

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 25, 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; Mark Wadsworth; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; 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, March 7, 2019, at 5:00 p.m. for Items 1 through 3, and March 12, 2019, at 5:00 p.m. for Item 4.

Approval of the January 28, 2019, Minutes

Motion by Mark Wadsworth, seconded by Rochelle Lawandales, to approve the minutes of January 28, 2019. The motion passed unanimously.

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer):

Request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island Area) (District 2) (18PZ00143)

Frederick Scott and Alice Ada Louise Denlinger (Joe Mayer):

Request a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 1.21 acres, located on the south side of D'Albora Road, approximately 0.21 miles east of North Courtenay Parkway. (1385 D'Albora Road, Merritt Island) (District 2) (18PZ00142)

Joe Mayer – Good afternoon, my name is Joe Mayer, I'm President and owner of Bussen-Mayer Engineering Group, 100 Parnell Street, and I'm here representing the Denlinger's. They have one single-family lot on 1.2 acres on D'Albora Road that they're proposing to rezone from Planned Industrial to Rural Residential 1, with the associated Small Scale Comprehensive Plan Amendment. I'd be happy to answer any questions you may have.

Henry Minneboo – That was also approved by North Merritt Island.

Joe Mayer – That's correct, we got a unanimous approval from North Merritt Island.

Henry Minneboo – Are we totally sure of that?

Joe Mayer – I was there, it's not a typo.

No public comment.

Rochelle Lawandales – I move approval of the Future Land Use from Planned Industrial to Residential 1.

Mark Wadsworth – Second.

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

Rochelle Lawandales – I'll make a motion to approve the rezoning request from Planned Industrial Park to Rural Residential 1.

Mark Wadsworth – I'll second.

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

Douglas and Cindy Robertson (Bruce Moia):

An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the transmittal of Plan Amendment Cycle 2019-1.1; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions with require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date. Plan Amendment 2019-1.1 – a proposal initiated by Douglas and Cindy Robertson, Inc., to amend Part XI, the Future Land Use Element, to change the Future Land Use Map Series designation from Residential 1:2.5 to Residential 1 on 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane.

Bruce Moia – Bruce Moia, representing the applicant. What we have before you today is a request to modify the land use for a piece of property on Fleming Grant Road in the Micco area. It is a 20-acre piece of property and the request is for Residential 1 from the current land use of Residential 1:2.5. I just want to clarify something right off the bat because from what I understand, the notice that went out to the residents said that we were asking for four units to the acre. We are not asking for four units to the acre, we never were asking for four units to the acre, we are only asking for one unit to the acre. Residential 1 is one unit to the acre, but for some reason the notice went out for four units to the acre, so I just want to make sure that the people who are here hear that, because it was a big misunderstanding on no part of the applicant.

Erin Sterk – That was a scrivener's error in the courtesy notice. It was always identified Residential 1, so that was always the plan from the applicant, and as soon as staff found out, re-issued a new courtesy notice and clarified those details.

Bruce Moia – Thank you. I think it's created a little bit of a stir, so I'm hoping that maybe with the conversations here tonight we can resolve any concerns that are going to be brought before you. We feel this is very consistent. The existing zoning on the property is RU-1-13 (Single-Family Residential), so the land use is inconsistent with the zoning. All of the land use across the street is Residential 1, so all that area on the north side of Fleming Grant Road, and there is even some Residential 2 on our side of the road. We feel that it is consistent with the area to go with the one unit per acre, so I'll make room for the public to speak and then I'll answer any questions.

Henry Minneboo – Of the 20.39 acres, you'll have to put in a road, won't you?

Bruce Moia – Yes, sir.

Henry Minneboo – Will you still get 20 units there?

Bruce Moia – That would be the plan, yes, and none of them would have direct access to Fleming Grant Road.

Ron Bartcher – You're not going to be using Seabird Lane for access?

Bruce Moia – No, sir.

Ron Bartcher – On the property, there's a significant amount of wetlands and flood zone area, are you going to be developing property and selling houses in that flood zone area?

Bruce Moia – I'm not sure of the extent of the flood zone, I'll have to check the map on that, but we're aware there's some wetlands on the property. We've looked at the maps, but we haven't had them flagged yet so we don't know if they extend mostly along the river. The proposal that we're thinking would be to leave that alone and have the lots big enough along the river that we wouldn't impact that wetland and flood zone. That's our plan, but we haven't gotten to that point yet. There are limitations on filling in the floodplain, and even though it is riverine, it's not as extensive as the requirements from the County on isolated flood zone impacts, but I think the plan is to make the riverfront lots large enough to where we won't have to impact those areas.

Ron Bartcher – I was concerned because it looked to me like it was probably six acres or so that was in the floodplain, which is a significant amount. Part of it is also in the septic tank overlay for the Indian River Lagoon, are you expecting to have lots that are large enough that you won't have to have the big fancy septic tanks?

Bruce Moia – We'll comply with the ordinance the County has for if it's within the distance that the County has established from the waterbody, we would have to have those types of septic systems, but the lots will be big enough that they would support that. Any of those lots that are within the distance from the waterbody would be required to have the upgraded system.

Henry Minneboo – Do you know how many that affects? Maybe four?

Bruce Moia – I haven't drawn that line yet, but we'll comply with it, no problem.

Ron Bartcher – The zoning is RU-1-13 (Single-Family Residential), which is a very small lot, and you're intending to keep it as RU-1-13?

