

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 3, 2011**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Board members present were: Henry Minneboo, Chair; Laurilee Thompson; Bill Cannon; Aneta Ott, Vice-Chair; Linda Wise; Clyde Thodey; Jerry Jagrowski; Sue Schmitt; Robert LaMarr; and Loretta Goggin.

Staff members present were: Robin Sobrino, Director, Planning & Development Department; Cindy Fox, Planning, Zoning & Enforcement Manager; Christine Lepore, Asst. County Attorney; Darcie McGee, Natural Resources Management Office; and Candy Hanselman, Zoning Support Manager.

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

Henry Minneboo – This is the Planning & Zoning Board, which is an advisory board to the Board of County Commissioners. And all the decisions that we make here today will be heard Thursday, November the 3rd, at 5:00 p.m., back in this specific room. So those of you that have issues here today, that will be your next step. Each applicant today will be given 15 minutes to give their presentation. Anybody speaking for or against that particular item will be given five minutes. Did everybody have a chance to look at the minutes of September the 12th?

Motion by Aneta Ott, seconded by Jerry Jagrowski, to approve the minutes from the P&Z meeting on September 12, 2011. The vote was unanimous to approve the minutes, as submitted.

There were eight regular members, and two alternates, present. The eight regular members, and the alternate from District 5, voted throughout the agenda.

The items were heard in the following order: 5, 1, 2, 3, 4. These minutes are in agenda order.

DISTRICT 1

V.B.1. (Z1110101) – KENNETH W. & SUCHITRA MONVILLE – (Heidi Gallagher) – request a change from GU to AU 1.71 acres. Located on the northwest corner of Date Palm St. & Pine St. (5020 Date Palm St., Cocoa)

P&Z Recommendation: Ott/Schmitt – Approved. Vote was unanimous.

Henry Minneboo – Is the applicant here for this, please? Yes, ma'am, you need to come up to the microphone. State your name and address for the record.

Heidi Gallagher – My name is Heidi Gallagher. I live at 2325 Indian Hollow Trail, Seffner.

Henry Minneboo – And the purpose of your request today?

Heidi Gallagher – I'm purchasing this house. And I'm used to having farm animals. I don't own a lawnmower. I'm on 12 acres right now. I use goats and cows to trim my lawn. And I just like living rural.

Henry Minneboo – You know, you can't have 52 goats out there.

Heidi Gallagher – Oh, no, no.

Henry Minneboo – O.K.

Heidi Gallagher – What I plan to have is whatever will – you know, that it won't be overgrazed. So I'm probably – something like four goats, maybe one of my miniature cows.

Henry Minneboo – Has somebody shared with her how many of all those animals she's allowed to have?

Cindy Fox – Yes.

Henry Minneboo – O.K., great. That's best. You don't want to get on a numbers of cows and horses here. Is there anybody on the board like to ask her a question? (no response) Is there anybody in the audience like to speak for, or against, this item? (no response) Seeing none, I bring it back to the board.

Aneta Ott – Make a motion for approval.

Sue Schmitt – Second.

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

Heidi Gallagher – Excellent. I do want to make it clear that I would like an AU, that I don't want to be limited to like cows and goats. I might want some fowl.

Henry Minneboo – That's why...

Cindy Fox – We're good.

Henry Minneboo – Yes, don't ask us any more. We do very well, if you don't talk to us.

Cindy Fox – We do have one more meeting in front of the Board of County Commissioners on November 3rd. If you've got questions, just call our office.

V.B.2. (Z1110102) – THOMAS A. & FRANCES P. SPINA – request a change from GU to AU on 1.63 acres. Located on the east side of Fan Palm Ave., approx. 300 ft. south of Date Palm St. (5545 Fan Palm Ave., Cocoa)

P&Z Recommendation: Thodey/Jagrowski – Approved. Vote was unanimous.

Henry Minneboo – State your name and address for the record.

Thomas Spina – Thomas Spina, 5545 Fan Palm Avenue.

Henry Minneboo – And your purpose?

Thomas Spina – I'd like to make better use of my land, maybe have a few chickens, build an accessory building, stay out of my wife's hair.

