

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 7, 2020**, 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: Brian Woltz; Ron Bartcher; Ian Golden; Brian Hodgess; Joe Buchanan; Peter Filiberto, Vice Chair; and Bruce Moia.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Vice Chair Filiberto appointed Brian Hodgess as Chair Pro Tem. Mr. Filiberto excused himself from the meeting.

Canaveral Landing, LLC (Kim Rezanka)

A change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) and a CUP (Conditional Use Permit) for Cluster Development of Mobile Homes, with a BDP (Binding Development Plan) limited to 100 units. The property is 33.80 acres, located on the north side of Canaveral Groves Boulevard, approximately 675 feet east of Grissom Parkway. (No assigned address. In the Cocoa area). (20Z00006) (Tax Account 2314846) (District 1)

(All handouts can be found in file 20Z00006, located in the Planning and Development Department)

Kim Rezanka, Cantwell and Goldman Law Firm, Cocoa, stated the project is not a low-income housing development, it is a cooperatively-owned development, which means the entire property is residentially owned, similar to a condominium. She stated the project will be resident-owned and there will be an application for membership, as well as a criminal and background check, and there will be bylaws and rules and regulations. She said it is a difficult property to develop; it has 14.65 acres of wetlands, and 18.88 acres of uplands. She stated the proposed concept plan shows that only the uplands are being developed and all of the wetlands will be preserved, which is why there is not access on Canaveral Groves Boulevard, but on Ann Way instead. She said the developer is requesting a CUP for clustering of mobile homes, which allows more flexibility, and it is not the only CUP for clustering in TRC-1 zoning in the area. She said the BDP that has been submitted limits development to 100 units, which makes the property compatible to the existing Residential 4 Future Land Use designation. She said the amenities for the project include a pool, pavilion, bar-b-que grills, restrooms, and an exercise/walking trail. She said there will be a formal site plan that will have all of the exact dimensions, retention, and roads. She stated when appropriate, the developer will come back to the board to ask for waivers for an inverted road and removal of sidewalks except where needed along main roads. She said the development will be hooked up to city water and sewer, and the homes will range in price from \$60,000 to \$100,000, which is close to what's currently in the area. The area around the subject property is all manufactured homes ranging from \$18,000 to \$108,000, with most being between \$30,000 and \$60,000. The homes in the proposed development must be three years old or newer. She noted nothing on the property will be disturbed unless allowed by law; and a 2017 survey has been provided to staff that shows there are no scrub jays on the property. The access to the development will be through Ann Way. She further stated access would either be from the south on Canaveral Groves Boulevard going along Hess and Luciano Avenues to Ann Way; or from the north along Phyllis Way, using Hess and Luciano Avenues to Ann Way. There are very few homes on that road, so it will be an increase in traffic they are not used to, but they are public roads

and Ann Way has a large right-of-way. She stated if the surrounding property owners want speed bumps, they will have to request them through their county commissioner. She said if improvements are needed along Ann Way, the County will stipulate that during site planning. She pointed out that to the west of the subject property is the Royal Palms II development, and the subject property was supposed to be another phase of that development. The subject property was zoned TRC-1 with a cluster development for 137 homes in 1989, but that zoning has since been changed. To the east and south of Canaveral Groves Boulevard is a cluster development called Sun Lake Estates, which is TRC-1. Further to the south of that is the Sun Lake Estates Co-op, which is very similar to what is being proposed on the subject property. In Sun Lake Estates Unit 1 there are 70 homes. Sun Lake Estates Unit 2 has 67 homes. To the south of that is the Sun Lake Village Estates LLC, which is TRC-1 with a cluster development of 146 units on 25 acres with no amenities. All uses in the proposed development will be 20 feet from the edge of the public right-of-way with 15 feet between all structures. She stated 25% of the development will be provided as usable common recreation open space, and staff has opined that requirement has been met. Each dwelling will have access to a public street or access through a private street, and there will be an internal private street that will access Ann Way. She noted 122 letters with an attached concept plan were sent to all the residents on June 24th because she could not hold a community meeting under the COVID-19 guidelines. The letter has resulted in a number of comments to the County including a petition that was submitted with concerns about endangered wildlife.

