-1-A zoning and Neighborhood Commercial land use, but with Community Commercial land use, nobody would really want to see that type of land use go in here because it would promote additional commercial zoning classifications. In some instances, in residential zoning, we have an asterisk that says when deemed a transitional use it could also be heard. To get the commercial aspect of a bakery, that can be done in BU-1-A, BU-1, or BU-2 zonings. The least intensive one is to match the adjacent BU-1-A zoning. To get the residence to remain on the property, we're dealing with lots that were platted before the zoning code, they're non-conforming lots of record, and there's the Comprehensive Plan that was added after the zoning. If the lot was already in existence and used for residential purposes, it's grandfathered in, but now we're taking that zoning away, replacing it with a commercial zoning classification, and now they still want to retain that residential use, so we need to bump up the land use classification to be consistent with the lot size that they have. If they had a one acre lot we could have kept it at Residential 1 and they could have done both uses there, but unfortunately they don't have a one-acre lot to be consistent with the Comprehensive Plan for the residential purpose.

Rochelle Lawandales – So, on the lot to the north, and that whole block that is BU-1-A, they can do commercial in there under the Residential 1 because they can also do residential and it's a transition?

George Ritchie – Yes.

Rochelle Lawandales – So, there wouldn't be an inconsistency. If these folks just kept it as a commercial use they could do it under Residential 1, if they got the BU-1-A zoning. Or they can do the residential.

George Ritchie – To change from the current residential zoning to BU-1-A, it's a commercial classification, it's not looked at as a residential classification anymore, so they'd have to be consistent with the Comprehensive Plan to get a residential unit, but in BU-1-A.

Rochelle Lawandales – But if they didn't want to do that they can still do that under Residential 1.

George Ritchie – They could, and that is something that we would enforce by zoning.

Ben Glover – Can you limit it to one structure, even with the Residential 6?

George Ritchie – Under Section 62-2106, which is the mixed use activity that's allowed by the zoning code, you can have a freestanding commercial building, you can have a freestanding residential building, or you can combine them and have them both in one building. If you want to limit it to one building that's fine, it's still consistent with Code, but I haven't heard the applicant say they want to make two different buildings on the lot, but that is something, if you wish to require them to have as part of the binding development plan, you can ask the applicant to do that.

Henry Minneboo – You'd spend more money on the septic tank than the lot is worth with two separate building structures with the septic tank where it is located.

Rochelle Lawandales – What I'm most comfortable with, in light of all of this discussion, is that it stay residential and that they get a home occupation to do the bakery. So, I think that means to recommend denial of the Residential 6, and then denial of the BU-1-A. We've got to take it in two steps. I don't know where this will go.

Henry Minneboo – Let's deal with one first.

Rochelle Lawandales – I'm going to move denial of the Comprehensive Plan change from Residential 1 to Residential 6.

Dane Theodore – Second.

Henry Minneboo called for a vote on the motion as stated, and the motion passed 7:2, with Brian Hodggers and Ben Glover voting nay.

Henry Minneboo – Now the second motion.

Rochelle Lawandales – They could still do the BU-1-A.

Henry Minneboo – Let's not add any confusion.

Rochelle Lawandales – I don't have a problem if they want to do BU-1-A.

Erin Sterk – Staff spoke with the applicants throughout this process and if they were to receive the BU-1-A without the Residential 6 and abandon the residential rights and be only granted commercial development rights, they have requested not to have that outcome.

Rochelle Lawandales – Motion to deny.

Henry Minneboo – There's a motion to deny the BU-1-A, 18PZ00133, Item 12.

Dane Theodore – Second.

Erin Sterk – Just to clarify, if we don't approve the Residential 6 we can't really approve the BU-1-A.

Rochelle Lawandales – You can approve the BU-1-A, but it would only be limited to the commercial.

Erin Sterk – Right.

