

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 18, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Erika Orriss (D3); Mark Wadsworth, Chair (D4); Ana Saunders (D5); Debbie Thomas (D4); Melissa Jackson (D5); and Robert Brothers (D5).

Staff members present were Tad Calkins, Director (Planning and Development); Alex Esseeese, Deputy County Attorney; Jeffrey Ball, Zoning Manager; Trina Gilliam, Planner; Derrick Hughey, Planner; Sandra Collins, Planner; and Alice Webber, Operations Support Specialist.

Excerpt of complete agenda.

Item H.3. Schwa Inc. (Kimberly Rezanka) requests a change in zoning classification from BU-1 to RA-2-4 (24Z00051) (District 2)

Jeffrey Ball read the application into the record.

This item went to the North Merritt Island Dependent Special District Board hearing last Thursday with a recommendation of denial. At the meeting the applicant provided a concept plan. The concept plan has not been reviewed for compliance with our code and regulations.

Kim Rezanka on behalf of the applicant stated this is an application solely for a zoning RA-2-4 to allow the building of 9 townhomes on Courtenay Parkway. This is adjacent to Courtenay Parkway, as you can see from page 1 of what I provided to you. Egrets Landing is to the east. They are allowed to be 9,000 sq ft lots, but they are usually for the most part half acre lots. That was the first rezoning that was done in North Merritt Island for quite some time. Also, up to the north you'll see the townhomes, the Villas up there. Those were townhomes that were rezoned, approved through here approximately 4 years ago. They have been built; they are single family ownership. I understand they might be rental properties, but they are single family fee simple title ownership just as the townhomes we're proposing would be. The property has a current future land use of CC and a zoning of BU-1. Mr. Dvorak, back in 2008, had a site plan approved for this to have 4 buildings of almost 18,000 sq ft of retail. There's been no demand for retail in this area, so he's not been able to do anything with this property despite owning it since July of 2005. The parcel is 2.47 acres. Right now, with the community commercial and the BU-1 he could put 4 townhomes on but as you know costs have been driven up substantially and he wouldn't be able to do it financially. That's why he's asking for the change to RA-2-4 which is the same as the villas on the west side of Courtenay. Page 2 of the packet I provided you are the villas that I referenced. To the south just 3 parcels away that is Sun Island Lakes. Granted it's been there since the 1980's, but it currently despite the TR-3 zoning and the future land use which is RES 2, it is currently at 4 units to the acre, just to let you know that's from the site plan that's on their website, that's on page 5. So, it is more dense, the same density that we're looking at for this proposed project. I provided to you a page 6; Mark Burns spoke at South Merritt Island Special Dependent District Board. He was not in favor of it. His would be the closest to this property. I did want to show you that this zoning of EU-2, if this project were zoned EU-2, the side setbacks would be 15'. Currently, although we do have a concept plan, the intent is to leave a good 25' to 40' in its natural state between the strip that's owned by the HOA and the townhomes. This was just to show you that the EU-2 could be a 9,000 sq ft lot as the zoning which is 5 units to the acre even though it's RES 2. Page 9 is that strip of land that would be between Mr. Burns house and the

Schwa property. It's approximately 15' in width so there's that extra buffer as well, so you have Mr. Burns 15' plus the 15' of the side setback of the HOA property. Then you would have at least a 25' setback, but the intent is to have a larger setback and to have the retention pond in the back there. We can put this in a BDP if that's the choice of the board. I also put in here the North Merritt Island bylaws, I'm sure you're all very familiar with this group. They did speak in opposition on Thursday night, and I did want you to know that they really had no option because the purpose, on page 11 is to endeavor all future zonings no more than 1 unit per acres. So, they do show up at all North Merritt Island zonings and oppose it and it's basically they have no choice. They do not represent 10,000 acres or 10,000 people as they state. It's a volunteer organization. The last page is just a concept plan. There have been other concept plans since this time, and it's not been reviewed by staff. It's not binding, it's just to show you what the intent is as to have the townhomes closer to the road, with a cul-de-sac, then you're looking at having an amenity area and stormwater pond. And as much as possible it's going to be left in this natural state. So, there will be a large size buffer. If you are inclined to approve this zoning and you want additional conditions, we can certainly look at those. As the staff report indicated there's no anticipated material reduction, material, or adverse impacts on the surrounding area. There's no level of service issues regarding traffic. The corridor is anticipated to operate at 37% of capacity daily with this proposal. This proposal with 9 units only generates 9 trips per those 9 units per day. However, that commercial property, at 18,000 sq ft would have 55 parking spaces, so it would be a concrete jungle, it would not have any green space per se. And this is a less intense use than what could be built there currently in BU-1. Business uses are not in demand. That was the intent originally. Mr. Dvorak was telling me he was driving home from the space center where he worked and there was no place to stop and get a bottle of wine. So that's why he initially bought the property, but there's just no demand up there. So, he's trying to do something with the property, providing another alternative of housing other than 9,000 sq ft lots or ¼ acre lots. And with all the activity at the space center additional housing in this area is needed. It is not going to be rentals; it is not intended to be rentals by Mr. Dvorak or his company. It is intended to be sold. With that we are here to answer any questions and we would ask a recommendation of approval for the RA-2-4 to allow the construction of 9 single family-owned townhomes.