Bruce Moia – Yes, we're not changing the zoning, that's consistent, and there's a lot of that zoning in the overall surrounding area, and we're not asking for anything that would really be completely compatible with RU1-13, because that would be like four units to the acre, but we're not asking for that, we're only asking for one unit to the acre. The zoning is important because it gives us the flexibility on lot sizes so we can create some smaller or some larger; we're not confined to the minimum of an acre in size, and we have a mixture of different types of lot sizes.

Rochelle Lawandales – Can you explain how you're going to handle utilities.

Bruce Moia – We haven't looked into that. I know there's no sewer in the area, and I'm not positive if there's water in the area or not. No water? Then it would be well and septic, which means we'd have to do whatever the Code requires.

Rochelle Lawandales – In your layouts, what do you anticipate the smallest lots to be that are going to use RU-1-13 (Single-Family Residential)?

Bruce Moia – I don't know that. If we're going to have well and septic it has to be a half-acre minimum, and that would be required by the State.

Rochelle Lawandales – I believe I read where they would not be eligible to use the PUD (Planned Unit Development).

Bruce Moia – You mean the Open Space Subdivision?

Rochelle Lawandales – I wanted to clarify because the staff report said PUD, but I was going to ask about the Open Space. I don't know that you'll be able to use that, which would be very advantageous from the environmental standpoint.

Erin Sterk – The part of the staff report that references the PUD, there's a density bonus if it were to be developed in this Future Land Use designation as a PUD. They do meet the minimum size of 10 acres to go for a PUD zoning to get that density bonus, but they haven't proposed to do that. It is in the Coastal High Hazard Area, so that crosses that out as an option. If any part of the property touches the Coastal High Hazard Area, and some of this does, it's not eligible.

Henry Minneboo called for public comment.

Linda Brannon – My name is Linda Brannan, I live at 9675 Fleming Grant Road. I've lived in Micco since 1961, and I've been a licensed realtor there since 1976, specializing in the Micco area. I live on 2.5 acres directly across from this property. (Miss Brannan provided handouts to the board. The handouts can be found in file 18PZ00166, located in the Planning and Development Department). If you look at the first page, everything in yellow is a minimum of 2.5 acres. You can see that most of our area is 2.5 acres or more. I have an aerial showing how sparsely together the houses are, because we're an area where everybody is pretty much spread apart, a lot of open areas and lakes, or ponds. There's pictures of our neighborhood that show farms with horses, goats, driveways that go back to large estates, fencing, barns, and all types of properties. What they want to do is to change the Comprehensive Land Use Plan that was adopted in 1988 to try to save the river, and they want to change it from the one unit per 2.5 acres that they currently have, which would allow them to put eight homes on this 20 acres, and they want to change it to something that would allow them to put 20 homes on this property. They have over four acres of wetlands and they have Federal Emergency Management Agency floodplain and other environmentally sensitive issues with the property. By the time they put a road in and they stay away from the things they can't touch, they will be on small pieces of land, and they're going to have to have septic, they're going to have to have wells; we don't have any County utilities in our area; and we have a lot of drainage issues. This is my home, these are my neighbors, and we moved out there to get away from development, to be in a rural area, and we don't mind that we don't have anything. If you look at the pictures and the map, a subdivision with little lots is not compatible with what we have, and I hope you'll take that into consideration when you're voting. In 1988, the Comprehensive Plan said everything between the road and the river had to be 2.5 acres, and since that time, every piece of land that's been split up has been 2.5 acres. This is the first person that you would be making an exception for if you do that Comprehensive Plan Amendment. I just don't see a reason for you to do it at this point in time when we're putting all kinds of money into the Lagoon to try to save it, and all the runoff that this would create; there's no way they

can contain it on that land. I wanted to give you a visual aid, because I don't know if most of you have visited my area.

Henry Minneboo – What about River Drive, Mockingbird, and Oak Trail?

Linda Brannan – River Drive and Mockingbird Lane were put in in the '50's and '60's; the oldest houses there were built in 1955. On Mockingbird Lane, at least five of the parcels are between an acre and two acres; they are not half-acre lots anymore. River Drive is just a little dirt road going down to the river, and I can't speak for that. Oak Trail's subdivision was put in in 1986, which was two years before the Comprehensive Plan; I know the parcel on the river is two acres, and the rest of them are half-acre home sites. Everybody is on well and septic.

Ken Chapin – My name is Ken Chapin and I live at 9880 Oak Trail, in Micco, and I've lived there for 40 years. In fact, I developed Oak Trail. I developed Oak Trail with half-acre lots because that's what was legal at the time, and Brevard County, in this area, was very much ahead of the curve to make this land 2.5 acres in an effort to protect the Sebastian River and the Indian River Lagoon. I developed, also, in 1990, after the Comprehensive Plan, the property exactly next door to this property, to the east side of this property, and I think on your map you can see that it was an 11-acre parcel and I developed four, 2.5 acre lots; three on the river and one on Fleming Grant Road. In 2002, I bought 23 acres just a little bit further up the road, about half a mile up on Fleming Grant Road from the property in question today, and I went for one-acre zoning on that, and in 2002 I was turned down for one-acre zoning. I had to reapply for 2.5-acre zoning and I got it, and I was happy with it, and since then I've sold almost all the lots. People are so much more aware today than they were in 1988 when the Comprehensive Plan changed all of this to 2.5 acres. Today, everything you read about in the paper is about the Indian River Lagoon. I realize now, after many years of living in the area that one-acre home sites along the Sebastian River would be a mistake for our little rural area. Since I first moved there, there is an incredible amount of more water flooding down through all the homes on any big rain event, and after any big rain event it takes a week before that water finally makes its way and percolates to the Sebastian River. For these reasons, and the reasons that I was turned down for one-acre zoning, I think you all should be proactive and deny this application.