Rochelle Lawandales – You couldn't do the mixed use. They couldn't do the residential, but they could do the bakery. My motion was to recommend denial of BU-1-A.

Ron McLellan – Let me get this straight. What are we denying?

Henry Minneboo – We're denying the BU-1-A.

Rochelle Lawandales – And that's because the applicant does not want to just do the commercial component without the residential. Without their desire to just do the commercial component, there's no need to change it in my opinion. I have no problem with the BU-1-A.

Ron McLellan – I don't either, but I don't think we're accomplishing anything.

Henry Minneboo – We're not.

Henry Minneboo called for a roll call vote, and the motion failed 7:2, with Henry Minneboo, Ron Bartcher, Brian Hodgers, Ben Glover, Ron McLellan, Scott Langston, and Mark Wadsworth voting nay. Rochelle Lawandales and Dane Theodore voted aye.

Rochelle Lawandales – We need another motion.

An unidentified audience member asked for clarification on the motion and vote.

Erin Sterk – They voted to deny the rezoning to BU-1-A. The motion was to deny and it did not pass. There would need to be a second motion made.

Ben Glover – I'm a little disappointed that we voted against the other one because now we really can't go anywhere with this.

Brian Hodgers – Can the original issue be re-brought up?

Henry Minneboo – Yes, we can go back to the original.

Brian Hodggers – Since I'm one who voted nay, I can make a motion to reconsider.

Erin Sterk – What that would take from staff is revising the staff report. The way that you could consider the BU-1-A with the current zoning classification is if it were to be perceived as transitional. We would need to evaluate the ways that this applicant is making the commercial transition to residential. So, that takes evaluating buffering distances and things like that. Our staff report didn't really go there because they weren't looking for that outcome. There's a whole other set of analysis that considering that land use designation transitional and the zoning appropriate, that hasn't been provided to this board. We can do that analysis, but that's not the outcome they desire.

Ben Glover – Is it possible to re-vote on the item that was denied?

Henry Minneboo – We can go back to Item 11.

Ben Glover – That's what I'd like to do. I make a motion to reconsider the denial.

Ron McLellan – I second.

Brian Hodggers – I think that we're all confused because from various comments. We have people saying they are in favor of BU-1-A because it's consistent with up and down that whole corridor, but we have problems with the wholesale aspect versus the walk-up aspect, and the residential aspect. I think we need a little bit of guidance from you guys as to, can they get the BU-1-A and be residential without having to go to the Residential 6, and if not, then I think that's where we have to go back to the original vote that we took that we want to re-open.

Erin Sterk – They cannot retain residential development rights with any other path than Residential 6, plus the BU-1-A. In all of our conversations in getting to this moment with the applicants, they do not want to lose the residential development potential. They don't want to just build a bakery without living there. We did not look at those other options to get to BU-1-A zoning, because that wasn't the outcome they desire. We would need to do some work if that were to be something if the land use change does not go through we could evaluate those things, but the applicant has told us that's not what they want. I'd like to hear from them if they've changed their mind on that.

Brian Hodggers – Is there any Residential 6 in that whole area?

Erin Sterk – No.

Henry Minneboo – That's the problem.

Ben Glover – But if we limit them to only able to build one structure on the property, it's compliant, but it's really Residential 1, correct?

Henry Minneboo – The only thing that grabs us later on in a year, someone down the street all of a sudden wants it.

Ben Glover – I don't see anything wrong with what the applicants are trying to accomplish here. I made the motion to re-visit the vote, and I believe Ron seconded it.

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

Ben Glover – I'd like to make a motion to approve the Residential 6, and also the BU-1-A, with a binding development plan only allowing one structure to be built on the property and limiting it only to a bakery.

Mark Wadsworth – Second.

Rochelle Lawandales – We have to have two motions, one on the land use and one on the zoning.

Erin Sterk – Just take action twice. Considering the conditions, can the applicant attest to whether or not those are amenable to them, the two conditions.