Joe Buchanan stated he visited the site and knows there are wetlands to the south of it, and asked why the developer cannot put in a road to make it easier to get out of the proposed development and easier for the folks currently living there.

John Shepherd, Environmental Specialist, replied there are wetlands on the southern side of the site, and in order to go through those wetlands there is a permitting process. The County only allows 1.8% of the entire acreage of a site to be impacted with regards to wetlands.

Ian Golden stated what is being proposed is .08 acres; the surrounding area is 1.25 acres, and asked if the developer considered lot sizes that were consistent with the immediate neighbors. Ms. Rezanka replied it is not a real lot size because it is a cluster, and a cluster allows this many units together, like the one to the south, and that is because half the property is not usable, so the cluster development is allowed, and because the wetlands aren't spaced awkwardly, this was a way to do what is allowed by code and still get a mobile home park.

Mr. Shepherd stated there are two main concerns from an environmental perspective; one is the wetlands, which the applicant has done well avoiding that issue; and the second issue is tortoises, but prior to any development on the property the tortoises would be relocated out of harm's way. He said he hasn't found that protected species such as scrub jays are using the land in any manner that requires any permitting or any relocation.

Rodney Honeycutt, 3700 South U.S. 1, Titusville, engineer for the project, stated the maximum number of units is 100 and it will be a co-op, which is unusual because there isn't actually a lot, an owner applies to the co-op and is allowed to place a structure there. He said the project will have to go through the site plan process which will locate all of the structures that need to meet setbacks. The access will be on Ann Way, which will line up with the existing Ann Way on the concept plan. There are a couple of streets that are dead ends at less than 150 feet long, so it's not required to have a turnaround.

Bruce Moia pointed out that under the current designation there could potentially be 135 trailers. He stated there are only two public rights-of-way that touch the parcel, Ann Way and Canaveral Groves Boulevard, but for Canaveral Groves Boulevard the developer would have to go through the wetlands to get to it.

Mr. Golden asked if the application includes waiver requests. Mr. Honeycutt replied there were two waiver requests in the application originally; one of the requests was to have an inverted crown, and the other was to have a trail system in lieu of sidewalks; both have been withdrawn, but the developer may ask for them during the site plan process.

Brian Rodgers asked staff to confirm Mr. Moia's statement that the property is currently zoned to allow 135 mobile homes. Jeffrey Ball stated that is correct because of the Residential 4 Future Land Use designation.

Public Comment:

Dan Hunter, 4125 Hess Avenue, stated he has a petition with 180 signatures of residents who are opposed to the development. The development is advertised as low-income housing on the Canaveral Landing website and the values are much lower than the existing homes in the neighborhood. He said a major concern is traffic, which is projected to be an average of 499 trips per day; new traffic will create a main thoroughfare as people commute between Canaveral Groves Boulevard and Grissom Parkway, and there will be an increased danger with all of the traffic and the families that walk and ride bicycles or horses up and down the street. He stated there are scrub jays on the property and he can see the habitats from his house, along with owls and eagles. Drainage is another big issue when there are heavy rains, and there is extensive flooding on Hess Avenue already. He asked the board to take into consideration the residents of the existing neighborhoods.

Joe Cossette, 4050 Luciano Avenue, stated he is not opposed to this kind of housing, but it sounds like it will be well over one dozen units on each acre of land. The current zoning in most of that area is four units per acre. He said he just moved there with a triple-wide and has invested over \$200,000. He said as far as he knows, there is not any sewer in the area, and he was forced to put in a septic tank for \$13,000.

Mr. Moia advised there is a County force main on Grissom Parkway.

Sheila Gillingham, 4035 Hess Avenue, stated the wetlands are right behind her house and there are scrub jays, but she's more concerned about the people and children who live in the area and ride their horses on the edge of the street. She said another 200 cars on that road will cause people to get hurt.

Marie Daum, 4130 Luciano Avenue, stated she has lived there for 40 years and the proposed development will ruin the integrity of the neighborhood. She said 100 mobile homes with two cars per mobile home will be 200 cars going through her neighborhood, and Ann Way only has one house on it, and the rest is all drainage ditches. She asked the board to please consider that when making a decision.