Henry Minneboo – All right. Is there any questions here from any of the applicants "sic"?

Jerry Jagrowski – Yes, sir. Are you going to have any goats or cows on there?

Thomas Spina – I was hoping to borrow this lady's goats, but she's already gone.

Henry Minneboo – Anybody else? (no response) Anybody out in the audience to speak for, or against, this item? (no response) Seeing none, I bring it back to the board.

Clyde Thodey – I make a motion to approve this.

Jerry Jagrowski – Second.

Henry Minneboo called the question, and the board recommended approval of the request. The vote was unanimous.

V.B.3 (Z1110103) – EDGAR G. MAYORGA – (Shelby L. Dean) - requests a change from GU to AU on 2.38 acres. Located on the west side of Fan Palm Ave., approx. 960 ft. south of Cabbage Palm St. (5140 Fan Palm Ave., Cocoa)

P&Z Recommendation: Ott/Schmitt – Approved. Vote was unanimous.

Edgar Mayorga – Edgar Mayorga, 5140 Fan Palm Avenue, Cocoa, Florida, 32927. I want to rezone from GU to AU.

Aneta Ott – Why?

Edgar Mayorga – Livestock, whatever's allowed, chickens, goats, horses.

Henry Minneboo – Any questions of this gentleman?

Jerry Jagrowski – I'll ask the same question. How many?

Edgar Mayorga – Well, I believe I'm allowed like four per acre. No, just a couple horses, couple goats, nothing, you know.

Henry Minneboo – Is there anybody else? (no response) Anybody in the audience would like to speak for, or against, this? (no response) Seeing none, I bring it back to the board.

Aneta Ott – Make a motion for approval.

Henry Minneboo – Motion by Aneta.

Sue Schmitt – Second.

Henry Minneboo called the question, and the board recommended approval of the item. The vote was unanimous.

DISTRICT 4

V.B.4. (Z1110401) – TEMPLE BETH SHOLOM, INC. – (Philip Nohrr/Gray-Robinson, P.A.) requests removal of an existing Binding Development Plan in a BU-1 zoning classification on 13.79 acres. Located on the east side of N. Wickham Rd., approx. 564 ft. north of Pine Branch Dr. (5995 Wickham Rd., Melbourne)

P&Z Recommendation: Schmitt/Thompson – Approved, with the stipulation that the applicant is to meet with residents of Whispering Pines Estates prior to the BCC meeting to reach an agreement on a buffer area between the subject property and the subdivision. Vote was unanimous.

Cindy Fox – I just wanted to point out to the board that I added to the comments for this item, and I distributed copies. I thought it best, since we did not have applicant-specific BU-1 uses given to us as part of the application, to give you both the general office building concurrency information and the shopping center concurrency information. So that describes the extra table there is for the shopping center.

