

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, 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: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Large Scale 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. (No assigned address. In the Melbourne area.)

Brevard Tower Communications, Inc. (Bruce Moia)

A change of zoning classification from GU (General Use) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of a CUP (Conditional Use Permit) for Tower and Antenna. The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 1,200 ft. west of Minton Road. (Parcel 756 = 3545 Carriage Gate Dr. Unit Tower, Melbourne; Parcel 758 (part) = No assigned address. In the Melbourne area.) (20Z00015) (Tax Accounts 2802674 and 2802676) (District 5)

Bruce Moia stated in October the board recommended transmittal of the land use request to the State, and there have not been any objections from any of the State agencies. He stated he held a meeting with the Sawgrass Lakes subdivision residents, and as a result of that meeting, he has provided the board with a draft BDP (Binding Development Plan) that he feels addresses most of the concerns. He said boat and RV storage is in high demand in the area and he feels it is the best use for the property because it's the least impactful and lowest intense use, especially with traffic. He handed the board a comparison of what could be developed on the property currently and what is actually being proposed. [The document Mr. Moia handed out can be found in file 20Z00015, located in the Planning and Development Department] He stated the proposed project would be five times less traffic than single-family residential development. Boat and RV storage is rarely accessed because when people take the boats out it is early in the morning and they do not come back until the evening. He said it will be a nice facility with paved drives and covered storage spaces; it will be well run and secure; it will be lit appropriately for safety; and there will be rules in place so people don't do things they aren't supposed to do. He said with the conditions in the BDP, he feels it's a good project and he hopes to have the board's support.

Ben Glover stated the applicant has agreed to do a 50-foot buffer along the west and north boundaries, and asked if a six-foot wall is facing the community. Mr. Moia replied yes, there is low-density residential to the north, and very high-density residential to the west. The site is very wooded along those borders and he would rather keep the natural, 30 to 40-foot opaque buffer, and maintain it instead of removing a lot of it just to put up a six-foot wall, which really won't do anything because the site is on a hill.

Mr. Glover asked if there were any other items that came from the meeting with the neighbors that he felt was a compromise. Mr. Moia replied he put a cap on the number of units, and agreed to do any necessary traffic improvements to the road to make sure it met any warranted improvements for safety, things like turn lanes. He noted it is a public road maintained by the City, and even though the property is in the County, they would have to get City permission to do any improvements, but they're willing to do anything that would be warranted, and maybe even some things that aren't warranted. He stated the only thing there was some discussion on that they couldn't come to some kind of consensus was what is to prevent the property from contaminating the groundwater that would end up going to the lake that's on the border of the west property, which belongs to the homeowner's association. He said he felt that's not an issue because there will be dry retention, so anything that goes on the ground will get trapped in a dry retention pond and filter through the soil, and there will be a lot less vehicles on the subject property than the subdivision itself has that they use on a regular basis. He said he doesn't think that would happen because most of the vehicles don't even have fuel in them, such as fifth-wheels and travel trailers. The property will be secured and monitored with cameras, so if anything like that happens it will be addressed right away.

Joe Buchanan stated storage is an obligation in that area because there are very few places to keep boats and RV's. With 17 acres and 350 boats, it is only movement of 20 to 30 in a day, so it's not going to be a great impedance to Minton Road. He said the applicant did the homework and answered most of the objections from the neighbors.

Mr. Moia stated the lighting was something that was also discussed because there is a very strict code requirement that light cannot spill outside of a property, so photometric plans will be provided.

Mr. Buchanan stated if there's no sewage dump permitted in that area, unless it was a sewer connection, there isn't a problem other than rainwater. Mr. Moia said that is correct, but they would like to reserve the ability to have a dump station if the City of West Melbourne gives them connection to sewer.

Peter Filiberto stated during the last meeting, Mr. Bartcher mentioned the septic on the property and it being a previous landfill, but Mr. Moia had said there would be an aboveground septic system. Mr. Moia replied it would probably be a mounded and pumped system, but it would have to meet the Environmental Health requirements. It would hardly be used; it would just be for the security guard.

Mr. Buchanan noted the BDP stipulates no overnight stays. Mr. Moia replied that is correct, the storage will be on a contract basis.

[Mr. Carswell's presence was noted]

Ron Bartcher asked if the State agencies knew the property was an illegal dump site when they made their evaluations.

Tad Calkins stated staff sent the request to all of the State agencies, and in regard to the dump site, the FDEP (Florida Department of Environmental Protection) website has the site identified, and they are one of the reviewing agencies, and there were no comments from them. The FDEP does have guidelines for developing properties that have landfills on them, and that may be something the board may want to consider as part of the BDP if Mr. Moia is agreeable.

Mr. Bartcher asked Mr. Moia if he has looked at those guidelines. Mr. Moia replied he has not, but he would agree to read the guidelines and add it to the BDP.