Robin Carroll – My name is Robin Carroll, I live at 9575 Fleming Grant Road. I am just around the corner where Fleming Grant Road goes up toward Barefoot Bay, and I currently have an acre. I can show you some of the drainage issues that we have. (Ms. Carroll passed out photos to the board, which can be found in file 18PZ00166, located in the Planning and Development Department). Our main concern is environmental. We do have a drainage problem that has not been dealt with. I do applaud the effort with the Micco Stormwater Park that was put in further up north on Fleming Grant Road to try to help with the situation, but that's only working in that particular area, it's not working on our corner. If you change the Comprehensive Plan to accommodate one house per acre now, what's going to happen with all the other undeveloped property on the north end of Fleming Grant Road? What's going to happen with that water? The photos show the current drainage issue with prolonged rain. My neighbor already sent you some communication about those issues and the failure of the retention pond on Wally Kramer's property that was put in in the early '90's to hold the rainwater. The natural flow of water was not an issue in the neighborhood until I built my house. I built in 2002, and of course to County standards, they tell you the size of the culvert and the elevation that needs to be set. After 2002 when we had some bad rains, you can see in picture number 1, that's my driveway, that's my culvert. The neighborhood likes to call that Robin's Falls. In picture number 2 you can see the culvert is so small it can't accommodate all that water flow from the north, so my driveway acts

like a dam. Picture 2 is where the water absolutely crosses the road; Fleming Grant Road is under water in a big rain event. Picture 3 is looking north on Fleming Grant Road; that's the ditch to carry the water. Picture 4 is another picture of the lake that occurs. Picture 5 is the south end of my driveway. In November 2015, on a Friday evening we had a bad rain storm and there was a knock at the door; it was a Sheriff Ryan Carpenter, and he told me that I had a problem. He said, "Your culvert is blocked", and I said, "Sir, let me get a flashlight and show you how it's not blocked." Basically, pictures 5 and 6 show the next morning. I showed him how the lake was occurring, it was already going over my driveway and starting to make the waterfall, and I showed him the other side where you could plainly see the water flying through the culvert, and I said, "It is not blocked, it is undersized, and it can't handle the flow of the water." Picture 6 is directly on the west side of Fleming Grant Road, and the only reason why there is water in that ditch is because it crosses the road. There's no drainage that comes down from the north end of Fleming Grant Road on the west side of Fleming Grant Road, just on the east side. I'm not really going to be impacted by the building of those 20 homes on 20 acres, which I can't see how they're going to do that, but if that precedent is set for one house per acre, my problem is what is going to happen to all the other undeveloped properties. If we can't handle the water in a rain event now, how are we going to handle even more when those homes are elevated four feet for fill, and just sends the water seeking its level and gravity will take it. We can't handle the drainage that's there now, and I don't understand how we're going to handle it in the future.

Jimmy (last name inaudible) – I live on Mockingbird Lane, and I came from Miami so I know what it is to continue to reduce. Miami is very dense, and Brevard and Indian River Counties have done well with keeping things less dense. I agree that in the 1950's the half-acre lots were done, and my guess is that 20 homes would be a lot. I wonder if it went 2.5 acres you'd have six lots, a nice house, a nice road, and the wetlands, and that would be more realistic. We do notice the flooding, and I had to do a lot of drainage to make mine stop flooding. A new person came in town and she filled it 36 inches, which is the new above-the-crest line. The main thing is, financially, the six acres might work for the person buying the land. What I am worried about is setting a precedent and we'd see a lot more one acres. If this goes to one acre we'll see a lot of 2.5 acres coming to you trying to go to one acres. We are very fortunate that Florida Power and Light came and did a solar farm, we're very fortunate to have such a rural area. We'd prefer if we can make it 2.5 and have six new neighbors. In the last few years I've seen more deer than we've ever seen on Fleming Grant Road. We know we can't have it our way forever, but if we can keep it at 2.5 acres, it would be a great compromise.

Ted Beck – My name is Ted Beck and I live at 9735 Fleming Grant Road, about one-quarter mile from the property in question. When we bought our house in 2011, the one-acre property had been vacant and neglected for three years; we renovated the house and grounds with our own hands and when the work was completed we took great pleasure in exploring our new neighborhood by hiking and cycling the local streets, and kayaking the beautiful waterways. We were so impressed by the diversity of the wildlife we made an offer to buy an additional three acres of vacant land north of us in order to protect the habitat of the creatures we admire almost every day in our back yard. I'm opposed to changing the zoning of this area because the precedent will be set for other subdivisions. I have no problem with the buying and selling of land for profit, but I do feel once the door is opened, there will be no end to adherence about this issue. On my side of Fleming Grant Road there is a serious concern about stormwater flooding. In October 2017 the waters rose beyond my house well beyond the area indicated on the Federal Emergency Management Agency flood zone, and for almost a year we feared the level would reach our backdoor. The culverts on Fleming Grant Road are not maintained properly and are not diverting the stormwater to the Mockingbird Lane water retention

pond as intended. The residential property east of the 20 acres had major flooding in 2017 as well. Fleming Grant Road will soon be impacted with the I-95 exit feeding into the Emerald Lakes development and proposed Micco Park Village, and even possibly the widening of Micco Road to accommodate the new traffic. The old Florida feel that attracts visitors and brings joy to our neighbors is in delicate condition. Increased density will erode what is magical about Fleming Grant Road. Once old Florida is gone there will be no getting it back. I urge you not to consider this amendment.