Philip Nohrr – Good afternoon. My name is Philip Nohrr. I'm an attorney. My address is 1795 West Nasa Boulevard, in Melbourne, Florida. And I have the privilege today to appear before you on behalf of the Temple Beth Shalom. To start off with, I've already given you, Cindy, the affidavit as far as the posting of the sign, but I do have an affidavit here from our property owner to the west, the Greek Orthodox Church. And I'll be talking about that, but I'd like to put that in the record now, which is in support of the... (Mr. Nohrr walked away from his microphone). Ladies and gentlemen, we're here today to request a removal of a binding development plan that we were granted by the County back in 2000, at that time, as part of the BU-1 zoning classification that was granted on this property. And, as your reports in front of you show, the current zoning is BU-1, and our current land use is commercial, CC, commercial land use. As you look at this particular property, it abuts Wickham Road. To the north, we have warehouses, which are zoned BU-2. To our south, we're pleased to have the Greek Orthodox Church as our neighbor. To our west, of course we have Wickham Road. And then on the other side of Wickham Road, I guess there's a drainage tract that the County has ownership of, as well as Ace Hardware. To our rear, we have the railroad tracks, and behind the railroad tracks we have AU zoning. When you look at our property to the south, in addition to the church, as you go towards the deep rear of our property on our southern side, we do have a residential subdivision that – I think it's Whispering Pines, but I'm not quite sure of that. But there is a residential subdivision there. So, at least on the portion of our southern border behind the church, we do have residents that back up to our BU-1 zoning now which, again, currently has the binding development plan attached to it. We believe, in general, that our request is compatible with what goes on in the Wickham Road corridor, that you have commercial up front. I don't believe we're introducing commercial into that neighborhood. We've got it all around us. Your report points out the possible incompatibility as it relates to our neighbors to the south, behind the church. I don't know if there are any here today, and if they are, they'll speak as to what their concerns are. But I would respectfully remind this board that your Land Development Code takes care of issues like that, when it comes to buffering in zones between commercial and residential. We do not believe that there will be an incompatibility issue, but to the extent that there is, and it's raised, I just wanted to point out to you the fact that certainly we understand buffering is called for. Buffering is required by the Code. We would comply with that and, I suspect, a lot more. The reason that we're here today requesting it is, as I think it's probably in at least the application, and perhaps in the report, at least a portion of the temple's property is up for sale and will be passed into other ownership. And in that other ownership, when that sale, if and when that occurs, there is no sale pending, that they may try and develop commercial. And this is just the beginning step in trying to let that happen. That's why I think staff has given you that revised report to talk about concurrency as to the different locations. We've been a long-time neighbor in that community. We think we're a good neighbor. What I've done, in addition, is rather than delay this presentation, in the audience I have a number of members of the congregation. If they could all stand so that they could at least be recognized, I would appreciate it. And if you all could stand, but if I could just ask one person for special recognition, it's our Rabbi, Rabbi Margolis, who is also here recognizing – I want to recognize him and his support for this request. I believe the report speaks for itself. I'd be glad to take any questions or comments. If none, I would respectfully request time for rebuttal, if there are people here in opposition.

Henry Minneboo – Does any board member have a question for Mr. Nohrr?

Sue Schmitt – I will, after everyone's heard.

Henry Minneboo – Is there anybody in the audience would like to speak for or against? Yes, ma'am. Please come up.

Susan Catherine Lemay – This is the first time for me. I've ever done this. But I received...

Henry Minneboo – We'll walk you through it. It's real easy here.

Susan Catherine Lemay – You want my name?

Henry Minneboo – Yes, ma'am, name and address.

Susan Catherine Lemay – It's Susan Catherine Lemay, 2920 Pine Branch Drive, Melbourne, Florida, 32940. And I have been a resident of Whispering Pines for right at 25 years, I think, greater than 20 years. Over that 20 years, I have seen the Winn Dixie, the Petty's, the Ace Hardware. I now have a hotel in front of me. And the place is, to your point, sir, it's become commercial. Behind me, it's all wooded. In those woods are gopher turtles, great horned owls, the sandhill cranes, a whole bunch of stuff, that I do believe are protected species. And other than that, I don't know what I can do to stop this. But I would like for you to educate me on the process, so that I can do something to do away with this zoning for commercial. So I'm here to say no. I want to say no. I know that nobody else is here from my neighborhood. I don't know if it's because they didn't get the notice, or what. And if I had seen the notice on the hotel, I would have been here to say no to that, too. I've had three neighbors that have been robbed here in the past, I don't know, three or four months. And I'm tired. So I guess that's all I have to say.

Henry Minneboo – I'm going to answer just a little bit of it. And I'm not going to be able to help you through this. But everything that you had mentioned, as far as species, that – if and when that goes forward, whatever happens, they'll have to address those. And if it's gopher turtles, there's an issue for gopher turtles, so forth and so on. So all the animals that you've mentioned here today, they'll be addressed individually. So that part of it, you know, will be done through a site plan process, whomever may be the person that does that. So our job today is just to sort of relieve of the binding development plan that was on there from years ago. And that's probably what we'll address today.

Susan Catherine Lemay – So what do I do to stop this? Because I understand that they have an intent to sell. And what's going to happen is, all that land's going to be cleared. All these animals are going to be gone. We're protecting nothing anymore.