Mark Wadsworth asked if there were any questions for the applicant from the board.

Robert Sullivan stated he had a question, but it was primarily for staff. This is in the North Merritt Island Dependent Special District. Is that correct?

Jeffrey Ball answered yes.

Robert Sullivan asked are they the authority having jurisdiction over planning and zoning.

Jeffrey Ball responded the way that it's set up is that they are an advisory board to this advisory board. So, they make a recommendation along with the recommendation from you all and that gets forwarded on to the Board for their ultimate approval or denial of the application.

Robert Sullivan commented in the opening statements I think you said that Thursday they rejected it out right.

Jeffrey Ball responded no; their recommendation was for denial.

Robert Sullivan commented, and they've already voted on it.

Jeffrey Ball answered yes.

Robert Sullivan then stated I'm looking at the notice of hearing that I got off the public records and it's dated October 31st, they voted on the 14th, is that 2 weeks?

Jeffrey Ball stated that the meeting that they made their recommendation was last Thursday, which was the 14th, yes sir.

Robert Sullivan went on to say that the publication, the notice of the hearing was issued on the 31st of October. That's only 14 days. Is that correct?

Jeffrey Ball stated if you give me a minute I can check to see when the notice was.

Robert Sullivan said, "I'm looking at it." So, who issues the notice?

Jeffrey Ball responded our agenda staff.

Robert Sullivan commented so it may have been just an error, but Florida Statute requires 30 days notice.

Alex Esseesse asked what statute he was referring to.

Robert Sullivan responded 166.041 section 1. If you want, I can read it. It's the notice shall state that the substance of the proposed ordinance as it affects the property owner and shall set a time and a place for one or more public hearings on such an ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing. So, apparently and a copy of the notice shall be kept available for public inspection during the regular business hours for the office of the clerk of the governing body. So that's Florida Statute 166.041 called Procedures for adoption of ordinances and resolutions.

Alex Esseesse responded yes sir, for a point of clarification that is the process for municipalities to adopt ordinances and resolutions. We're a county. Technically we follow 125 with respect to the processes for ordinance adoptions and resolutions. This is an administrative or I guess and advisory determination in this case.

Robert Sullivan responded with alright, fair enough. The key is their board recommended denial, is that correct?

Jeffrey Ball replied yes, they did.

Erika Orriss stated to clarify further their board, it was unanimous, if I'm correct.

Jeffrey Ball confirmed it was unanimous.

Jack Ratterman stated he's on the North Merritt Island Special District Board, I'm the co-chair. I've been on the North Merritt Island HOA, past president 7 years, past vice-president 7 years. And both groups unanimously denied this application. There were several reasons why, but since I have 3 minutes, I'll get to it here. What we're looking at administrative policy 3A diminished quality of life, administrative policy 3B diminished property values, and administrative policy 3C which is