Henry Minneboo called for a vote on the motion as stated, to approve Residential 6, and it passed unanimously. The vote passed 7:2, with Rochelle Lawandales and Dane Theodore voting nay.

Ben Glover – I'll make a motion to approve BU-1-A with a binding development plan only allowing one structure on the property and limiting it to only a bakery.

Mark Wadsworth – Second.

Jad Brewer – We need their consent to conditions on the record as binding development plans are voluntary.

Lian Larracas – I tried to catch all the acronyms, but I think there was one recommendation to approve BU-1-A limiting it to a bakery only, which we are not opposed to. I think we heard some concerns that we might turn the bakery into something more intense, like a bar or a wholesale, which we don't intend to do. If that's a recommendation then that is something we would not be opposed to.

Tony Andrade – You're telling us you're willing to approve us to just put a bakery on the first floor, no expansion, and one building, for the entirety of the time that we live there, even though it takes a few years for us to build a bakery there, that we can only leave it as bakery? If we want to do less intrusive, if we want to keep office spaces, is that allowed?

Henry Minneboo – I'm not sure you want to go there. You start talking about an office and that's a whole different game.

Ben Glover – I can clarify on what I proposed. You're only allowed to put one structure, which would be the house and your bakery, it would all be in one building, and then the zoning is only allowed to operate a bakery out of the property. You would not be able to do any other commercial use.

Henry Minneboo – You won't be able to go to an office later.

Brian Hodgers – They can use it as residential space.

Erin Sterk – So, the condition in the binding development plan would limit them to the residential development and the bakery as the only commercial use.

Henry Minneboo – Are you on board?

Lian Larracas – Yes, sir. I thought that it would only be a bakery, which we want to live there.

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

The Board recessed from 5:15 p.m. to 5:20 p.m.

13. Gregory D. Taylor and Rachael J. Fitzpatrick:

Request an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a bar, in a BU-1 (General Retail Commercial) zoning classification, and an amendment to previously approved conditions of existing CUP. The property is 0.31 acres, located on the northeast corner of McLeod Street and Myrtice Avenue. (110 & 120 McLeod Street, Merritt Island) (18PZ00138) (District 2)

Gregory Taylor – I'm Gregory Taylor, and this is my wife, Rachael Fitzpatrick, and our business address is 110 McLeod Street. I want to thank you. Last year, you approved us for our Conditional Use Permit to build what we call the Balibar, which was based on an Indonesian theme, based on Rachael's dream, and traveling, and things we've gathered. We built and have been running a successful indoor and outdoor wine bar, craft beer, and retail store. It's been well received, it's been unique, it's been upscale, and it's been called beautiful. We have entertainment two to three nights a week. We've been asked by customers to expand because from time to time we have book clubs, which could be as many as 20 people, and different parties and weddings, and things like that, and they've asked us if we could expand. In response to that, we went to the Merritt Island Redevelopment Agency and discussed it with them and they were positive about it. We've taken some actions; we've bought the adjoining lot that is just to the north; we removed a 50-year old mobile home that had been there and was very unsightly; we purchased a 20-foot by 30-foot teak Polynesian open-air pavilion that is arriving in Jacksonville in the next 30 days; and we've have a landscape development plan that would continue the theme we have around the Balibar, with Palm trees and Bamboo trees and less vegetation so it doesn't feel like you're in Merritt Island, it feels like you're in another land. We're excited about the proposal to expand our Conditional Use Permit to the second lot; we're excited also to listen and know about the potential fine dining establishment that's going into the same area that we're going into because we think that was eventually what was intended for this area, is to have different kinds of businesses in there. We know that some of the same issues probably are always existing when you try to expand, with parking. With that issue, right now we have 10 spots that we had with our current bar, and then we've had overflow parking that goes across the street into the business to the south of us, with their approval. There's a community lot owned by the Merritt Island Redevelopment Agency that is used during the day but is vacant at night, so we also have people who park there. So, there's 10 spaces that are ours, 10 spaces generally across the street, 20 spaces available in the community, and in the community parking along McLeod Street there's probably another 20 spaces. We're asking for your approval to expand something that's been well received, that has been successful, makes the area more beautiful, and add some more features that we think will be valuable to the community.