Sue Schmitt – That's not what he said.

Henry Minneboo – Yes, they'll have to address every one of those animal issues, whoever is the owner, the final owners, of that, and when they do any kind of work. I'm not sure I'm going to be able to tell you anything that's going to make it easier, but there's significant buffering requirements that'll have to occur. In other words, they're not going to come all the way to your back. And as I recall, you've probably got a ditch behind your house, don't you?

Susan Catherine Lemay – We do.

Henry Minneboo – They're not just going to come to that ditch.

Susan Catherine Lemay – Well, they said they wouldn't do that when they did the hotel, too. And you should see what they've done to the back of those peoples' houses, and their yards. I've seen it. It's horrible.

Henry Minneboo – I'll assure you today, they're not. You know, I'm going to speak and say that that buffer will be maintained properly. They're not coming to your yard. I'm telling you.

Susan Catherine Lemay – I see that there's a final hearing on here, as well.

Henry Minneboo – Yes. ma'am.

Susan Catherine Lemay – So I have this time to do something about this if, in fact, you guys approve it?

Henry Minneboo – Yes, ma'am. What I conveyed to everybody that was here today – I guess that's November the 3rd. That's the next opportunity you'll have. And you can speak to the Board. We're just an advisory board to the Board of County Commissioners. So whatever this board decides today, that information will be brought to them.

Susan Catherine Lemay – Does it help if you get a petition? If I were to petition all the neighbors and get their signatures, does that help?

Henry Minneboo – I would say, yes, ma'am.

Jerry Jagrowski – Definitely.

Henry Minneboo – I've answered part of yours, so you don't have to reiterate that, too much. And there would be a buffer there.

Susan Catherine Lemay – Well, I've seen the buffers. I'm not happy with the buffers.

Henry Minneboo – You'll be happier today than what you've seen in the past.

Aneta Ott – First of all, I agree you need to petition. You need to get your neighbors involved. And you need to be at that meeting.

Susan Catherine Lemay – I'll be there.

Aneta Ott – And the more people that you have to speak, and why, pictures, those are the kind of things that are always helpful.

Christine Lepore – Mr. Chairman, I'd like to contribute to this conversation.

Henry Minneboo – O.K., being an attorney, we'll let you, too.

Christine Lepore – Yes. First, on the issue of petitions and what the purpose of this hearing is for, having any number of people to show up here and basically be a show of hands, and any body count for who's in favor and who's opposed, is not at all what this board can consider. It's not a popularity (Ms. Lemay asked Ms. Lepore a question, while she was speaking). The issue before this board is whether the requested rezoning is consistent and compatible with the surrounding uses and zonings. So the purpose...

Susan Catherine Lemay – I don't think a commercial something in my back yard is compatible with my neighborhood.

Christine Lepore – And that's what you're here to talk about.

Susan Catherine Lemay – Yes, ma'am.

Christine Lepore – Right. So a show of hands of who's in favor, and who's not, doesn't really address the facts of whether the request is compatible. So people need to come and provide facts and information about why that may or may not be compatible. And that can be discussion of what you've experienced since you've lived there, since your neighbors have lived there, regarding those items. So I wanted to clarify the comments about signing a petition, or bringing as many people as you can to the meeting room, because packing the meeting isn't...

Susan Catherine Lemay – I understand.

Christine Lepore - ...what gets decisions.

Susan Catherine Lemay – You're looking for factual data.

Christine Lepore – Correct.

Susan Catherine Lemay – Yes, ma'am.

Christine Lepore – Correct. Also, I wanted to point out – not that this helps – but the discussion regarding the buffers - the property to the north of the subject property is in the County. The property to the south area, where the hotel was built, was the City of Palm Shores. So they probably didn't have a buffer requirement for the hotel.

Susan Catherine Lemay – They rezoned it all to get permission for the hotel.

Christine Lepore – Right. And they may or may not have had a buffer requirement. So there may be a difference. And you can talk with Zoning about what the development requirements will be. And as the Chairman was talking about, issues regarding preservation of natural resources, or species, will be a development issue that will be addressed through any permitting process if, in fact, this is approved and if, in fact, it is ever developed. But it's not an issue here for compatibility of land use.