Robert McIntyre – My name is Robert McIntyre and we moved here in 1997, and my lot is not as fortunate as everybody else, my lot is 1 1/3 acre, but it's still larger than one acre, directly across the street from this 20-acre parcel. I moved here to get away from smaller lot sizes to get into a better area to keep my property at a better value. The property in question has always been zoned, to my knowledge, as 1:2.5 acres. I'm not up on the way the zoning board classifies these; I've seen RU-1, which I assume is one acre; RU-1:2.5, which I assume is one unit on 2.5 acres; and RU-1-13, which would allow 4 homes on one acre, which could possibly go as far as 80 homes in that neighborhood with one driveway going directly in the middle of the property, I just happen to be the unfortunate person that's going to be across the street from that driveway. So, all those people, if they put a road in there, their headlights are going to be beamed right in my front window, and my neighbor next door. We would be impacted worse than anybody else as far as the traffic. Currently, 1:2.5 acres would allow 8 homes to go in the neighborhood, and 8 homes will be 16 cars, at two per family, and that means I'll have 16 cars directly in my window every day. If it goes to 20 homes, that's going to be 40 cars that are going to be coming right into my front window every day. Personally, I am totally opposed to this, not just for that reason, but also as everybody else has stated, there are water conditions there. In the last bad storm that we had, it rained for five or six days straight and the water in front of my house was 8 inches deep on top of Fleming Grant Road, flowing directly into the 20-acre parcel. The 20-acre parcel consists of sugar sand, and that's really porous and drains fast, but it drains down into the aquifer. So, if you put 20 more, or 40 more, septic tanks, all that runoff is going to go into the river sooner or later because it's porous. Also, on the 20 acres there are 40 wild turkeys nesting there today; they come into my yard, and they're always strutting around every day, so if they keep this at 8 units per the 20 acres, they probably wouldn't tear down all the trees that those turkeys are nesting in, but if they go to the 20, they will bulldoze the whole thing and it will all be gone. There's also Bobcats, foxes, and a panther that was trapped by Florida Fish and Wildlife, and he was in our neighborhood for over two weeks. That will all be gone. The Gopher Turtles will all be gone, the turkeys, and like the other gentleman said there's been deer out there. I had wild pigs digging in my backyard just yesterday, but I don't mind that because I'm there for that reason. There's probably Scrub Jays across the street because it's a scrub area. For these reasons, and more important reasons, I hope you vote to stop this plan. The last reason is, I pulled up the address of the person that's bought the property and wants to develop it, and he lives up off of Lake Washington on 2.7 acres, and his neighborhood is also zoned 1 1/4 acre per unit. Why would you go against something that's already been ruled on and demote our neighborhood for somebody that already has everything that we want, he wants to take it away from us. It's just not fair.

Bruce Moia – I didn't get a chance to see the handouts that were provided. You've seen the aerials and the maps and it's obvious that there are a myriad of lots on that side of the road that are less than a half-acre, so this is not inconsistent one bit. There is a lot of lots not only under one acre, but are under a half-acre, so I think that throws the compatibility issue out the window. It would be more compatible to make these lots smaller because that's what most of the lots on this side of the road are, there are a few larger lots, but for a big part of it they are smaller lots. I also find it a little disingenuous for the people to come up here and talk about stormwater, because I would bet that

none of them have a stormwater pond on their property; they would have to build an up-to-date current stormwater facility that would that all water from this property stayed on this property and was treated properly and not discharged directly into the river as has been done out there. There was a developer there that basically flipped the lots and let the water drain directly into the river with no treatment whatsoever. That wouldn't happen here; we would have the current standards that would apply and we would have a state-of-the-art stormwater system on the property. I know that there's flooding in this area. We did an area study for a subdivision we were proposing that is a little bit north of this property, where we studied everything on Fleming Grant Road from the railroad tracks to the west side of Fleming Grant Road, and from the south side of Fleming Grant Road all the way up to Micco Road. It is historical, as it drains in several areas and it has a pretty good issue mostly around the bend up on Fleming Grant Road, and the County is very aware of it. We would be on the south side of that road, so we won't be contributing to upstream floods; all our water will be kept on our property and discharged to the river, so unless the river backed up onto the property, we wouldn't be adding to the drainage problem that was spoken of by some of the residents. I think the precedent has already been set out there by the different lot sizes, and we're trying to be more consistent with the zoning, so I don't see that we're setting a precedent, we're actually trying to be compatible. I think this board has approved many land use changes to make it compatible with the zoning, so I don't think that precedent is being set here. I want to let the last person who spoke that we are not asking for four units to the acre. We will be complying with the State requirements for whatever protected species that are on the property, and it didn't keep some of them from clearing their property 100% when they had those types of vegetations on their property, and we will be preserving whatever we have to preserve to meet the State requirements and Federal requirements for any protected species. And there are no Scrub Jays on the property, it's not within the Scrub Jay polygon, and it is in your report. I think it's a reasonable request, I think it's compatible with the area, and so unless you have any more questions, we really hope that you can approve our request.