Henry Minneboo – I'm going to start because I don't know how many people on the board have knowledge of the Merritt Island area. Parking is probably a premium part of this, in my opinion. I've been by your business numerous times and it's been congested when you have cars on both sides of the road, so I don't know what's causing that, and I might have been there when there was something occurring, but I know that area fairly well. A lot of people tell us they have parking, and then later we find out that something that may have been contiguous, those owners say they don't want parking at

their property or business. Do you have any verification that you guys are going to be able to park at these other places that you've mentioned. Do you have something in writing?

Rachael Fitzpatrick – Today, I got the shared parking agreement, and we talked to all three of the people that are around us and they all agreed that they would sign it.

Henry Minneboo – That is going to become official?

Rachael Fitzpatrick – We came before you today to find out. We have the Merritt Island Redevelopment District lot, which is the Discount Pharmacy that is open-use and that's right across the street from us.

Henry Minneboo – When you brought this in front of the Merritt Island Redevelopment Agency, were there any thoughts about their parking.

Rachael Fitzpatrick – They are all about us making this happen and letting us use that lot that Discount Pharmacy uses, along with ours as well.

Henry Minneboo – Are they all about parking?

Rachael Fitzpatrick – All about parking, and they are 100% behind us. We've been to probably four of their meetings and they're very much wanting us to make this happen.

Henry Minneboo – I'm just saying that parking is an issue there.

Gregory Taylor – It's owned by the Merritt Island Redevelopment Agency, it's not designated parking, but it's used by all the businesses that are in the area, including us.

Henry Minneboo – So, it's joint-use parking?

Gregory Taylor – Yes.

Brian Hodggers – We had another item tonight, Item 4, one block away, and parking was the same issue there, so I'm not against it, I just want to know from staff if they're seeking the same exact thing, and parking was an issue there, these people are requesting the same thing, who determines what's adequate parking, considering they're both going after the same parking area?

Erin Sterk – With both this, and the previous request, not every conditional use permit needs a site plan. If it was an existing structure and if proposed within the existing footprint like their original request – they didn't do a site plan when they got that original allowance, so when they expand the commercial nature onto the lot to the north they will have to come through the site plan process for that. The challenge that staff has regarding parking in the Site Plan Code, is that hours of operation are not something that we have codified to consider. When there's 10 parking spaces and business "A" uses them during the day and business "B" uses them at night, staff does not have codified language that allows us to count those 10 spaces twice. With shared parking agreements, when we can recognize those agreements, is if a business that's in operation on an existing developed property has extra parking spaces, not just extra part of the day, but extra in total. Those extra parking spaces, they can agree to have counted for a different use on a different property. So, it's not just that the business wouldn't be in operation and would agree to allow them to use their parking lot,

it would have to be, by Code, extra parking spaces. Our Code doesn't really give us the allowance to count that Merritt Island Redevelopment Area parking lot as meeting the criteria for this additional expansion. We have some challenges, and these are the kinds of things that are worked out during the site plan process where we can get more specific about how to meet the criteria, but we don't have allowances that allow us the flexibility to count those on-street parking spaces three blocks away. Although he didn't specifically identify how he was going to meet them at that restaurant request when he comes through the site plan process he will have to identify how those parking spaces are going to be accommodated. If they're needed for another business, because their use determines how many spaces they need, and there's not extra, you can't just park there and have that meet the criteria. That's the challenge that we will face when we go through that site plan process, but every applicant with zoning goes through site plan challenges, so we face them at that time.

Rochelle Lawandales – From a process standpoint, Erin, you need us to address each of these six points within the Conditional Use Permit Worksheet?