Susan Catherine Lemay – I just want you guys to remember, you know, when you make these decisions that you're a homeowner, too. I don't think that many of you would like to see a shopping center in your back door. So that's all I have to say.

Henry Minneboo – Thank you, ma'am.

Cindy Fox – Mr. Chair, if I could just also – the current zoning of the property right now is BU-1. The binding development plan limits the uses to a synagogue, daycare and private school. The applicant is only requesting removal of the binding development plan. So whatever your action is today, the BU-1 zoning would remain in place.

Henry Minneboo – Not to be redundant, but I think that's what I said. That's what we're here for.

Cindy Fox – I just wanted to make sure.

Henry Minneboo – O.K.

Clyde Thodey – Mr. Chairman.

Henry Minneboo – Yes, Clyde.

Clyde Thodey – I want to speak to the attorney a minute.

Henry Minneboo – Yes, sir.

Clyde Thodey – I wanted to ask you a question on petitions, because this is very important. You said, if I heard you right, that petitions aren't going to be accepted? If people come to the County Commission, and they have petitions, you're saying that those are not going to be accepted?

Christine Lepore – No, sir, I didn't say they're not going to be accepted. This is a quasi-judicial hearing, and the decisions that you make have to be based on competent and substantial evidence. And the courts have ruled that a show of hands, a body count, a number of who's for and against, is not considered competent and substantial evidence. So, for the purposes of building a record to support a decision, should it be appealed, you have to have factual information related to the consistency and the compatibility of the request with the surrounding property.

Clyde Thodey – I understand that part of it. But I'm just concerned, if this lady brings in 2,500 petitions to the Commission meeting, you're saying that that isn't going to be addressable as evidence?

Christine Lepore – That's not competent and substantial evidence, no. The Board, or this board, cannot base a decision, alone, on that information. That's correct. That's my statement.

Clyde Thodey – Next question. Cindy, on this map that we have here, on the zoning map, I'm kind of confused exactly where she is. And I'm looking at what you have submitted to us in this package. And I see here where the first page, we have it circled where the location is. But on the second page, where is the property that they're talking about in commercial? Is it the BU-1 and BU-2 that could go? Is that what we're talking about?

Cindy Fox – It's only the BU-1 portion. And this is because it's a black and white. The scale of the line is not quite as thick as we'd like it to be. But it is right there in the center of that picture on the next page. It's the BU-1 piece that's just north of the subdivision there that says "Pine Branch Drive". Do you see that?

Clyde Thodey – Yes.

Cindy Fox – And I believe this – she testified that her address was off of Pine Branch Drive, so she's in that subdivision right there to the south.

Clyde Thodey – And where is her location that she was talking about?

Cindy Fox – I don't have the addresses on this map here. She could come back up and show us.

Henry Minneboo – She's in the subdivision that's directly south of the perimeter of the southernmost line of that.

Cindy Fox – That's correct.

Clyde Thodey – She's directly south of that?

Henry Minneboo – Yes, sir.

Clyde Thodey – So she's not in that Pine Branch Drive area down in there? And we now have a hotel across from residential property? Is that what she's testifying to? I'm kind of confused here.

Cindy Fox – The hotel, I believe that she's – is further south. And it's in the City of Palm Shores jurisdiction.

Clyde Thodey – O.K., I understand that now. Thank you.

Henry Minneboo – That hotel's further south, Clyde.

Sue Schmitt – It makes a difference, and it was just stated, that that hotel is in the City of Palm Shores, which this group, and the County Commission, have nothing to do with, because it's separate zoning. So if you have a problem with that, I would suggest you might want to go to the City of Palm Shores. I just wanted to ask Mr. Nohrr a couple questions, please.

Aneta Ott – We haven't checked to see if anyone else wanted to speak.

Henry Minneboo – Is there anybody else would like to speak against, or for, this item? (no response) Good. Mr. Nohrr.

Sue Schmitt – On the property, you said that a portion of the property you're talking about selling. Is that correct?

Philip Nohrr – Yes.