Rochelle Lawandales – Based on my reading of the staff report, and I did some research on my own and pulled up the plats, and I've listened to everyone, and I've listened to you, and I know that you're a top-notch engineer and you're going to engineer it to the highest quality standards, but I think 20 is too much, and I think it exceeds the carrying capacity of this land in this area. I think 20 units out here is too many; I think by the time you take off 5 acres, which is the rule of thumb, 25% for stormwater and roads, and all the other things you have to do under the codes, you've got four acres of wetlands, so that's 9 acres, and if you take that off the top and you subtract the 9 acres from the 20, my math says 11; it's more than 8, but it's less than 20. Maybe you could come up with a plan that could be addressed with the neighbors and your client so that it's something that could work where you create some buffers, you leave some of the riverine areas – I know that's the most valuable – but you leave that alone because that's where most of the wetlands are. In terms of creating a land use amendment, maybe there's a way to identify some site specific conditions that would be attached to this amendment, which would limit the number of homes, restrict some of the areas that you could put development into, and maybe address how you would deal with drainage, or maybe some upgrades to drainage, and things of that nature. I'm just throwing that out there to see if that's something that you might consider, and that the board might consider, and the public might consider, as we deal with this particular issue.

Mark Wadsworth – Someone said there's wetlands here, but to get the plans approved you would have to go through Natural Resources, you'd have to go through all the agencies. So, our big thing is the zoning.

Bruce Moia – Land use.

Mark Wadsworth – Everything across the street is Residential 1. So, Rochelle, it kind of hits on what you were saying, you have to retain everything on that property, retention areas, et cetera.

Bruce Moia – That's one of the reasons for the request. Rochelle hit on it a little bit, but we might not get 20 units. The County has a restriction on how much of the wetlands we can impact, which is 1.8%, so it's not a lot, not that we were planning to impact any, but we can only impact up to .4% of what might be 6 acres of wetlands. The zoning gives us the flexibility, the land use change would give us the flexibility, and if we only wind up with...once we have the drainage and the roads, maybe we only get 16 lots, but that's going to come out in the wash when we go through the site plan review process at the County and I'm sure they're going to hit us with all the requirements to make sure we meet everything. We just want the compatibility and flexibility so that we can make something work within the confines of the Code, similar to what they have across the street and similar to what has been done in the area, except we're going to bring ours into current standards, as opposed to what happened back in the 1960's, 1970's, and 1980's. You're right, we might not get 20 lots, it might not be possible.

Mark Wadsworth – Depending on what happens there you might not get 10 lots, you just don't know. I would make a motion to approve.

Motion failed for lack of a second.

Rochelle Lawandales – Would you at least be willing to limit the size of the lots to no less than one acre?

Bruce Moia – No, that would take away all the flexibility. The requirement is a minimum of a half-acre to make well and septic work, and that's very compatible with what is out there now. To limit it, knowing we have the wetland and floodplain issue, that would really restrict the ability to develop this property.

Henry Minneboo – Erin, it looks like it has the potential for two lots on the Sebastian River, they can't get a septic tank under the septic tank requirements on a one-acre lot, can they? One of the new septic tanks on a one-acre lot.

Erin Sterk – I don't think it's the lot size that dictates the high-end septic, it's just the proximity to the Lagoon, so they'll be tripped no matter how many they get within that zone to meeting that requirement for those.

Bruce Moia – We would be open to making that a requirement in the binding development plan that all lots in the subdivision have to have the upgraded septic tanks. And that's regardless of the setbacks. Every lot on the property that is developed would have to have the updated septic system, and we'd be willing to propose that.

Erin Sterk – Just to clarify the authority that this board has today, we don't have the ability to condition the Future Land Use designation change; there's not a tool that the County uses to do that, so any of those compromises associated with the rezoning request would come when that request is heard later, if this makes it through transmittal and be approved to be transmitted to the State. It will come back for adoption, and then any conditions that apply to the development would be associated with

the zoning and the binding development plan. We really need to make a choice here on just the land use designation alone, but with the understanding that you'll have an opportunity to hear this again, we can put some of those commitments spoken about by the developer in the report that goes to the State as an FYI, and many times we do that, but those don't actually apply until the zoning action.

Rochelle Lawandales – We often put site specific conditions on large scale amendments. The County has not done that before?

Erin Sterk – We don't have a tool to do that, we can't condition the Future Land Use Map.

Henry Minneboo – It's really not compatible, we think, because it's going to be State driven.

Erin Sterk – We usually couple those with a zoning action and the zoning action limits the development in a certain way that makes it more compatible, but those are conditions of the zoning action.

Mark Wadsworth – How can I amend my motion to reflect the upgraded septic systems, to go to the next level?

Erin Sterk – You really can't. You can reference in your motion that you have an understanding that a future zoning condition would regulate that, but it's really just kind of like a note. That's the hard thing in the future when we look at it.

Mark Wadsworth – I'll change my motion to still approve, but to reflect the upgraded system on the property if this does go through.

Erin Sterk – And with that motion worded that way, we can convey to the State that that's the intent, so when we report on the sewer and the septic we can amend the staff comments so that they'll have the ability to see that.

Mark Wadsworth – I'll make that as a motion.

Motion failed for lack of a second.

Peter Filiberto – The water runoff that they're concerned about, the improvements you're making on this parcel, if this should pass, would also help their problems with the runoff?