Billy Fayne, 3737 U.S. 1, owner of Home Nation, stated he hopes to be a provider of some of the homes in the area. He said he has people come up to him almost every day who are renting in the county or intend to move here and can't find anything they can afford. This project would be

affordable to them, but by no means would the project be considered low-income housing; however, it is affordable housing because a typical payment will be between \$800 and \$1,200 per month.

Mary Lou Bovee, 785 Ann Way stated the project will impact her the most because she lives on the dead end where they want to put the road. She said 100 mobile homes in a cluster are too many; they need to scale it back to 50. There could be 200 cars going past her home every day, and that is really upsetting.

Troy Yates stated he owns a home on Fountain Palm Road and like everyone else here, he's really concerned about the traffic. He said Mr. Honeycutt mentioned a force main sewer, but pretty much everybody out there has a septic tank, so he's not sure how they are going to get sewer.

Mr. Moia said there is a force main system they will have to connect to along Grissom Parkway.

Mr. Yates continued by saying 100 homes seems like a lot, and it's going to be a big impact on everything and they will eventually have to put a stop light on Canaveral Groves Boulevard. As it is now, people cut through Royal Palm to avoid the traffic on Canaveral Groves Boulevard because of development in Port St. John and other areas. He asked that the project be scaled down so the wildlife will be protected.

Claude Wheeler, 4165 Hess Avenue, stated his issue has to do with turning his neighborhood into a flag lot. Flag lots are not allowed in Brevard County; and they are trying to make Hess Avenue a flag for a lot that nobody should have bought if they didn't plan on building a road to get to Canaveral Groves Boulevard. He said Hess Avenue, Luciano Avenue, Ann Way, and Phyllis Way have less than 100 trailers on all of them and is three times the size of the subject property with a proposed 100 trailers, and the developer doesn't want to build a road.

Mary Ann Conrad, 4105 Hess Avenue, stated she agrees with everybody who has spoken.

James Conrad, 4105 Hess Avenue, stated he doesn't want to see four units per acre and he doesn't want to listen to all the traffic going in and out. There is a stop sign on Hess Avenue, but there is nothing on Ann Way.

Angela Paradis, 4055 Royal Palm Avenue, stated she bought her property a year ago to improve it and she did not buy it with the concept of a mobile home park coming in. Over time, mobile home parks deteriorate, and it will lower the values of all of the surrounding properties.

John Gillingham, 4035 Hess Avenue, stated 100 mobile homes equals 200 cars in the morning and 200 cars in the evening and he is against it.

Sonya Miller, 4282 Fountain Palm Road, stated she bought her house in May and was upset when she found out about the project, and she bought her house for over what the attorney says the properties in the area are worth, and all of the houses in the area are well over \$108,000 on a half-acre or one acre, so 100 houses is not going to be acceptable.

Cynthia Shea, 4122 Fountain Palm Road, asked if the proposed homes are manufactured, mobile, or both. She asked if Fountain Palm could be used as access in the future if the traffic is too bad on Ann Way. She said the project will impact the lifestyle of all who have worked hard to live there because

there are many homes that are worth over \$108,000, and the project will decrease property values that people have worked hard to build.

Mr. Filiberto's presence was noted at 4:45 p.m.

Mr. Hodgers asked the applicant if Fountain Palm Road could be a possible access in the future.

Ms. Rezanka stated before the board is a CUP, which is a binding plan, so to get another entrance, they would have to come back to the board and the County Commission. Mr. Dottore has bought the parcel directly across Ann Way on the west side of the property, which was supposed to be a right-of-way into the second phase of Royal Palm, but that phase was never built, and it is common property without an HOA. She said it hasn't been incorporated yet because there is a drainage ditch and other impediments in developing the project. She stated having a second access would be ideal to alleviate some of the traffic concerns, but they don't know if it's feasible yet, so this is the plan being requested, and if it is to be changed they would have to come back.

Mr. Hodgers asked if the development would tie into the existing sewer.