noncompatible with the local land use. And the attorney pointed out that there's some townhomes north of here, the Cristofoli townhomes, and they were forced down upon us. The board and the community voted against them. We were told they were going to be sold, and they're not sold. They're all for rent. So now we're faced with a rental neighborhood. Only 2 have been rented so far, as far as I know. That's it, so for them to say yea this is compatible with other things in the neighborhood, this was compatible with something we didn't want in the first place. If you had a Bessemer furnace zoned up there and they wanted to put another one in that wouldn't be quite right. Those apartments that set a president. And I don't know if you have your packet or not, do you have this packet that they sent? You have that map? Okay. How about on page 29, it says up at the top U S Soil Hydrology Map, I was surprised, I went online and looked up the first one aquifer anhydrate soil, both of those are referenced to wetlands. So, they go right through the property there. But it doesn't say wetlands, but if you look on google and see what it says it tells you that. So, in a round about way they're skirting around that wetland. And then the height restriction is 35 feet. Which one of you would want to have a townhome 35 feet next to your house with a 20-foot setback. That's unreasonable. And then for them to say oh we're going to give a 25-foot setback along that one entry street right there, that's a spite strip. Correct? Okay. I'm going to ask who knows what a spite strip is. Probably nobody. A spite strip means they can't do anything with it. They can't sell it, they can't ingress/egress, anything. That's why they had to put in a road themselves and they can't come off that. So, this whole thing is ill conceived, and I ask you to deny it.

Mark Burns stated I am that property that they were talking about that they mentioned my name earlier. Simply I represent my wife, my parrot, and my 4 dogs. That's about it right now. I did 30 years in the air force; this is my final house. This is where I plan on retiring. I love the community, I love all my neighbors, this, and that. I just real briefly brought up the wetlands. As I was walking the dogs yesterday there were a couple of owls sitting right up there in the tree where they plan on taking them down. There are bobcats that run through there, there's lots of turtles, and everything else. But that's not really my subject matter. The thing that I wanted to talk about is, they talk about the setback, I'm about 15 feet away from where they want to build the retainer pond. Basically, they're going to dig a hole, all the water slopes down from Courtenay, right to my house. I have an embankment. That water's going to go in that hole, and it doesn't go anywhere. It stays there until it's evaporated. And all you that lived in Florida this long you understand that means a lot of mosquitoes for me, my wife, and all our fruit trees and our enjoyment out in our backyard. Not to mention for my one-year-old granddaughter there's a hole out there the size of whatever, I don't know. Are they going to put a chain link fence next to it to keep access away? I haven't heard anything about that. The other thing is, and I don't think Spyro is here, but my neighbors, they're not in Egrets Landing, they're constantly pumping water before a hurricane, they have to pump down their lake probably for about a week. It's so noisy. All you hear is that water pump. And that's all they need is more flooding going into there. They have some real problems right there and they drain it up to the street. They spend a lot of money on gas, and they don't need anymore flooding in that area. They don't need anymore water coming down that hill, filling up their ponds. The traffic was already mentioned. My biggest issue really is how would you like to have a big hole, right in front of where these beautiful trees used to be, with a whole bunch of mosquitoes and the smell. When the foliage dies it sits there and it rots, and it smells. That's basically what I want to tell you. This is how it affects me. Obviously, it affects a lot of other people. But this is my retirement home and I have to look at how these mosquitoes bite me, and smell that in front of all my trees, well maybe I'll find another retirement home. But I don't know how I'm going to do that because I spent all my money after retirement buying this house. I'm not going to get as much for this house when I sell it with that hole next to my yard. And, by the way, I paid

\$25,000.00 lot premium for this lot because it's such a beautiful lot, was and hopefully it will stay a beautiful lot.

