

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 17, 2023**, 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: Board members present were: Ron Bartcher (D1); Robert Sullivan (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); and John Hopengarten (BPS). Robert Brothers' presence was noted at 3:09 p.m.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Ranger Storage, LLC (Jim Trauger)

An amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification, on 2.21 +/- acres, located on the south side of Freeman Lane, approx. 480 ft. east of Waelti Dr. (3335 Freeman Lane, Melbourne) (23Z00009) (Tax Account 2601558) (District 4)

Jim Trauger, 2210 Front Street, Melbourne, stated the site is currently zoned BU-2, with an existing BDP, and during a pre-application meeting with staff it was determined that the proposal is different than the previously approved BDP, so a new layout was developed. There are a couple of changes he feels are less intensive; the current BDP allows outdoor storage for a mini-warehouse, and the proposed use is solely for indoor storage of boats and RVs, which is less intense if people don't pick up their RVs and boats every day, and that is the biggest change. He said his client would also like to push more landscaping to the front, closer to the residential use, to create a better buffer. To the west is vacant land, to the south is warehousing, to the east is a large FDOT pond, and then the railroad tracks, so there is no potential for residential neighbors, and that was the idea with the new layout.

Public comment.

Robert Usherson, 338 Myrtle Wood Road, Melbourne, stated he lives in the subdivision to the west of the proposed development, and is speaking on behalf of himself and the HOA president. He said they thought they would be able to support the application because indoor storage of recreational vehicles and boats could be a compatible neighbor; however, the way the application has been framed, they vigorously oppose it unless it were to be significantly re-crafted to render it compatible with the Comprehensive Plan and the character of the area. He said currently, there is a BDP that expressly limits use, and as the proposal has been framed, it breaks it wide open to the full range of BU-2 uses. He said the president of the HOA sent a letter to the applicant hoping there could be some dialogue and an adjustment to the application, but she has not received a reply. The way the request is framed, he finds it to be considerably inconsistent with the policies of the Comprehensive Plan and it would be inappropriate for the board to recommend approval of a change from the current BDP. He stated the area has been piecemealed by multiple small scale plan amendments over the years since the comprehensive plan was adopted, and the area has now been re-designated substantially on an ad-hoc piecemealed basis to Community Commercial. He said in recent years the HOA has garnered cooperation from several applicants who have offered BDPs limiting the range of uses on a property and other appurtenances that would not pose a threat to the liveability of homes. He said the HOA asked Ranger Storage to include a few provisions in the draft BDP, which were nominal and

reasonable, but there has not been a reply from the applicant. He said there are a couple of ways they could fix this, but right now what is before the board is unacceptable. He explained the Waelti area has one access road out, and it's a large area that has been undergoing transition to heavy commercial uses. There is a traffic signal at Wickham Road and it is the only way out, except to drive through the neighborhood, which has substandard streets without sidewalks, and cannot tolerate through traffic by heavy vehicles and a other activity that could occur in BU-2. He noted the traffic signal has a very long cycle period, and people get impatient and cut through the neighborhood. He said the County has very little opportunity to change the signal because the two signals very close to that intersection limits how much clearance time can be provided out of Waelti and onto Wickham. He stated the area should get a comprehensive overview and maybe an overlay district to lay onto the area so that what occurs in the confined space is good planning and not just ad-hoc reaction to requests that come before the board. He said another concern is noise, and on a small, piecemealed basis, the noise code doesn't provide a good way to respond to little things that could be occurring through a multiplicity of sites with multiplicity of occupants. He stated storage could be just fine, but a 60-foot tall building is contemplated in the site plan, and asked if it going to be rack storage, or if there is going to be some kind of a lift vehicle with back-up beepers going off all night or all day, and that's not explained nor precluded by the current proposal. Another concern is with electronic digital signs; residents don't want them in the area or along Wickham Road, but they could be allowed in BU-2 zoning. He said what the HOA has asked of applicants is that they tighten up the development proposal to exclude some of the things that would be very deleterious to the quality of life in the neighborhood. He said they are not asking to simply limit the use to indoor storage of RVs and boats, because there are a lot of other things that could be allowed, they are asking that it exclude the kinds of things that would be deleterious to the neighborhood, and there are a variety of ways it can be done in the BDP. He said the preamble of the document indicates what the wishes and desires of the applicant are, to build a storage facility; however, in the operative language, there is no limitation, it is wide open. There is an exhibit in the agenda materials called a site plan that shows landscaping and fencing, and where the buildings will be, but the staff comments say the project still has to go through site plan review and it could all change, but it is a site plan and not a land use restriction.