Bruce Moia – Yes, any water that comes from upstream onto this property will have to be routed appropriately, and we'll work with the engineering staff through the County. It would be routed directly to the Sebastian River, which we are going to be doing. We don't design culverts as part of this thing, the County does. The requirements for street drainage is not to carry a 100-year storm, and whether you like it or not, the County Code requires that roadside culverts were only designed to handle the 10-year storm. We've had multiple storm events that exceeded that, and the road system is not designed to handle it. If that situation is an issue when it's not designed properly, that's an issue for Public Works, it's not an issue for us. We won't be contributing to that problem by any means, we won't be exacerbating it, but if there's an issue with the County, it's a County road, it's a County drainage system, and if the County says there's not a problem, I can't change what the County says. All I know is that any water that is routed to this property will have to be properly routed to the river, and anything we generate will be treated in a stormwater system designed to today's standards, not

only through the County, but also the St. Johns River Water Management District, to meet all of those requirements, so anything that gets discharged to the river from our property will be properly treated for nitrogen and phosphorous before it goes to the river. It won't be directly routed to the river, as is being currently done.

Rochelle Lawandales – I think that's a true statement. Today's standards for managing and treating, pre and post-development, is much higher than anything that was done in the past. From that standpoint, I think that today's developments are a lot better than older developments, but I still want to hear you say there will be a limited number on the homes. I want to hear you say you'll reserve those wetlands.

Bruce Moia – Between 12 and 20, that's 16, if you want us to limit it to 16 we can do that, which is over an above the one unit per acre, but I think we can live with that.

Rochelle Lawandales – But you're not willing to limit it to one-acre lots?

Bruce Moia – No, that would make it difficult and it would be incompatible with what's existing, to be honest with you.

Rochelle Lawandales – I did my own little study and if you look at Mockingbird Lane or River Drive, or Oak Trail, there are quite a few one-acre or 1.07-acre, or 1.43-lots, but there are a lot of .7-acre, and .76-acre lots, and there are some half-acre lots. It's the half-acre lots that concern me.

Bruce Moia – There are some that are 200 feet by 200 feet that are less than a half-acre; there's a multitude of those. I'm not saying that's what we're proposing, we want one unit to the acre as the requirement, but if we have to make the minimum a half-acre to get the well and septic, the bigger we make the lots, the less area we can preserve. Where is the tradeoff? Would you rather have us preserve more of the natural vegetation and existing features, or would you rather have us create bigger lots? I don't know that that's a fair tradeoff. We can do this at zoning. Just to remind you, this is just to transmit to the State, this doesn't approve anything, this is not an approval, this is just allowing this item to be transmitted to the State for the State to come back and say they have a problem with something, or that they have no problem at all, and then it comes back for adoption and zoning.

Rochelle Lawandales – But this sets the table.

Bruce Moia – The issues are going to be at the zoning meeting, when we're going to be going through the binding development plan and we can talk about lot size, we can talk about open space preservation, we can talk about those kinds of issues.

Henry Minneboo – We could see this twice more.

Bruce Moia – That's where we will really get into the nitty gritty, is in the zoning meeting, where we can talk about the binding development plan and minimum lot size, minimum preservation, or limited impacts.

Ron Bartcher – We had one motion that didn't get a second. I'll move that we deny the request.

Motion failed for lack of a second.

Rochelle Lawandales – For me, the only way that I could support an amendment to the Future Land Use Map to change it to Residential 1 is if there are some expressions from the applicant on some restrictions, and I need those clearly identified into the record, and I would support a motion to approve it, even though the County doesn't do site specific conditions, we do them all over, so it would be an expression of a gentleman's commitment on your part to show us and the community what you're willing to do.

Mark Wadsworth – Mr. Moia, I think it would be advantageous if we went back over exactly what we're voting on.

Bruce Moia – From my understanding, today's meeting is strictly for Future Land Use, because this has to get transmitted to the State along with all the other ones that are done for the June transmittal, and it would just be allowing the item to go to the State. You're not approving anything, it's just allowing the staff to put it in their package for the State's submittal of the Future Land Use amendments. When it comes back to you, you can deny it.

Dane Theodore – Let me give this a try. As the School Board representative, it's my obligation to look at the analysis on the school side of these things. The zone here is Sunrise Elementary, and at 20 units you'll generate about six students, and in three years Sunrise is going to be overcrowded by 48, and they'll send them to one of the other schools. I was looking at the analysis at West Side, and there are 258 approved future units in the West Side development, so it only has six students, so we'll send your six to West Side, along with other future developments. It's going to be crowded down there, but six isn't an enormous number. That's my statement, and as the School Board representative you've met the requirements for the school analysis. Relative to your land use change, I am going to make a motion that we approve this application for a large scale comp plan because I believe that however they got there prior to the amendments coming in, one per acre is fairly consistent with that side of the road down there along the river. Everything I'm seeing here, I think as a comp plan it's not going to be the same as the Residential 1:2.5 they're currently under, but the concept would be closer to the existing units along the river. For that reason, I'm going to make a motion that we approve this application with the understanding that when you come back I am a firmly beside Rochelle that any vote that I'm going to approve in the future, in the zoning and the binding development plan, is going to be somewhere in the 12 unit range. I think that is consistent with what your neighbors want to do and what we are comfortable with, at least two of us. On that basis, I'm going to make a motion to approve the application as it is proposed.

Rochelle Lawandales – I'll second it because it is only for transmittal.

Henry Minneboo called for a vote on the motion as stated, and it passed 5:1, with Bartcher voting nay.