End of public comment

Kim Rezanka stated regarding the North Merritt Island Dependent Special District board, as you heard Mr. Ratterman sits on that board. He also sits on the NMIHOA board, and he's been in this area a long time, and he didn't want the other townhomes. He sits on the NMIHOA board he has to support their bylaws that says no less than one unit to acre. So obviously his opinion is based upon those guiding principles. The board heard, there were a dozen people in the audience, they heard from 4 or 5 people, they just don't want any change. They don't want that lot developed. That lot is currently BU-1, they could have a dozen different things there 25 feet from the property line. This is a less intense use and is compatible because it's single family. They didn't give any reasons other than we don't want townhomes, we don't want apartments; these aren't apartments. These are single family ownership. Just the listing of the policies without evidence is insufficient to deny this request. Again, he's owned it for 20 years, he hasn't been able to develop it. He would like to develop it for single family homes which the comprehensive plan says we should have single family homes in a variety of opportunities for people to have single family ownership. Regarding the Cristofoli's, the forced upon us, that was mentioned several times at the special dependent district board, again they didn't want it, the County Commission approved it because it is single family ownership, and it is compatible with the 4 units to the acre that is in this area and other locations including the mobile home park. If there is a wetland, they will have to abide by all the rules and regulations, and won't be able to impact it, except for a nominal amount. They could impact it all right now in commercial but if it's residential they'll have to abide by the 1.8%. Regarding a height restriction the EU-2 is 35 feet as well, so townhomes RA-2-4 35 feet, EU-2 35 feet, the height restrictions are the same. Regarding that spite strip it's really owned by the HOA, it's a buffer, and it's intended to be a buffer. As to the flooding this area of Merritt Island has special restrictions on compensatory storage that was adopted 4 years ago because of the flooding and an engineer who designs something in this area must basically certify with their life that it's not going to impact others. And this property would be subject to those strict requirements and the whatever it is, something you push numbers in, and it pushes numbers out, I don't remember what you call it because I don't know that many people have used it up here. As to fencing, whatever the requirements are for fencing will be done. Frankly most people prefer a retention pond next to there home versus a 25- or 30-foot townhome. So that retention pond will act as a buffer. And again, there can be a condition to leave the natural buffer as much as possible, that's been done several times by this board and county commission. Finally, there is no evidence of devalued property. Right now, there's no evidence to support that and that requires an appraiser to do so. In conclusion, this requested zoning of RA-2-4 is consistent and compatible with the existing and immerging development in the surrounding area, and keeping to the character of the predominantly single-family homes which is mentioned in the staff report. So, this is a less intense development, and we request your approval with any conditions that you deem appropriate.

Henry Minneboo commented I've been there a long time. I was on the committee then when Cristofoli, I'm not sure if there's any alignment to the Cristofolis. They might have owned it then, but they certainly don't own it now.

Kim Rezanka stated they owned it at the time. I did the zoning for them.

Henry Minneboo added I took the position; I was fairly supportive of that project because I was hoping that would be the end of it. And I took that position, I said you know we can live with it on North Merritt Island just a little bit. But then I watched today, state road 524. And now everybody says but Henry they've got one across the street. Now they've got 6,000 units on 524. North Courtenay doesn't need nothing more. We need more retail up there, etc. And I'm just against anything other than something retail up there. Because our place is beginning to be a hodge podge up there. So, I can't support it no matter what you do. I'm holding hard on what I've done in the past and I'm holding hard now. So, I'm not going to push it.

Kim Rezanka stated the only issue, you may remember Goport coming before you, was the only multi-use plaza up there. It had a gym, it had an ice cream shop, it's now a park and ride for the port because it couldn't sustain itself. It had a sports bar at one point. You've got the 3,700 commerce, which is mini-warehouses, warehouse units. It is not full. You've got right across from these townhome villas is a restaurant that's defunct. So, there is no support for commercial development up there, especially after covid, everyone's going Amazon, or Walmart, or home delivery. So, I understand everyone wants commercial up there, but there's no call for it. You have a Dollar General, that may be all that goes up there. Again, this is North Merritt Island, this is we believe a good use of the property. And I understand Mr. Minneboo.

Ron Bartcher commented that the North Merritt Board voted against it. The North Merritt Island Board I believe are actually elected. Is that correct.

Jeffrey Ball indicated yes.

Ron Bartcher went on to say as opposed to be appointed like we are. So, they have a much more personal interest in it than we do. I think if they voted against it, I should support them.

Brian Hodgers asked if this is planned to be a 3-story building.

Kim Rezanka answered no, it's planned to be 2-story.

Ana Saunders asked if it were to be developed as commercial where would the retention area be located. Just for comparison purposes. On the eastern end of the lot as well?

Kim Rezanka responded it's in a similar location. It would be toward the east.

Ana Saunders asked Jeffrey is there a requirement that if they were to develop under B-1 to come in front of any of these boards to ask for any kind of approval, or just the site plan approval.

Jeffrey Ball answered that he is not an engineer he's a planner, so my understanding of how stormwater works is that you put it on the lowest part of the property.