Erin Sterk – Yes. The expansion of the Conditional Use Permit is to the lot to the north, so they are seeking the additional area, but they're also seeking a change to the conditions on the existing Conditional Use Permit, which would be replicated to apply to the area to the north if they were just expanding the area, so I would say we need to go point by point, unless you want to blanket approve the request as proposed.

Rochelle Lawandales – How many onsite parking spaces should they have?

Gregory Taylor – 28 spaces is what we were told based on the increase in the size.

Rochelle Lawandales – And how many do you have?

Rachael Fitzpatrick – 10 spaces.

Rochelle Lawandales – You can fit 10 spaces?

Gregory Taylor – Yes.

Rochelle Lawandales – With the other application today we stipulated that they get shared parking agreements, or cross access parking agreements before going to the County Commission. Would you be able and willing to do that?

Rachael Fitzpatrick – One of the issues I think you may not be aware of is that for liability reasons I'm not 100% sure everybody would sign those because it's a liability of their own lot. Whether or not they'll sign something like that is another legal entity, as you can imagine.

Gregory Taylor – For example, we talked to the people that our south of us, where our customers have been parking with their approval for the past year, and they're fully supportive, but their question to us was it was fine when they said we could do it, but if they sign something does it create a liability and can we tell them the issues that go with that. We couldn't answer that question, so they've supported us, and they want to support us, but they don't know the answer to that and neither do we.

Henry Minneboo – I don't blame them.

Rachael Fitzpatrick – I agree.

Henry Minneboo – Does that include Rhonda to the north of you?

Rachael Fitzpatrick – She's two doors down from us, we didn't talk to her.

Rochelle Lawandales – From the legal standpoint, don't those agreements actually stipulate that if it's parking for you, you're liable; and if it's parking for them, they're liable?

Gregory Taylor – What I've been confused with is that we have 10 spots and we need 28 spaces. We have 10 spaces on our lot. There is a Merritt Island Redevelopment Area community parking lot that has spots for 20 spaces, so now we're at 30 spaces. There's parking on McLeod Street, and there's a lot of parking there. So, just off the top of my head without talking to the business to the south and without talking to the veterinarian hospital that was mentioned before, we've got more than 28 spaces.

Rochelle Lawandales – But they're not dedicated to you.

Gregory Taylor – And we haven't had an issue or complaint with anybody on parking in a year. Just like last year, people asked how we were going to solve the parking problem. There's not a parking problem.

Rachael Fitzpatrick – I agree. I don't understand why there's a concern because there has not been one complaint from anybody to us about that.

Gregory Taylor – And we're talking about walking 50 feet, 100 feet from spaces we haven't even talked about, and when I think of other restaurants in the area and how far you have to walk, it's not like parking has to be 10 feet away from you if you have a popular place.

Rachael Fitzpatrick – Coconuts doesn't even have parking.

Henry Minneboo – The City of Cocoa, for 20 years, has told me they don't have a parking problem, and you can't find a parking place. I just don't understand, I guess I'm not tuned in enough to realize that. I just refuse to go to Cocoa, and I've been here a long time.

Rochelle Lawandales – In going down these six items that we need to review, there's allowing use from both buildings, they want to remove the signage requirement. What does that mean, Erin? What's the signage that they want to remove?

Gregory Taylor – We did not request that, so we saw it on there, but we didn't request that.

Henry Minneboo – Did the Merritt Island Redevelopment Agency approve all of these?

Rachael Fitzpatrick – I think what you're talking about is that we couldn't do signage because our lot is not big enough in the front to have signage, so it wasn't applicable. We're not clear on that.

Gregory Taylor – It wasn't big enough to have two signs.

Rochelle Lawandales – The conditional use permit says that there shall be signage prohibiting parking on a certain Tax Account, and you want to remove that?