Sue Schmitt – Now, is the synagogue going to move from that piece of property?

Philip Nohrr – Probably not, but certainly that's a possibility. What's really being – excuse me. (Mr. Nohrr asked a representative of the synagogue in the audience if he could discuss their plans) What is happening is, discussions are moving towards signing of a document with the Greek church to our south, with is going to take land behind it, part of which is what I think the last speaker was concerned about, as ancillary support for their operation. Independent of that - there's two parts to the temple property, really. There's a part where the religious school is, and that is what's up for sale, and that's what I think is more actively involved, right now, as a possible sale. And, of course, that's on the north side, away from the speaker. In addition to that, there's always the possibility that someone's going to come in and want to take the whole parcel. And if they do that, then the temple will consider that, and consider whether it wants to relocate or not.

Sue Schmitt – You made a statement about St. Katherine's Greek Orthodox Church. Did you say you have an agreement with them for a portion? Or is that just public information?

Phil Nohrr – Yes, it's out there. I want to be very careful. We do not have a signed written agreement. We do have letters of intent that are out there. It is moving in that direction, and it's moving a significant way in that direction.

Sue Schmitt – That's really all I had. I wanted to ask Cindy something, then, too. On this property, we know that on BU-1 zoning that, if it abuts residential, there must be a buffer of some fashion. And it's set out in the Code what that has to be, either a wall or a berm, I believe it is, or...

Cindy Fox – Yes, ma'am.

Sue Schmitt – Or some type of thing. Along that one portion of property, could we ask that if this is removed, that part of that would also have to include that there be some type of buffer along – I know it's set out that they would have to do it, but could we set out what type of buffer that could be at that point, and remove the binding development plan?

Cindy Fox – What I would recommend is that the board, instead of removing the binding development plan, ask the applicant to amend the binding development plan to include the buffer area that you would like.

Sue Schmitt – Thank you.

Henry Minneboo – Laurilee.

Laurilee Thompson – We've run into this issue before, time and again. What happens with these buffers is that there's like a – there's the LDR's for the County, and they require a concrete block wall. And, you know, usually what happens is the native natural vegetation gets bulldozed, and then it gets replaced with some spindly oak trees, half of which die, and some bushes. And it's wrong the way we do these things. Obviously, this is probably a really beautiful naturally wooded area. And, you know, if there's gopher tortoises and stuff there, then they would benefit from leaving the natural habitat, rather than having it stripped out and put a concrete block wall up, with some bushes and young trees. So if we amend the BDP, could we amend it to require that, you know, some kind of reasonable native natural buffer remain, adjacent to this neighborhood?

Cindy Fox – Yes, you could do that. What I can tell you, currently, the land development regulations require that if there's commercial development abutting residential zoning, that there be a six-foot high concrete block wall. And there is a structure - a commercial structure could be as close as 15 feet to that residentially-zoned property, currently, how the regulations are. So you could take that into consideration with how wide you'd like that natural buffer to remain.

Laurilee Thompson – Does the concrete block wall have to be on the property line? Or could the concrete block wall be further to the north, with the natural vegetation buffer between the concrete block wall and the residential neighborhood?

Cindy Fox – You could do that. But, again, the binding development plan is an agreement between the property owner and the County, so that would be something that they would have to voluntarily agree to, as well. So I don't know enough about the property topo, or anything like that, to give you that kind of advice. But, certainly, that could be a requirement, if you wanted to word it that way.

Henry Minneboo – You know, the only problem I got with that, Laurilee, is that the property to the front, or to the westernmost, doesn't have one. And, all of a sudden, we're going to be required that a portion in the back have a block wall, and then the people in the front don't have to have one. I'd like to just see vegetation, if they can work it out.

Laurilee Thompson – But the problem, Henry, is that the County requires a concrete block wall. That's the problem. The property to the west doesn't have a concrete block wall, because it – well, it didn't have a BDP. There wasn't an issue with a rezoning of that property. There's no BDP. The property that we're talking about

has a binding development plan that was put in place to protect the people from this neighborhood from having a business 15 feet from their property lines.