Ana Saunders went on with no I mean in general if they were coming forward and they had just a site plan for any commercial property would that have to go in front of a public board. It would just go through the regular route of site plan approval and go through the normal process.

Jeff Ball responded correct, if they were proposing a retail commercial use on property it would be CC land use and BU-1 zoning currently it would go through staff review under the site plan process. That's it. Public hearing.

Ana Saunders then stated there's several BU-1 parcels as I look at the zoning map surrounding the area that are not developed and typically haven't been developed ever.

Kim Rezanka said there's homes on BU-1 currently.

Ana Saunders went on to say so from a property rights perspective which you know that was passed a year or 2 ago, I would support this from the respect that it sounds like they tried to go to BU-1. It's been BU-1 for decades and obviously it hasn't developed. To force somebody to keep a zoning category because that's sort of what they want, I think is it consistent with the property rights component of the state and I do see it as a consistent use. It's transitional between the BU-1 zonings and single-family to the rear to be all the same requirements that would have to be met through engineering, Brevard County, and all the different outside agencies that would manage the wetlands species, stormwater, flooding components. So, because of those reasons I would support this request.

Robert Sullivan stated he is a professional engineer, former drainage district engineer and designer, and he's done land development in Broward County, and Miami-Dade and Palm Beach and there's literally a thousand different ways you can do a retention pond. You can do storage vaults, you can do cast filtration, you can raise this thing up, so saying that it needs to be at this location or that location it's really up to the engineer of record and how creative they are. So as far as keeping people from developing their property, it was purchased at this location, the overall planning is to make the main corridors business and beyond those corridors make them residential. So, people obviously have spoken on how they feel on what they wanted and how they invested their money in their property. We are an advisory board and I've advised many clients on many things. Sometimes they like my advice, sometimes they don't, but I do respect the people who are the property owners, and they appear to have spoken. So, I'm not in favor of this particular request.

Robert Brothers stated I've been sitting on the West Melbourne board for about 10 years now and on this board for about 2 years, and lately every project that comes up has neighbors going we don't want this here. Not in my backyard. I've already got mine, nobody else can have theirs. What I'm finding is people are still coming to Florida. They're not going to stop coming to Florida. If we do not give them well planned affordable places to live...the same people who are going not in my backyard are saying we need affordable housing. Not in my backyard though, but we need affordable housing. One of the worst reasons that we do not have affordable housing is A) because of regulation, B) because of just the cost of construction, and C) because it's harder and harder to find some place to build it. People are not going to stop coming to Florida. If we do not give them good places to live then we're going to end up just like New York, and just like San Francisco where you've got people living on the streets. They're going to be here. They get here and they don't have any way to get anywhere else. And when people want to do things with their property, I notice none of these people ever come up here and go well we got the money together and we're going to buy the property that we want to tell people what to do with. This person owns this property and obviously I'm looking at that area and there's nowhere to put anything business there. And there's all these big houses. My neighborhood I live in, I live in an old neighborhood, by neighborhood was built in the 60's and 70's, yet we have right across the fence there's commercial, there's a hotel, and then there's apartments. And there's assisted living. And this is all right where I can see it from my backyard. It doesn't bother me. These are my neighbors, and we have a great neighborhood. My neighborhood has become so desirable that because I have all this other stuff around me that I couldn't afford to live there if I didn't

already have a house. So, like I said, it becomes a little gnawing to constantly hear people going not in my back yard. Not in my back yard. That's all I've got to say about that.

Mark Wadsworth commented I see we've got some up here that seem to be for and some to be against, so I need a motion.

Motion to recommend denial of Item H.3. by Henry Minneboo, seconded by Ron Bartcher. The vote was 5 to 5, so the motion fails. Motion to recommend approval of Item H.3. by Robert Brothers, seconded by Debbie Thomas. The vote was 5 to 5. The motion failed.

Alex Esseesse advised you can either table it or either motion will be brought to the board with no motion in favor or against.

Kim Rezanka stated we're fine with the tie vote. We'll go to the county commission. We also would consider conditions if that would change anyone's mind if they wanted to put conditions in a BDP. But I haven't heard that from anyone. That would be the other option.

DRAFT