Gregory Taylor – That's the strip mall to the east, and we didn't request that the signage be removed. If it is, great, if it's not, fine.

Rachael Fitzpatrick – The last time we were here there was somebody that asked for that to be part of it, so we had a sign created for that, and that might be what you're talking about.

Rochelle Lawandales – Did you ask for that requirement to be removed?

Rachael Fitzpatrick – We're not sure where that came from.

Erin Sterk – I'm trying to find the information on that, so if that's not a proposal by the applicant then that's our mistake.

Rochelle Lawandales – The next thing that I have is the hours of operation. Right now, you're allowed to operate from 11:00 a.m. to 11:00 p.m., Wednesday through Sunday, and you want to now operate from 7:00 a.m. to 2:00 a.m. every day of the week?

Rachael Fitzpatrick – I want to have the option, and I figured I would ask for that. We're potentially looking to do a couple of different things, so they told me this was my one opportunity so I thought I would ask for it.

Gregory Taylor – The issue we have is, if it is New Year's Eve, do we have to kick everybody out at 11:00 p.m.? We don't really see that our business really goes past 11:00 p.m., some people hang around a little bit, but thought we might as well ask for it because occasionally there are special events and people want to stay a little longer.

Rochelle Lawandales – I'm just going through these for the record so we all know what we're voting on.

Dane Theodore – Can you give us a quick history of where you got the hours of Wednesday through Sunday, 11:00 a.m. to 11:00 p.m., and now want to go all day. How did that occur the last time? Was that your request?

Rachael Fitzpatrick – It was our request. We didn't realize that once you put that in writing that it's solid.

Gregory Taylor – Our reality right now is we're open 5:00 p.m. to 11:00 p.m., Wednesday through Saturday, and then on Sunday we're open from 11:30 a.m. to 3:00 p.m. We're not open on Monday or Tuesday, and we're not open earlier in the day. When we were here originally we asked for earlier hours because we had a retail store and we thought people would drift in for the retail, but that didn't turn out to be the case, but if you start having something where somebody can come in, or have a group come in, they might want to come in in the afternoon. The veterinarian hospital across the street has staff that may want to come over.

Dane Theodore – So, the 7:00 a.m. is just to cover everything?

Gregory Taylor – Yes.

Dane Theodore – Would you have any objection to 11:00 a.m. to 2:00 a.m.?

Rachael Fitzpatrick – My only thought was down the road, because as a small business owner you don't know what's going to work. I've been approached about having a breakfast area because a lot of women there have small kids and they'd like to have a place to go for breakfast in that area. I don't know if you've been to my wine bar.

Dane Theodore – It's a bar?

Rachael Fitzpatrick – No, we have a full restaurant license as well. I'm just trying to keep my options open.

Henry Minneboo – Erin, did the Merritt Island Redevelopment Agency approve everything as we see it here?

Erin Sterk – They have postponed this item because they have a separate façade grant application, which is what I believe they've gone before the Merritt Island Redevelopment Agency to have heard, so that's a whole separate item. Some of those details may be dictated by this Conditional Use Permit, so they're kind of waiting to rule on that item.

Henry Minneboo – They're waiting on us before they rule?

Erin Sterk – On the façade grant application because they don't want to reimburse funds for improvements that may or may not be necessary. I think they are hearing this item on the 31st of January.

Gregory Taylor – They didn't want to approve us starting to spend lots of money with the hopes that we would get a façade grant, if at the end of the day, we were not able to expand our Conditional Use Permit, so they've been supportive.

Henry Minneboo – My only concern is that I can't see the Conditional Use Permit holding back the Merritt Island Redevelopment Agency.

Erin Sterk – You mean holding the board back from taking action? I'm not really sure of the methodology there, but we will be in attendance at the January 31st meeting.

Henry Minneboo – I stay up at night worrying about this board getting shots from people. We get shots from people and we didn't cause the problem.