Mr. Bartcher stated he is concerned about the fact that it's an old dump site, especially with construction debris, because no one knows what's in it, if it is treated wood, if it has arsenic, or if it's asbestos shingles, so there should not be any disturbance.

Mr. Moia stated they don't want to disturb it; it would probably be similar to when the road was built over top of it, they didn't want to disturb it either because it's very costly and hard to do. He said it is not part of the proposal to un-earth anything.

Mr. Bartcher asked if the 50-foot natural vegetative buffer is already there. Mr. Moia replied yes, it is already there and in order to develop the property to make it viable they would leave 50 feet on the west side and 50 feet on the north side.

Public comment.

Don Curry, 3461 Watergrass Street, West Melbourne, asked if Mr. Moia is a member of the Planning and Zoning Board and if so, how does the board handle an applicant that is also a board member.

Peter Filiberto confirmed Mr. Moia is a member of the board, but the board judges fairly what comes before it, and just because Mr. Moia is a member of this board doesn't mean he will be shown favoritism.

Stephen Phrampus, 3401 Watergrass Street, West Melbourne, stated he is one of the directors of the Sawgrass Lakes Master Association and the representative of over 800 property owners, soon to be 933 upon completion. He said he is also a West Melbourne Councilman and he understands that boards need to hear and review requests without pre-determined opinions, and need to consider the facts presented by staff, the requestee, and the opposition. He stated the developer will say the research indicates that boat and RV storage is needed and is a good fit for the surrounding communities, and they will also say they met with the residents and made concessions based on those meetings. He said the meeting with the developer was requested on short notice and held on December 26th, at the Sawgrass Lakes clubhouse. The overall resident opinion was that the developer was checking off a box to present to the County Commissioners and this board, and any so-called concessions were pre-conceived and presented, not objectively discussed. They implemented an offensive strong-armed reasoning tactic of saying they could build a concrete block wall instead of a tree buffer, and the residents found that very offensive. He noted that would be in lieu of the hundreds of feet of tree buffer that is currently there and could be lost. He stated the developer's environmental report dated December 2019 indicates no eagles nest within one mile and the occasional presence of wading birds. This information is factually not true; there is an eagle's nest within a mile on Sawgrass Lakes property, along with the daily occurrence of a wading bird and a roosting sanctuary on the shoreline of the subject property, and if all of those trees are removed all of that is going to go away. He said the developer will say that only concrete and road construction waste have been buried on this site; however, the Universal Science Phase One Environmental Site Assessment report dated December 2004 indicates that during operational periods of the landfill, solid waste items such as paint cans, tires, automobile engine parts, and household trash were accepted by the site. The developer's report from KSM Engineering indicates the sub-surface investigation was terminated after three to five feet in multiple locations because of debris, and

recommends either the debris be removed or an adjacent site be utilized. As a recap of what County Commissioners have already invested in this property in 1992, the County closed the landfill at a cost of \$400,000 to meet EPA regulations and paid the current property owner for the lost services, which is why it is currently a sanctuary-type property, no thanks to the property owner. The property also provides a sound barrier to the traffic noise of I-95, which would be lost with the removal of hundreds of feet of trees. He noted the property was denied support from the City of West Melbourne when asked to supply water and sewer, along with the possibility of annexation, which was prior to his tenure on the Council. This proposal has become known as the great lighted parking lot on the hill, as it is 30 – 40 feet above the surrounding residential area. When residents purchased their homes, they did so with the understanding that the zoning of the landfill area was extremely limited. A parking lot abutting the subdivision was not a consideration. As stated by a board member at the October Planning and Zoning meeting for the transmittal of the property, there is already a traffic problem on Minton Road, the applicant is not using available commercial property already in the area, and it's not a project recommended by the Comprehensive Plan. A large scale comprehensive plan amendment requires a property of this size to be located on a principal artery intersection; however, it is located at the top of a hill at a dead end and urban street with a blind driveway. Even though the transmittal report states there is no traffic data available, the Minton Road feasibility study rates the current intersection at Minton and Norfolk as an 'F' during the morning traffic hours. Sawgrass Lakes residents have nothing to gain and only to lose if the proposal goes through.

End of public comment.

Ron Bartcher stated in one of the emails sent by a Sawgrass Lakes resident it was noted that an inspector conducted a survey on the site. He asked if the inspector provided a report. Mr. Phrampus replied that was in reference to some of the reports presented by the developer. KSM Engineering did an environmental study that he mentioned some of the facts from, but it wasn't brought out by the developer because it didn't favor the proposal.

[Ian Golden's absence was noted]

Mr. Moia stated he thought the neighborhood meeting was productive and thought they discussed every issue that was possible to discuss, and the meeting was very well attended by the residents. He agreed the meeting was held around the holidays with short notice, but he appreciated the residents attending on short notice. He stated the intent is not to disturb the landfill; a road was built over the landfill and anything that is there has been there for a long time. He said he feels the proposed development limits disturbing it more so than any other possible use, and it would be a different story if houses were built on the property and in 30 years the residents would have issues. He went on to say people will access the property outside of peak hours; the road does not have issues off of peak hours, only during peak hours. He said he believes he has addressed all of the issues; the property will be disturbed as little as possible, and nothing will be un-earthed that will cause a problem because it's not in their best interest, so as much as possible will be preserved.