Cindy Fox – Let me clarify. The way that that section reads – and I apologize – I don't have it in front of me – but you can have vegetation, rather than the wall.

Henry Minneboo – There you go.

Cindy Fox – Do that in lieu of that. I think it actually has a width requirement, as well. But the board can do whatever they choose to do as part of that.

Henry Minneboo – You know, we're making all these plans. We might ought to get the applicant involved here. Mr. Nohrr, can you maybe enlighten us on what we've been discussing here, appears to be compatible to what...

Philip Nohrr – Sure. And I understand the concept, certainly. And I can tell you, from the temple's point of view, and at the risk of being criticized, I'm sure the temple has the same desires and goals that the church has, that they want to be compatible neighbors. And if I take all those hats off, and I put on the hat of just a plain old developer, I can tell you a developer would probably much prefer a natural buffering than the cost of a concrete block wall, and then the issuance of maintenance, and the issuance of possibly creating a no-man's land in there, as far as upkeep, which could become a nightmare, an unintended consequence for the property owners. So there are a lot of positive reasons why all this makes sense. Certainly, I think, although we haven't talked about dimensions, and I can't talk about dimensions today, but we would agree with the concept of a naturally-buffered type, native buffering type of buffer, between us and our property owners to the south. I don't think that's a problem. In fact, I know it's not going to be a problem. In between now and when we get to the County Commission, I can probably be a lot more specific because, in addition to everything else, we'll go to the church and develop this a little further with them. But just the general concept, to me, is just not going to be a problem.

Henry Minneboo – Laurilee, you all right with that?

Laurilee Thompson – Yes, I am. It's a lot better than a concrete block wall.

Henry Minneboo – I'd rather see those – I guarantee you those are pine trees that are 30-40 feet high. I'd rather see them than a piece of concrete.

Cindy Fox – Just for clarification, the wording in the Code says that you could have a six-foot high opaque buffer, in lieu of a wall.

Henry Minneboo – O.K. I knew if we brought all that horsepower in here today, I knew we'd get the answer.

Laurilee Thompson – But do trees – do they qualify as opaque? Trees and bushes. Or does it have to be a chain-link fence with a green screen on it?

Cindy Fox – It would not – it does not indicate that it should be a fence. It can be a combination of vegetation.

Henry Minneboo – Can we allow Mr. Nohrr to work this out with the Commission by November the 3rd, Laurilee?

Laurilee Thompson – Well, I guess I would make – well, if the discussion's over with, I would move that we have the church amend the binding development plan to allow the uses of BU-1 on this property, as long as they maintain a – here's where I have a problem. We're not setting a limit on the vegetated buffer. There's a big difference between a 15-foot wide vegetated buffer and a 50-foot wide vegetated buffer. And, there, you get into the, you know, the – I mean, 15 feet doesn't even allow for the canopy of one large tree. But, you know, I don't – I'm not sure I want to just turn loose of it and allow it to be negotiated. So I guess I would move that – I don't know.

Clyde Thodey – Mr. Chairman, are we making a motion now, when further discussion needs to be done?

Henry Minneboo – No, we're just – my question, Clyde, to her was is she comfortable with the thing. And I don't think she's – we're still in discussion.

Laurilee Thompson – We'll have more discussion, then.

Henry Minneboo – I just needed the applicant up here. We're making decisions for him that, you know, he can nod his head left to right or up and down.

Clyde Thodey – I got some questions for Mr. Nohrr, as well. So, you know...

Henry Minneboo – Great. Laurilee, are you through? O.K. Clyde.

Clyde Thodey – Mr. Nohrr, 11 years ago you got this BDP. Is that correct? In 2000?

Philip Nohrr – That's correct.

Clyde Thodey – And, all of a sudden, in a bad economy, and everything else, now you want to do away with that. And do you – there's got to be some reason that, in 11 years, you've maintained it, and now you want to get rid of it. Is it because you have a gentlemen's agreement to sell this land?