Erin Sterk – We looked back through our records on Condition 3 in the request to change that signage requirement, and I think we had a request to amend the conditions and no specific language requesting that, so our apologies. That request to change Condition 3 is not from the applicant.

Carolyn Weigref – I'm Carolyn Weigref and we own the property to the east of the property being discussed and I have a letter for each of you. The expansion of the number of seats is from 30 to 72 seats that they are requiring for the expansion of the bar, and both buildings will be used. I don't know what the small building is being used for now. For Condition 3, the signage, we're the Tax Account number referred to, and we had discussions before regarding the parking. The County said they would put a sign by our properties saying that there be no parking on the premises except for the people who occupy the building, so that's what the signage is. Under 'hours of operation', it just seems like the time would cause more traffic for parking and we just want to make it very clear that

we would not allow parking on our property, and we would appreciate it if the County would follow through with what they had promised before, and also, I would like to say that they have improved the property, but the property they're improving now, there's a recreational vehicle that has been parked there. I'm wondering why more parking couldn't be used in the lot they are developing to the north, as it's all landscaping and so forth. We would appreciate your consideration.

Troy Hines – I'm Troy Hines, and I own the properties at 150 and 160 McLeod Street. Earlier you were discussing a Conditional Use Permit for a 120-seat restaurant and the questions were about the parking issues. How big is that building, 850 square feet?

Gregory Taylor – 1,440 feet for the bar right now.

Troy Hines – And we're talking about parking for a 160-seat restaurant? I don't have a problem with what they're doing, the place is very nice and it's amazing. I can say that if they're open in the daytime, there will be an issue of parking. In the evenings, people do park in our spots in front of our building, and there are 10 spots on McLeod Street, both sides total, so there's not a lot of parking. If you guys put hours on it then I have no issues at all, but if they're operating in the daytime, that's not going to work with us.

Henry Minneboo – At Rhonda's place, at night when everybody is gone, do they take up some of that parking there? Do they park in the right-of-way?

Troy Hines – I think those are County-owned lots, and I don't have a problem with that, but in the daytime I would have a problem with that. That's all I have to say, but I'm for it, it's nice. You guys don't serve food, do you?

Gregory Taylor – We serve meat and cheese plates. We certainly agree with not parking in her lot, and when people ask us we tell them not to park there, so we support that. The recreational vehicle is there is because we had it at Kars Park and with the government shutdown it had to be moved, and we figured a mobile home was on there before so we can certainly park our recreational vehicle while we wait on the Conditional Use Permit.

Henry Minneboo – Parking is such a premium, and the Merritt Island Redevelopment Agency is going to have to do something about it. They never worried about the parking, even in the beginning. I know the creation of MIRA and all they ever talked about was getting businesses in there and they've done a marvelous job, but now they need to start thinking about where to park the cars. That's been my only concern.

Gregory Taylor – We're just trying to expand our business and we've been encouraged to.

Brian Hodgers – If we approve this it still goes through site plan review, and if they don't have the parking and they shoot it down, it becomes their problem and not our problem, right?

Ron McLellan – Exactly.

Henry Minneboo – Erin, are you onboard with that?

Erin Sterk – The evaluation that will take place at site plan is limited to the newly proposed development, so their Conditional Use Permit on the existing lot is in the 1,400 square-foot building.

There's another building on that property that she has a different business in that's part of this request, so on the existing property, that other building, they're requesting to expand the Conditional Use Permit to. Because that building is already there, that won't come through the site plan approval process, so there won't be a moment where we capture the necessary parking for that building that may currently be deficient. The newly proposed additional square footage with this open-air pavilion will be evaluated by our staff for stormwater and everything, including parking, but that other request at the 30 Myrtice Avenue, would not go through that.

Rachael Fitzpatrick – Can I explain the 30 Myrtice Avenue that's part of that property? I have a Beauty Box business there and that is typically run during the day, so that doesn't have any effect on the Bali Bar at night.

