

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, October 19, 2020, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Peter Filiberto, Vice Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Michelle Adams, Administrative Secretary.

Excerpt of Complete Minutes

3. Brevard Tower Communications (Bruce Moia)

An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled The Comprehensive Plan, setting forth the transmittal of Large Scale Comprehensive Plan Amendment 2020-2.1; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions which require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date. **a. Plan Amendment 2020-2.1**, a proposal by Brevard Tower Communications, Inc., to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 2 (Residential 2) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 0.23 mile west of Minton Rd.

Jeffrey Ball explained that the application in front of the board is for transmittal, so after the board makes a recommendation, the request will be transmitted to the State for review, then it will come back to staff to address any comments from the State agencies, and the board will hear it again at the adoption stage, along with the companion rezoning request.

Bruce Moia, MBV Engineering, Eau Gallie Boulevard, Melbourne, stated what he is asking for today is permission to transmit to the State for comments on what it thinks about the proposal. The project being proposed is an RV and boat storage facility on 17.5 acres located on the north side of Norfolk Parkway. Currently, the property is vacant with the exception of a small building. Historically, the property was a construction debris landfill that was never permitted; it is a high amount of debris that has been covered with about three feet of soil. He said soil-boring tests have been done and there is a lot of debris underneath that his clients are going to leave alone. There is a legitimate construction debris landfill on Sarno Road, which is mostly concrete and wood construction debris that has been dumped there for years and is permitted by FDEP (Florida Department of Environmental Protection), and is not known to have any ill-effect on the environment. He said in regards to transportation, the land use being requested is Community Commercial; right now, it's Neighborhood Commercial and RES 2, so making it all Community Commercial would allow them to have a facility. The traffic generations shown on the staff report would be extremely high compared to what is being proposed, and he would be willing to enter into a BDP (Binding Development Plan) to limit the use to a storage facility only, because the trip rate is very low. He stated several studies have been done that show that peak hour trips would not exceed ten per hour. He said some of the numbers in the staff comments are 792 peak trips, and his clients would not be anywhere near that. He said he is familiar with Norfolk Parkway, and it is not the easiest road to get in and out of. As far a drainage, the site is on a hill and drains in every direction. What is most important is that the site to the west, which is

mostly residential, is separated from the subject property by a 200-foot lake, so the project will not abut any homes to the west. There are a couple of houses to the north, but he would plan adequate buffering so there is no adverse effect on the neighboring residences.

Mark Wadsworth reiterated that the request is for transmittal only. Mr. Moia stated that is correct, and if approved the request will go to several State agencies for review, and they will send comments back to staff. If there are items to be addressed, they will be addressed at that time.

Public comment:

Steve Phrampus, 3401 Watergrass Street, Melbourne, stated he is one of the Directors of the Board for Sawgrass Lakes Master Association, and is the owner and representative of over 800 property owners, soon to be 933 upon the development's completion. He said the Sawgrass Lakes plat borders the Brevard Tower Communications property on three sides. When the Sawgrass residents did their due diligence prior to purchasing their properties, they did so with the understanding that the landfill area's scope of development was extremely limited, such as single-family homes on five acres, parks and recreational facilities, and golf courses. He said a change to the zoning would be a travesty to thousands of residents in the area. He went on to say that with the zoning change proposal, a plethora of options would be open for development, such as office buildings, auto repair shops, universities, nursing homes, and RV and boat storage. He said without a binding site plan, any of the 113 different uses, or the 31 permitted with conditions uses, could be chosen for the site. [He presented the board with a petition. The petition can be found in file 20PZ00072, located in the Planning and Development Department.] He stated he read through the transmittal package and found it lacking in investigatory information. He said in 1984, Jack Hurt established a landfill on the property and for six years ran an unlicensed landfill and borrow pit business until 1991, when the County forced it to close. Many residential complaints were made during that time, along with a City Official's report of illegal disposal and burial of illegal materials made in July 1986, to include setback and buffer violations. Developing the property could disturb and/or expose illegally buried materials, causing a massive clean-up effort. He said the County's own Minton Road feasibility study rates the current intersection at Minton Road and Norfolk Parkway as an "F" during morning traffic and "B" during afternoon traffic. He stated the proposed BU-2 zoning would not provide a buffer between the residential properties of Sawgrass Lakes and the subject property. He stated the residents place a level of trust in their representatives, elected and appointed. They rely on their due diligence when deciding where to settle down and they rely on the board to not make drastic changes that disrupt settlements. He said the proposed project would be a drastic disruption to the community, and asked the board to not move forward with the zoning change.

Melissa Para, 3382 Rushing Waters Drive, West Melbourne, Sawgrass Lakes Estates, stated she has extensive experience as a residential real estate appraiser in the Chicago area, and she has done appraisals on behalf of Fannie Mae preparing court documents identifying fraud and dereliction of duty or lack of due diligence. The whole purpose of zoning is to provide buffer zones in a gradual transition; otherwise, there is no point to zoning. When you do an appraisal, you do the highest and best use; a bank cannot lend on anything unless it's the highest and best use. She said there is no argument to be made for commercial on these two parcels; they should be residential.