Ms. Rezanka replied yes, there will be sewer and water, and if that's an issue it can be put into the CUP or BDP. She said along the ditch in the center of the property is an access/maintenance road, which is historical drainage, but there is no County easement, so they are still trying to work out some of those issues. She stated her client wants a culvert so he can use Ann Way, but he needs permitting to do that. She said people are used to seeing this large property behind them for them to use as they see fit, but it is someone's property and it has been for a long time. The issue of home values came up, and she didn't mean to offend anyone, but she checked every piece of property around this 33.8 acres and they range from \$18,000 to \$108,000. There may be others in the area, but the investment into this co-op is going to be anywhere from \$40,000 to \$50,000 and then the house on top of it, so the parcels will have value and will be run by a cooperative board similar to a condo association. She pointed out that Sun Lake Estates is one-third of a mile to the east of this property and are smaller manufactured home lots that also have the cluster development to the south of that, so the proposal is compatible with development in the area.

Mr. Golden stated the code allows for the removal of tortoises to allow for development. The property is currently zoned for up to 135 homes based on what's allowable per all the different codes and regulations, and the proposed project is 70 fewer vehicles based on the design. He said he doesn't like hearing the tie of low-income or affordable housing to increases in crime because there is data and statistics that show that is not the case, and when low-income housing is placed in an area there is actually a decrease in crime.

Peter Filiberto asked what is planned for the wetlands. Ms. Rezanka replied all of the wetlands will be maintained. She said there may be some minor impacts where the units are, but they will be very minor if they are impacted at all.

Mr. Filiberto asked if it will be an age 55 and over community. Ms. Rezanka replied no, it will not. The project will be cooperatively owned, so all of the unit owners own them like a condo, and it will be run by a board of directors who are owners.

Mr. Moia asked if the 14 acres of wetlands will be left undisturbed, or if it will go into conservation. Ms. Rezanka replied it will be preserved.

Mr. Moia stated only approximately 21 homeowners that back up to the north half will be directly impacted. Ms. Rezanka pointed out there is a large retention pond to the north, so those to the north won't be impacted.

Mr. Bartcher stated he understands why the neighbors are concerned about the traffic, and he knows the road can support the traffic, but it's the people who live on the road that have to deal with the traffic. He said he doesn't think it's a good idea to have that many houses in that area.

Mr. Buchanan stated his concern would be another access road, because it would alleviate a lot of the potential traffic problems.

Ms. Rezanka stated another access hasn't been evaluated yet, but it would be helpful, and if it could be off of Canaveral Groves Boulevard that would be the best, but it can't be done. She said it is being investigated, but she didn't have it for the board today.

Mr. Filiberto asked if it could be a condition in the BDP that there be an additional ingress/egress if available. Ms. Rezanka replied yes, that could be a condition of the CUP.

Mr. Moia stated he looked at the website for Canaveral Landing and nowhere on it does it say low-income housing, but that was the testimony the board heard. He said he also verified what Ms. Rezanka said about property values in the area. The Property Appraiser's website lists every property sold in the last five years, and there are some that just sold this year for \$130,000, but there is also one that sold for \$53,000. Last year, there was one sold for \$100,000, or \$252,000, but there is also one that was sold for \$18,000. He said in a well-established community like this, people have enjoyed a very peaceful lifestyle; however, the subject property has been zoned for 135 trailer units for a long time and people bought in there knowing that, or should have known that. He stated the developer is limiting themselves to 100 units, preserving almost 50% of the site in the wetlands, and that goes a long way. He said the developer is basically down-zoning the project, and he doesn't have a problem with it in general.

Jad Brewer stated Florida case law is very clear that any testimony of the diminution of value of surrounding property has to be based on expert testimony, so the board can't take it into account unless they heard from somebody who has the knowledge to testify on that.

Mr. Filiberto stated he would like to see another entry and exit if possible.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the requested change of zoning classification from TR-1 to TRC-1, and a CUP for Cluster Development of Mobile Homes, with the additional condition that Fountain Palm Road be used as an ingress/egress if accessible, and a BDP limited to 100 units. The motion passed 6:1, with Ron Bartcher voting nay.