Mr. Trauger stated his clients plan to be good neighbors. The exhibit that is part of the BDP is why they are before the board, because staff felt that what was provided was substantially different. If his clients were to go to staff with digital sign boards and things that may be allowed in BU-2, they would have to come back to the board. He said his client is not proposing a 60-foot tall building; the proposed building is single-story, as is written in the exhibit drawing.

John Hopengarten stated according to BDPs, the only way they can be changed or removed is by rezoning, and asked if the existing BDP can be amended if the request is not for a rezoning.

Alex Esseeesse replied yes, BDPs are an agreement between a property owner and the Board of County Commissioners, and they can be amended. Mr. Hopengarten stated the original agreement is with a different owner. Mr. Esseeesse replied BDPs run with the land, not the property owner.

Mr. Hopengarten stated he did research back to 2006 when the BDP came up, and it seems that the BDP that was approved was different than the one proposed by the Planning and Zoning Board, and it seemed that the major item was the paving of Freeman Lane, and asked if it is paved. Mr. Trauger replied Freeman Lane is paved up to the site.

Mr. Hopengarten stated another requirement was putting up a barrier of vegetation on three sides of the property, which was due to the fact that the original applicant had clear cut the entire site, and staff recommended that punitively at the time. He said the final BDP that was approved included only those two requirements.

Jeffrey Ball pointed out there was a third condition in the original BDP that the developer/owner limit the use to mini-warehouse facility only, and with the open storage for boats and RVs on the rear of the property.

Mr. Trauger stated his clients are no longer planning any outdoor storage on the site at all, so that condition also does not apply to the proposed development.

Ron Bartcher stated it seems the proposed facility could be built on the property with the current BDP in place. Mr. Trauger replied the RVs intended for storage are large and need a 50-foot bay. The circulation of the previous project had the two entrances, and then the middle two buildings would have worked, but the exterior buildings were not deep enough to accommodate larger RVs. He said the idea was to use those buildings as self-storage and then have the RVs and boats outside on the southern portion of the site closer to the warehousing, but since they want to have all of the RVs and boats within structures, they won't be visible at all.

Mr. Bartcher asked staff if the applicant can build the building he wants in BU-1 zoning. Mr. Ball replied yes, but it is the outdoor storage component that requires BU-2.

Mr. Ball further clarified that the BDP was approved with a site plan, and what they are trying to do now doesn't comply with that site plan, and that is why the application is before the board, to remove the site plan part to allow for them to have more flexibility within the BU-2 zoning and the conditions that went along with the site plan.

Mr. Bartcher stated he agrees with the residents that taking this requirement out essentially opens it up to any kind of BU-2 use. He asked if the restrictions in the proposed BDP do not limit the kinds of things he can do. Mr. Ball replied as far as staff's analysis, there are no use limitations in the proposed BDP.

Mr. Bartcher stated he thinks there are BU-2 uses that residents would not like to see next to their homes, and he would like to see some restrictions on BU-2 uses, as suggested by the HOA.

Mr. Trauger stated he doesn't have a problem adding to the BDP that the facility will be used for indoor RV storage. He said it wasn't malicious intent, it was oversight, because he thought it was clear since the name of the company is Ranger RV storage.

Mr. Bartcher stated the board only deals with zoning issues, it doesn't deal with site planning, and while he appreciates the applicant's willingness to come forward with what they are going to do with the property, in reality it is not a requirement, so the board has to deal with not only what the applicant says he is planning to do, but other things that could be done with the property.

Mr. Trauger stated he was under the impression that the use wasn't changing, just the layout, and that triggered coming back to the board.

Mark Wadsworth asked if Mr. Trauger thought he was going to get rid of the outdoor storage and add indoor storage. Mr. Trauger replied that is what his client is trying to do.

Mr. Wadsworth asked if limiting the use to indoor storage of RV's is acceptable. Mr. Trauger stated he doesn't have a problem adding that the use on the property will be solely for the indoor storage of boats and RVs.

Mr. Ball stated asked for clarification that the board's recommendation would be to include a BDP that limits the use of the property to all of the BU-1 uses and the BU-2 use of indoor RV and boat storage.

Mr. Bartcher stated that is correct.

Mr. Hopengarten asked if there a way to amend the original BDP and take out the two provisions on Freeman Lane. Mr. Esseeesse replied yes, there doesn't have to be a companion rezoning item, an applicant can come to the board to ask to amend the BDP itself, as is outlined in the Code. Mr. Hopengarten asked if that can be done, rather than a new BDP. Mr. Esseeesse replied the board is amending the existing BDP, effectively creating a new BDP.

Motion by Ron Bartcher, seconded by Debbie Thomas, to recommend approval of the amendment to an existing BDP in a BU-2 zoning classification, with a BDP retaining all BU-1 uses and limiting the BU-2 use to indoor RV storage only. The motion passed unanimously.