Gregory Taylor – It's a Botox filler kind of business, and at the last Conditional Use Permit request you said we couldn't serve wine there, and we have not, but from time to time, if people are there, we'd like to be able to sell wine to those customers if they request. It's not a requirement, but it would be a nice thing to add. We can take that out if that's a problem.

Henry Minneboo – Erin, what about the 'no parking anytime'?

Erin Sterk – Typically, a binding development plan binds the applicant to make the conditions come through to fruition.

Rachael Fitzpatrick – We did have the sign made, Sign Lords made it.

Erin Sterk – There was suggestion that the County was supposed to make that.

Gregory Taylor – We made it, and if it's not there we will do it again.

Rochelle Lawandales – I have a problem with the hours of operation, 7:00 a.m. seems a little early. What about 9:00 a.m.? Maybe it doesn't really matter. I'm going to move that we recommend approval of the Conditional Use Permit with the changes as noted, with the exception that the sign remain, and if it's not there that it be put in, that this meets the requirements for a Conditional Use Permit, and that you obtain letters from adjacent property owners who you have referred to that will allow you to park in their spots.

Rachael Fitzpatrick – In the Merritt Island area there are no breakfast places down the road.

Rochelle Lawandales – That's fine, I left it at 7:00 a.m., I didn't change it, I'm just saying I have a problem with it.

Ben Glover – It's all contingent on them getting the shared parking agreement executed, is that correct?

Rochelle Lawandales – No, it's not contingent upon them getting it, that's just one of the things I would like for them to have as part of this.

Rachael Fitzpatrick – If for some reason it's a liability issue, we would be out of luck.

Gregory Taylor – You're asking us to try to get that.

Rochelle Lawandales – I am, and then I'm going to talk about what I think the Merritt Island Redevelopment Agency needs to do.

Ben Glover – So, you want them to give it a 100% shot, but if they cannot obtain that, do they have to come back and see us?

Rochelle Lawandales – No, that was not my intention.

Ben Glover – I'll second that motion.

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

Recommendation to BCC, Re: Merritt Park Place

Rochelle Lawandales – Mr. Chairman, I'd also like to suggest that this board, as the Planning and Zoning Board for the County, dealing with these kinds of issues, make a recommendation to the County Commission to ask the Merritt Island Redevelopment Agency to do a parking study and to try to figure out some solutions to the parking in Merritt Park Place.

Henry Minneboo – I'd almost like to see the Merritt Island Redevelopment Agency do it first, and then the County Commission do it second.

Rochelle Lawandales – The County Commission can direct the Merritt Island Redevelopment Agency.

Henry Minneboo – We have a motion on the floor regarding the parking, to recommend to the Board of County Commissioners that they notify the Merritt Island Redevelopment Agency that they need to do a parking study now.

Ron McLellan – I second.

The vote passed unanimously.

14. James M. and Joanne M. Thomas, Trustees:

Request a change of zoning classification from RR-1 (Rural Residential) and BU-1 (General Retail Commercial) to SR (Suburban Residential), and removal of existing BDP (Binding Development Plan). The property is 1.25 acres, located on the west side of North Wickham Road, approximately 400 feet north of Pineda Plaza Way. (5850 North Wickham Road, Melbourne) (18PZ00112) (District 4)

Erin Sterk – This applicant is in California and we haven't heard from him. You tabled it the last time on their behalf and they haven't responded to our requests, so I'm not sure what the board wants to do, if you want to table it one more time, but we certainly have reached out to them.

Henry Minneboo – I'm going to recommend we table it to the 28th. Do we want to push it to February? When did this applicant submit this?

Erin Sterk – It was submitted September 7th. They had a buyer who requested this and that buyer backed out, but the owner sees the value in requesting the change.

Ben Glover – I'll make a motion to table to February 11th.

Brian Hodgers – Second.

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

Upon consensus of the board, the meeting adjourned at 6:15 p.m.