Ben Glover asked how the stormwater will be managed. Mr. Moia stated they are going to work within the topsoil, filling on top of it, but not get into anything within any reasonable distance of the material that would cause an issue with the DEP or any other agency.

Mr. Filiberto asked if the material is three to four feet beneath the ground. Mr. Moia replied it is three to five feet beneath the ground.

Mr. Filiberto noted the Florida Fish and Wildlife Commission reviewed the request and had no objections, comments, or recommendations toward this project, nor did the St. Johns River Water Management District, Florida Department of Transportation, and the Florida Department of Environmental Protection.

Brian Hodggers stated Mr. Moia mentioned many times that the proposed project is the lowest impact, and asked if there have been other potential uses proposed by the seller that could be less impactful than what he's trying to do. Mr. Moia replied the only other use he knows of that could be done is single-family residential or a private golf course, and maybe one or two other uses that are not really development.

Mr. Hodggers asked staff to confirm that the property has a RES 2 Future Land Use designation.

Tad Calkins replied the land use is RES 2 and CC (Community Commercial), the largest portion of the property is the RES 2, it's just the eastern piece along the property line that is CC. The current zoning classification is GU (General Use) and allows one unit per five acres. Under the current zoning, they would be allowed to have three homes on the property. They could change the zoning to be something that would be compatible with RES 2 without going through the large scale amendment, and then have up to two units per acre.

Mr. Bartcher stated he can't imagine any builder building a house or any buyer who would be willing to buy a house on an old dump site, so comparing it to what residential impacts would be is facetious because it's not going to happen.

Mr. Glover asked if the property should sit vacant forever. Mr. Bartcher replied he doesn't see that as a bad thing. In reality, it's almost like having a park that's not used by anybody. Environmentally, it's a nice place with a lot of trees. He said in terms of what else can be done, Mr. Moia has made some serious commitments to avoid potential problems, and if he's willing to go ahead and follow the DEP guidelines for building on top of a site, that would be very helpful. He said his concern is how deep is the debris; and noted that Mr. Moia said it's three to five feet, but erosion over the years could have deteriorated the ground cover down 18 inches or a foot. He asked if the septic tank already existing on this property. Mr. Moia replied no. Mr. Bartcher stated a mounded septic wouldn't disturb the soil. Mr. Moia agreed.

Mr. Bartcher stated by taking the mounded septic into account, plus the DEP's guidelines, if Mr. Moia is willing to put that in the BDP, there could be a potential use for the property. He said he still has concerns about the fact that there is a traffic problem, but if the hours could be limited to non-peak hours, that would help alleviate the problem.

Harry Carswell asked what will be built on the site. Mr. Moia replied there will be paved driveways and probably gravel or stabilized parking spaces.

Joe Buchanan stated he was raised in a house that was on top of a garbage dump; the community is still there today and it's a nice place to live. He said there are a lot of things that can be done with land, but with this particular property it looks like the developer has chosen the best use.

Mr. Filiberto stated as far as traffic, a storage facility would only increase to 81.94% capacity, so the traffic increase would only be 1.29% from where it is currently.

Mr. Hodgers stated with regards to the traffic impact, Mr. Bartcher mentioned is that he's concerned about that, and one of the statistics the gentleman brought up was there are another 100 or so homes that are going to be built in that area, so they are already living there, but they are concerned about the traffic impact, but more homes will raise that traffic impact more than a storage facility.

Mr. Glover asked if Mr. Moia would agree to add the FDEP regulations to the BDP. Mr. Moia replied yes.

Mr. Carswell stated he is a firm believer in property rights and he doesn't see any reason to take away the subject property owner's rights. He said the proposed project is a perfect fit for the neighborhood.

Motion by Harry Carswell, seconded by Joe Buchanan, to approve the adoption of the Large Scale Plan Amendment proposed by Brevard Tower Communications, Inc., to change the Future Land Use Map Series designation from RES 2 and NC to CC. The motion passed 4:2, with Bartcher and Glover voting nay.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from GU to BU-2, and removal of a CUP for Tower and Antenna, with a BDP (Binding Development Plan) submitted by the applicant stipulating the following: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a six-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) to prohibit a sewage dump station unless public sewer connection is obtained; 6.) to limit outdoor lighting to 17 feet in height from grade to bottom of fixture; 7.) to provide a westbound turn lane if warranted and approved by the City of West Melbourne; 8.) to prohibit overnight stays within the stored vehicles. The board further stipulated the BDP to include that the developer/owner shall comply with the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida. The motion passed unanimously.