An Ordinance amending Fish Camps and recreational vehicle use at fish camps:

Rebecca Ragain – Item 4 is a proposed ordinance to increase the number of allowed RV's (Recreational Vehicles) and extend the time limit for them. This request is the result of meetings with Honest Johns Fish Camp, where the 72-hour time limit for RV stays at the fish camp was identified as a problem. The proposed ordinance would more closely align the fish camp requirements with the 180-day maximum stay allowed for recreational vehicle parks. The revision would also ensure that fish camps are consistent with the Future Land Use. Currently, the four main fish camps in Brevard County are non-conforming due to the requirements that the fish camps are to be located in

Agricultural Residential, Residential 1:2.5, or Residential 1, on the Future Land Use Map, so by allowing the fish camps to be located in Community Commercial or Neighborhood Commercial, the non-conforming status is removed and the fish camps would be allowed to expand if they meet the other criteria. The Building Construction Advisory Committee approved the item on February 13th, providing that staff present additional information to the Local Planning Agency regarding the dump station and septic requirements. We have Christie McNamara from the Department of Environmental Health, and a representative from the Natural Resources Department here to address the septic tank requirement, and we can have them speak to that now, or you can ask questions regarding that.

Henry Minneboo – I'm going to ask for the septic tank expert. How does this affect all the existing fish camps? Is anybody going to be negatively impacted as it applies to your septic tank requirements, eventually, for those fish camps that are existing today?

Christie McNamara – If they choose to upgrade their camp, whether that be with RV (Recreational Vehicle) sites, adding a restaurant, or whatever it is they want to do, they'll have to comply with septic rules, and that means what they have in the ground now is not sufficient, then it will have to be upgraded also.

Henry Minneboo – Unless they never change it.

Christie McNamara – Or unless somebody complains, if we have to go out when there's a complaint on the property. If there's sewage on the ground because of a failing septic, they may have to repair a septic. It depends on the situation.

Henry Minneboo – Many of them have been around a long time, and now all of a sudden we're going to tell them that to continue to conduct business....

Rebecca Ragain – We're not saying that to continue doing what they've been doing, that that would necessarily require an upgrade, what we're saying is if they want to expand and have the additional RV's that they don't currently have, they would have to come through with a site plan or something like that, a building permit, which would also require the Department of Health to review that, and as part of that expansion they would definitely have to show that they meet the requirements.

Ron Bartcher – Do septic tanks have to be a certain distance apart from each other?

Christie McNamara – Yes.

Ron Bartcher – Is that in the State regulations?

Christie McNamara – Yes. When installed in a bed configuration they have to be 10 feet apart; if they're installed in trenches, they do not have that requirement. Trenches are the preferred method, but it's the choice of the applicant.

Ron Bartcher – That means the edge of the drainfield of one has to be at least 10 feet from the other one?

Christie McNamara – Yes.

Henry Minneboo – I think each has to stand alone, too. If you get three septic tanks those will all have to have their own drainfield.

Christie McNamara – If you have RV's and each RV is going to have their own septic system, then yes, they'd each have their own tank and drainfield, each site. But they could also do one, if we're talking about expanding and RV park, they could have one system for multiple units.

Rochelle Lawandales – Where it says for the fish camps that all units, recreational vehicles, cabins, and park trailers, shall be connected to electricity, water, and to sewer, that could be an onsite sewage system, correct? Or are you talking about a public facility?

Christie McNamara – It's either, depending on what's available. If sewer is available you can't have septic.

Rochelle Lawandales – So, the onsite sewage treatment plant would be a master system that would be for everybody within that fish camp?

Christie McNamara – If they chose to do that. They could either choose to do smaller systems for a couple of sites, or they could choose to do one system for 20 sites. It depends on what they're doing. That's their choice.

Rochelle Lawandales – Does the distance requirement that you were talking about, is that the same for the new upgraded systems?

Christie McNamara – Yes, that's for every system.

Rebecca Ragain – We don't know what all of the fish camps have right now, but if they have more than five RV's on their site they are required to get a license through the Department of Health, so there may be some that currently have more.

Christie McNamara – We regulate mobile home parks and RV parks and camps, and it's five or more sites.

Henry Minneboo – Does this go beyond fish camps?

Christie McNamara – This doesn't but our own rule does.

Henry Minneboo – Like the, KOA campground in Titusville, they may be confronted with this issue?

Rebecca Ragain – They would not be affected by this ordinance.

Henry Minneboo – No, because it's not a fish camp.

Rochelle Lawandales – But it does talk about flea markets, so it is more expansive than fish camps, at least in Section 2, for recreational vehicles, and it limits them.

Rebecca Ragain – It's limited to 30 vehicles at a flea market.

Rochelle Lawandales – But it's increasing from 30 to 60 at the fish camps.

Rebecca Ragain – Correct.

Rebecca Ragain – Since you've added a qualifier of 200 feet from adjacent residentially developed lots, do you want to add that qualifier to the last part of that sentence, 400 feet from adjacent residential developed lots, for the restaurants?

Rebecca Ragain – The idea behind that was if the fish camps have a residence on the fish camp, and they have something that's ancillary to a residence, normally then we would use the setback that's normally allowed in that zoning classification for a residence and not have an increased setback for the residence. The increased setback would only be for the fish camp structures.