Mr. Ball explained that the request is for a land use transmittal and not a zoning request. Before the board is transmittal of a large scale comprehensive plan amendment, which is anything over 10 acres. The Comprehensive Plan talks about density and intensity as far as residential and commercial; it does not get into specific uses, as that is followed up with the zoning code. This is a two-step process, and if the Board of County Commissioners approve it, it will get transmitted to the State for review and comments will be sent to staff. Once comments are received from the State, the adoption phase will be brought back to the board, along with the companion rezoning request, which is on schedule to be brought back on January 11, 2021. The board can also refuse the transmittal to the State.

Brian Hodgers stated if the board does not recommend approval of the transmittal, it will still go to the County Commission in two weeks, and they will make the final determination.

Ms. Para asked if the transmittal is a request for commercial.

Mr. Ball replied part of the property is already commercial. There is also a significant portion that is residential. There are different uses that are allowed and locational criteria. The difference is between Neighborhood Commercial and Community Commercial, and the request is to bring the residential portion and the Neighborhood Commercial portion into a Community Commercial designation, and with that is the allowance for high-intensity uses that will be addressed at the zoning portion of the hearings.

Ms. Para stated the property is in unincorporated Brevard County, and there has been a lot of recent development in the City of West Melbourne. The board should consider the development, and not what it historically has been. The whole area has changed from rural to residential, which is significant. Designating any of it commercial is inappropriate and wrong.

Eric Carr, 3120 Ellis Drive, West Melbourne, Lund Gardens Subdivision, stated he would like to put on the record that only four residences in Lund Gardens were notified of the request. He said he knows the most about the landfill; his entire neighborhood is on well water; his property is within 500 feet of it. He asked the board to take into consideration that this is a health hazard.

Howard Harrison, 3040 Ellis Drive, West Melbourne, stated he was not notified of this request. Only five people in his community were notified because they are closer to the dump. He said his concern is well water; there are 33 houses in Lund Gardens. He said he has seen cement hauled off of the Melbourne and Eau Gallie Causeways and be dumped there, and it will mess up the well water. He said he would appreciate anything the board can do to keep the dump site from getting stirred up.

Mr. Moia stated he understands why there is some fear. It's an old dump and no one wants to disturb it. He said his clients do not want to get involved with disturbing it, and that's why they are proposing to build on top of it. It would not be in their financial interest to do anything different. He said nothing his clients do is going to make the debris disappear; it's been there a long time; and if it's polluting the groundwater it has been doing it for a long time and it has probably done all it is going to do. The proposed development is probably the lowest impact development that can possibly be put on the property. He said there would be less than 10 trips, so traffic can't be an issue, because it is the

lowest traffic-generating use that can possibly be put on the property. This use would be the best use for this property. There is a demand for it, and it is the perfect location; residential development on small lots have to put their toys somewhere and this is a perfect, low-impact, location. It's already got Neighborhood Commercial on it, so it could be commercial now. He reminded the Board that he will enter into a BDP, but a BDP does not go with land use, it goes with the zoning, and they are not at the zoning part yet. As far as notification, he thinks the fact that people didn't get notified shows how far away they live from the property. He asked the board for approval, as the proposed project is the best use for the property.

Brian Hodgers asked Mr. Moia if he can confirm that his clients are not proposing an RV park where people can stay in their RV's, requiring septic tanks, because some of the public's concerns were about disturbing the property and causing potential contamination. Mr. Moia stated the project will be storage only and there will be no running water or sewer lines. He said he spoke to the City of West Melbourne and they do not want to annex the property, nor will they serve utilities to the property. He said his clients will use the existing building for an office, and there will not be any new buildings.

Ben Glover asked if there will be a buffer so that the neighborhood is not looking into the back of someone's RV. Mr. Moia replied yes, there will be an extensive buffer; and there is a small wetland in the northeast corner that will be preserved. Mr. Glover asked if the project will be strictly for storage. Mr. Moia replied yes, it will be open and covered RV and boat storage only. Mr. Glover asked if Mr. Moia is willing to enter into a BDP to limit the use to storage and nothing else. Mr. Moia replied yes, but that will happen at the rezoning hearing.

Mr. Glover stated with 930 homes in that area, the proposed project would be a great thing to have. He noted that the new storage facility in Viera is already full.

Joe Buchanan stated it appears to be a better use of the property once completed.

Motion by Joe Buchanan, seconded by Peter Filiberto, to approve the proposal by Brevard Tower Communications, Inc., to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 2 and NC to CC.

Mr. Filiberto stated as far as public safety, he is sure the Department of Environmental Protection will look at the fact that the property is a landfill.

Ron Bartcher asked if Mr. Moia has contacted the Department of Environmental Protection. Mr. Moia replied no, because the transmittal will go to the State and he will wait for the formal review. Mr. Bartcher asked if the existing building has utilities to it. Mr. Moia replied there are currently no utilities; they will have to do well and septic. Mr. Bartcher stated a septic tank will disturb the debris, and asked how deep will the septic tank be. Mr. Moia replied it will not be very deep, and they can mount it aboveground if they need to.

Mr. Bartcher stated when he read the staff comments there is a traffic problem on Minton Road; the applicant is not using the available commercial property already in the area. He said it is not a project

that is recommended by the Comprehensive Plan, it's going to increase the potential for strip development, and he doesn't think it's a good idea.

Mark Wadsworth called for a vote on the motion as stated, and it passed 6:1, with Ron Bartcher voting nay.