

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 14, 2022**, 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 (D1); Ron Bartcher (D1); Lorraine Koss (Alt. D2) (present for and voted on H.3. - H. 14.); Ben Glover (D3) (present for and voted on H.1. - H.13.); Mark Wadsworth, Chair (D4); Liz Alward (D4); David Bassford (Alt. D5) (voted on H.1. - H.12, and H.14; abstained on H.13.); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; George Ritchie, Planner III; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Rushing Wind, LLC (Steven Austin and William Buchman)

A Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 (Residential 1) to RES 4 (Residential 4). The property is 24 acres, located on the south side of Micco Rd., approx. .37 miles west of Dottie Dr. (No assigned address. In the Micco area) (Tax Account 3008616) (District 3)

Rushing Wind, LLC (Steven Austin and William Buchman)

A change of zoning classification from RR-1 (Rural Residential) and IN(L) (Institutional Use, Low-Intensity), to RU-1-11 (Single-Family Residential). The property is 34.65 acres, located on the south side of Micco Rd., approx. 0.37 miles west of Dottie Dr. (No assigned address. In the Micco area.) (Tax Account 3008616) (District 3)

Steve Austin, 409 Pelican Key, Melbourne Beach, stated the subject property is next to a 100-acre development that used to be RR-1 and is now one-quarter-acre lots, and they would like to have similar zoning.

Ben Glover noted the street coming in looks like part of the community. Mr. Austin replied it is the same drive they had for the one-acre lots, but they are not part of the other development.

William Buchman stated they own the property on the west side and it was permitted in 2006. The project on the east side is completed at four units per acre, and they would like to market their land, which is why they want the comp plan change.

Jeffrey Ball stated the board should not focus on the access, because access will have to meet code at the time the site plan is addressed. They will need to provide access to a county-maintained road. He added, the property adjacent to the east is RES 2, and the zoning was approved with a BDP to cap the density at two units per acre.

Mr. Buchman noted the west boundary line is in the City of Palm Bay.

John Hopengarten asked if the lots in the development to the east are build-to-suit lots? Mr. Austin replied they are all sold and built-out. Mr. Buchman stated the builders have bought the lots and houses are being built.

Mr. Hopengarten asked if they are planning on doing the same thing on their property. Mr. Buchman replied they plan to sell to builders and they will come back with engineers.

Motion by Ben Glover to approve the request. He explained the area needs more housing, and if someone wants to sell land to build on it, it's not like the lots next door are small lots.

Liz Alward asked where they will be getting the water and sewer for the subdivision. Mr. Austin replied water is not an issue, but they will have to use septic unless the capacity is increased in Barefoot Bay.

Ms. Alward asked if they are within the Barefoot Bay Water and Sewer District. Mr. Buchman replied no, they would have to annex into Barefoot Bay, but that is up to the builders to figure out. Ms. Alward stated she is concerned about the sewer and not having the capacity for the land use change. Mr. Buchman stated according to Environmental Health, they can do three units per acre.

Ms. Alward stated if they are not in the Barefoot Bay Water and Sewer District boundary, they can't approach the district unless there is capacity. Mr. Buchman replied they are not hooking up to sewer. Ms. Alward asked if they are going to use septic tanks on four units per acre. Mr. Buchman replied yes.

Ms. Alward stated according to the School Board there is not enough capacity for the total projected and potential students for the Rushing Wind development. She asked if they have had any correspondence with the school board. Mr. Buchman replied they submitted it all to the County, and they said it is fine. Ms. Alward stated according to the school board, the only capacity is schools many miles away, but the schools closer do not have capacity.

Ms. Alward stated she is not willing to support the motion to approve until she has a better understanding of what they plan on doing as far as septic. She said she supports development, but she doesn't support something that doesn't seem planned.

Mr. Bartcher stated a portion of the area is in the septic overlay, and asked if they will be using the high-performance septic tanks. Mr. Buchman replied yes, 246 nitrogen reduction units.

Mr. Bartcher asked if the board's School Board representative have anything to offer about the school concurrency. Mr. Hopengarten stated they have an issue because Sunrise Elementary is over capacity. Mr. Bartcher stated any children in the subdivision will have to be bused quite a distance.

Ms. Alward stated the comprehensive plan and the zoning accounted for 34.6 acres, which is 25 units, and septic on 25 units is a lot different than 138 units, which is what is being proposed.

Mr. Buchman stated they do not think they're going to get that. He said it was an option of two units per acre or four units per acre. He said the property next door is one-third acre lots, and they were hoping to get the four so they could give it to the engineers and they could come back with a plan.

Mr. Austin stated the builders will have to do some engineering. If they get quarter-acre lots they may not be able to get enough houses with septic.

Mr. Ball explained Policy 1.2 says, "In Residential 30, Residential 15, Residential 10, Residential 6, and Residential 4 land use designations, centralized potable water and wastewater treatment shall be

available concurrent with the impact of the development.” He said he is hearing that wastewater is not available, but the RES 4 requires connection to central water and sewer. When considering a land use change, the board can consider the availability of infrastructure and that can mean water, sewer, roads, and school capacity. He said the comp plan requires connection to wastewater if RES 4. If the board is more inclined to approve RES 2 to not have the requirement for central sewer, then a BDP would need to be placed on the zoning to restrict the density because the zoning request is for RU-1-11, and RES 2 is not consistent with that zoning classification.

Mr. Bartcher stated it seems the board doesn’t have much choice but to deny the request. He said there is a school concurrency problem, they have to meet the RES 4 requirement and they are saying they can’t do that, and the board wouldn’t want to recommend something that is against the comp plan.

Mr. Ball stated the board can recommend a lesser intense land use category, such as RES 2. Mr. Buchman pointed out they already have RES 6 on the front. Mr. Ball replied RES 6 is already out there, and he’s not sure how that was established, but that is not being considered. He said the applicants are requesting a RES 4 land use designation and the comp plan requires central water and sewer.

Mr. Bartcher asked the applicants if they are willing to change their request to RES 2. Mr. Austin replied they will, but they are trying to be consistent with the development next door.

Ms. Alward asked staff how many units they can get with RES 2. Mr. Ball replied at 24 acres, it would be 48 units.

Mr. Glover withdrew his motion to approve RES 4.

Mr. Bartcher asked if the applicants are willing to change their request to RES 2. Mr. Austin replied yes.

No Public comment.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval of the Small Scale Comprehensive Plan Amendment from RES 1 to RES 2, as amended by the applicant. The motion passed 6:2, with Liz Alward and Lorraine Koss voting nay.

Mr. Ball noted that since the board’s recommendation on the land use was for RES 2, the applicants would need to agree to a BDP to cap the density at two units per acre, which would give them the ability to design the subdivision according to the RU-1-11 standards, but cap the density at two units per acre.

Ms. Alward asked how many units that would be. Mr. Ball replied 48 units.

Mr. Bartcher asked the applicants if they would agree to a binding development plan. Mr. Buchman and Mr. Austin agreed to a binding development plan.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval of a change of zoning classification from RR-1 and IN(L), to RU-1-11, with a BDP limiting density to two units per acre. The motion passed 6:2, with Liz Alward and Lorraine Koss voting nay.