Philip Nohrr – First of all, in all due respect, to say "all of a sudden" I think is a little harsh. But we've been living side by side with our neighbors for a long period of time. The only gentlemen's agreement, the only gentlemen's agreement, is with our fellow church to the south, dealing with approximately one acre. And I want to be very careful. That is not a complete deal. That could go away tomorrow. That's the only thing that's even on the horizon. What I did with this board, in all candor, is try to share with you some of the long-term goals or possibilities that might occur, just so there would be no feeling afterwards that we told you one thing, and we did something else. That's not what Temple Beth Sholom is about, and that's certainly not what I'm about. So I shared that information with you, but that's iffy. The only thing that's more realistic is the – we know the church to the south has needs. We share parking now, anyway. We have a cooperative spirit between the two institutions. That's going to change. They want to have better control of their future. We certainly don't mind that, and we're working towards that goal. But that's all there is. There's no hidden agenda of any kind.

Clyde Thodey – O.K. Thank you.

Henry Minneboo – You were very articulate in that explanation. You did a good job. Anybody else?

Sue Schmitt – Is there anyone else that was going to be heard? I think Laurilee backed off the motion. But I was going to make one, unless there's someone else that wants to...

Henry Minneboo – No, I think we're okay. I don't see anybody that's ready. O.K.

Sue Schmitt – I would like to move that we approve the removal of the binding development plan, with the stipulation that Mr. Nohrr, and whatever representatives from the temple, meet with Susan Lemay to see if they can work out some type of conservation area before that goes to the Commission.

Henry Minneboo – The only thing, Sue, you might want to say, in line with – the County needs to be involved in that, too, because...

Sue Schmitt – Absolutely. It's not just a private one-on-one. It's with the County, and with Ms. Lemay and a couple of the other homeowners, so that by the time it gets to the County Commission, hopefully everything can be resolved with whatever that buffer – preferably not a wall, that it be a natural, like a conservation area.

Henry Minneboo – There's a motion on the floor. Is there a second? Seconded by Laurilee (Ms. Thompson's second was made away from her microphone; therefore, it is not audible on the record).

Henry Minneboo called the question, and the board recommended approval of the item, as stated above. The vote was unanimous.

THE FOLLOWING ITEM WAS TABLED FROM THE P&Z MTG. ON 9/12/11:

DISTRICT 2

V.B.5. (Z1109201) – OVERLOOK TOWERS – (Lauralee Westine) requests a CUP for a Tower & Antenna in a BU-1 zoning classification on 3.58 acres, more or less. Located on the southwest corner of E. Merritt Ave. & Palmetto Ave. (89 E. Merritt Ave., Merritt Island)

P&Z Recommendation: Ott/Jagrowski – Tabled to the P&Z mtg. on 11/7/11. Vote was unanimous.

Cindy Fox – Item number five needs a tabling, because the MIRA Board has not been able to hear that item. They will be hearing it this Thursday. So I would kindly request a tabling until the November 7th Planning & Zoning meeting.

Henry Minneboo – That's the tower?

Cindy Fox – Yes, V.B.5, Overlook Towers.

Henry Minneboo – Do I hear a motion from the board to table this item 'til...

Aneta Ott – Make a motion to table.

Henry Minneboo – Motion by Aneta, and seconded by Jerry (Mr. Jagrowski's second was made away from his microphone; therefore, it is not audible on the record) to table until...

Aneta Ott – The next meeting.

Henry Minneboo – Well, no, I think we need to say until...

Cindy Fox – It's the November 7th Planning & Zoning meeting.

Henry Minneboo – Shouldn't we let the Merritt Island Redevelopment make a – because this is twice it's come. Shouldn't we wait 'til they take a position?

Cindy Fox – I need a time-certain. And they are going to hear it this Thursday.

Henry Minneboo – So they're going to get it done? O.K. And when do we want to table it to?

Cindy Fox – November 7th.

Henry Minneboo – O.K. That's on your motion, Aneta?

Aneta Ott – Yes.

Henry Minneboo – O.K.? And, Jerry, fine?

Jerry Jagrowski – Yes.

Henry Minneboo called the question, and the board tabled the item, as stated above. The vote was unanimous.

The meeting was adjourned at 3:43 p.m.