Rochelle Lawandales – My question is about the word 'adjacent' in Section (1)(3), you've added that these ancillary structures shall be 200 feet from adjacent residentially developed lots, except that accessory restaurants shall be setback a minimum of 400 feet from residentially developed lots; do you want it to be the same as it was before, since you're adding 'adjacent' to the 200 feet, do you want the word 'adjacent' in the 400 feet?

Henry Minneboo – How many fish camps will this affect?

Erin Sterk – Yes, we have four in the County. We have the one in Mims, which is not in operation right now.

Rebecca Ragain – Rochelle, yes, we can add the word 'adjacent'.

Dane Theodore – I don't have any objections, per se, to this, but what problem does this solve? What is the issue?

Kim Rezanka – I'm the one who prompted this for my client, Honest Johns Fish Camp. My name is Kim Rezanka, I'm with the law firm of Cantwell and Goldman in Cocoa Village. Honest Johns wanted to expand to have more than 30 spots; 30 was always allowed at fish camps or flea markets. Flea markets are not being impacted at all, and this is really to address the issues with fish camps. My client had done a request for an interpretation, and we got that interpretation back from Tad Calkins that we didn't agree with, so we were appealing it to the County Commission when it came up that we can fix this ordinance because there are some non-conforming issues anyway, and we can make it so that it increases the septic standards, which there really haven't been any septic or sewer, and it fixes some other things. So, it was prompted because there are some inconsistencies in the ordinance and because Honest Johns Fish Camp is very large and she wanted to be able to have more than 30 spots for RV's and wanted them to be able to hook up to sewer, septic, and electric, which wasn't in the Code before.

Henry Minneboo – I was concerned about Camp Holly and Lone Cabbage, and both of them, I don't think they can put another trailer in there.

Kim Rezanka – And that's exactly why this has come about, to fix a problem with an interpretation we saw it and to fix the Code to make it more consistent, especially the non-conformities. It's not going to adversely impact any existing flea market or fish camp, it's just to clean up some of the language and allow expansion.

Bruce Moia – I'm representing myself and I have one question, because my one concern is if we're allowing these fish camps to expand their number of RV's, I want to know that there's a requirement that if that pump dump station is hooked to septic, which most of them are because there's no sewer in the area, that that would require the septic system to come up to current standards. I don't want to exacerbate a problem that might already be happening that's going to be right next to the river. If there's a dump station and you're going to go from five to 60 and start having 60 RV's dump their sewer and this is just hooked up to an old septic system 10 feet from the riverbank, I want to make sure that this ordinance is going to require them, if they're going to expand, that their dump station gets improved as well, to meet current standards. That's my only concern.

Henry Minneboo – You're saying they need to be enlarged to the number that's there.

Bruce Moia – If they have to enlarge it, they have to meet it, but I don't know if by expanding the park if they have to change their dump station at all, or enlarge it at all.

Christie McNamara – The dump stations are subject to the size of the park, so depending on the part and the use of it, and if you're increasing your sites we're going to review everything, and if the septic tank isn't big enough it has to be increased. If the septic tank and drainfield have to be changed because of this expansion then they're going to have to meet the overlay ordinance. If they can keep their septic tank and drainfield, and just replace some or add some, then they don't have to meet the ordinance.

Henry Minneboo – Erin, did you get any comments from the two owners, one from Camp Holly and the one that owns Lone Cabbage? Do we notify them or anything?

Rebecca Ragain – I'm not aware of that?

Henry Minneboo – Shouldn't we have? One fish camp has legal representation, but the other two, I don't know.

Erin Sterk – They've never come to us with a concern about that, but it is noted in here that a lot of those other sites have a zoning classification that's inconsistent with the Comprehensive Plan, so they're kind of locked in by not being able to expand, even for things other than these additional RV sites, so even outside of RV's this would be a benefit to those properties, but none of them have approached us seeking that outcome.

Henry Minneboo – We didn't tell them, either.

Rebecca Ragain – Darcie McGee, with Natural Resources, just reminded me that Honest Johns Fish Camp is the only one on the Indian River, and the rest are on the St. Johns River, and the overlay doesn't apply.

Henry Minneboo – That's true. It would have been nice to let them people know.

Rochelle Lawandales – I share the same concern that Bruce has, and I also share the same concern that if we're expanding from 30 to 60 and from 72 days to 180 days, that this could create some real drainage problems. I want to know what the process will be when they come in to make this expansion, are they going to have to go through site plan approval and permitting approval to upgrade their drainage systems. If we're making them hook into water, sewer, and electricity, I want

to see the drainage improved as well. I think the return on the investment of 180 days and the expanded spots would warrant an upgrade to the drainage.

Kim Rezanka – All of the Florida Administrative Codes and Statutes require site plans and permitting, and fees and everything else. The things cited in the ordinance do required permitting.

Henry Minneboo – In your opinion, the only one affected is Honest Johns, and the rest of them are okay.

Kim Rezanka – They are okay, but if they want to expand they will be able to, so it's not going to negatively impact any others. It's just going to clear up inconsistencies and allow for an expansion.

Rebecca Ragain – Back to the word 'adjacent', after further discussion, there was a reason that word was not in the 400 feet, and it is because if there is a residence that's within 400 feet, but maybe their property line is not adjacent, then we don't want the restaurants to impact them. They might be closer than 400 feet, but still not be adjacent.

Rochelle Lawandales – I'll make a motion to approve.

Dane Theodore – I'll second.

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

Adjournment:

Upon consensus of the board, the meeting adjourned at 5:04 p.m.