

## **PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The Port St. John Dependent Special District Board met in regular session on Wednesday, March 3, 2021, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

Board members present were: Carmella Chinaris, Vice Chair; Maureen Rupe; Greg Messer; Wendy Porter-Hyde; and Kevin Shropshire.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Cheryl Campbell, Planner III; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order at 6:00 p.m.

### **Excerpt of Complete Minutes**

#### **5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway No. 1 Commercial Land Trust (Kim Rezanka)**

A change of zoning classification from RU-1-11 (Single-Family Residential), TR-2 (Single-Family Mobile Home), and BU-1 (General Retail Commercial) with a BDP (Binding Development Plan) to TR-1 (Single-Family Mobile Home) with a BDP limited to 200 units. The property is 58.04 +/- acres, located on the north side of Cedar Lake Dr., approx. 0.31 mile north of Broadway Blvd.; also located at the west end of Clearview Dr. (No assigned address. In the Cocoa area.) (20Z00036) (Tax Accounts 2310971, 2310861, and 2316173) (District 1)

Kim Rezanka, Attorney, Law Firm of Lyons, Lacey, and Rezanka, Rockledge, stated she is representing the two property owners and HomeIn Project Administration, the developer of the proposed manufactured home development on 58 acres. She said Nick Dottore is a representative who will speak about the types of homes being proposed. The concept plan shows 147 lots, but because they are not in final design, the number of units in the BDP has been reduced from 200 to 150. The rezoning request is for TR-1 zoning, from RU-1-11, BU-1, and TR-2 zonings, removal of an old BDP on 51 acres, and a new BDP on the entire 58 acres. She stated TR-1 requires a minimum lot size of 7,500 square feet with dimensions of 65 feet by 100 feet; the existing RU-1-11 zoning also requires a minimum lot size of 7,500 square feet, but dimensions of 75 feet by 75 feet. The RU-1-11 zoned portion of the property has a density of three units per acre, and her clients are asking for a density of 2.6 units per acre, so it is a less-intense development than what was approved in 2006 with a BDP. She stated the development to the north, off of Vineland Street, has a density of 3.4 units per acre; the development to the east is another TR-1 project with a density of 3.7 units per acre. The new BDP limits the number of units, buffers the south, and the site plan and subdivision code requires a buffer of 15 feet, undisturbed, all around the perimeter, so even though each lot has a 20-foot setback from the property line, there will be an extra 15-foot buffer left in its natural state. She stated that she and her clients held an informational meeting on January 19, 2021, at the Port St. John Community Center, and notice was given to the same surrounding property owners who were noticed for this meeting. She said 36 people attended the meeting; there was some discussion about the environment; people are concerned about changing the environment and the natural scenery that has been behind their homes forever.

She said the 7-acre portion of the subject property behind Winn Dixie will be added to the manufactured home subdivision; the property extends to the west, behind Clearview Mobile Home Park; there is a small piece of land that goes over the FPL easement and that would be the access road between the two parcels. To the east is FPL, to the south is Cedar Lake Mobile Home Park, and further to the east is Brevard Memorial Park. The entrance to the project will be Clearview Drive and

Cedar Lake Drive. She stated the subject parcel was rezoned in 1990 from GU and TR-1 to RU-1-11 with a BDP limited to 154 lots on 51 acres, and it is now 58 acres and her clients are requesting a maximum of 150 lots. In 2006 there was a new BDP specifying inches of rainfall, percentage of impervious cover, and emergency access; the BDP also prohibited vehicular connection to Vineland Street, which is why it is in the proposed BDP. She stated the proposed BDP changes the access because the old BDP limited it to just Clearview; however, that doesn't seem fair to those in Clearview Terrace. As to road requirements to Clearview Drive, whatever the County requires will be part of the site plan process and does not need to be in a BDP. She stated per the staff comments there are no concurrency issues, and no road concurrency or school concurrency. City water is proposed for the development and the developer intends to bring Cocoa sewer from Camp Road through the Watermark development. The surrounding neighbors are concerned about environmental issues; tortoises do exist on the property, and the survey is not completed, but tortoises can be moved and that is what the developer would do according to Fish and Wildlife regulations. As to scrub jays, a preliminary scrub jay survey has been done and found no scrub jays themselves, but the surveys can only be done at certain times of the year, and there is one planned in the next two weeks to find out what the scrub jay population really is if it does still exist. She noted 10 to 15 years ago there were scrub jays found and there was a take plan issued from Fish and Wildlife at a cost of \$225,000 to mitigate for the scrub jays. She continued by saying the developer will meet all County and agency requirements regarding any and all wildlife that exists. She said wetlands on the property are nominal, at 1.6 acres. Currently, County capacity for sewer is limited, so if the developer cannot bring sewer, some of the lots will have to be quarter-acre lots with the upgraded septic systems. The project is intended to tie into the 129-acre Watermark development located approximately a half-mile to the south, with lots of 4,800 square feet; it was approved in 2018 with 417 lots, and in December 2020, it was revised to 363 lots. She said she believes the proposed project is compatible with the area and the manufactured homes are similar to those in Clearview Terrace and Cedar Lake Mobile Home Park. It is also compatible with the lot sizes of Watermark. She pointed out that the project is not inconsistent with the new small area study, and it will increase the manufactured home zoning and availability, which is less than 1% of the total area. [Ms. Rezanka provided a handout to the board. The handout can be found in file 20Z00036, located in the Planning and Development Department] She explained Page 1 is one of the owners of the subject property who owns 50 acres, and they also own a half-acre parcel in the Cedar Lake Mobile Home Park, which is intended to be an access. Page 3 is the other owner of the 6.89 acres behind the Winn Dixie that has been added to the development. Page 4 is the 1990 rezoning resolution that shows this was rezoned quite a while ago and it hasn't been developed because it hasn't been feasible to develop, but now this developer believes it is feasible and is going to upgrade the area with sewer and septic. Page 5 is the 2006 rezoning resolution. Page 6 is the certificate of title, which she included to explain that in 2006 the developer who rezoned the property went into foreclosure on all 58 acres. She stated there have been several emails from Zachary Brigante, who lives at 1101 Vineland Street, and he has sent public comment claiming that the property cannot be developed, but the property can be developed and has been entitled since 1991. She said Mr. Brigante has also stated that the acreage is cheap, but it's not cheap to buy and she is not sure why he is stating that because it is speculative and without proof. Page 9 is information about appraisals because many of the public comments are about property devaluation. She noted appraisers look at similar types of homes, so no one on Vineland Street is going to have their property appraised based upon manufactured homes sales in Clearview Terrace or Cedar Lake Mobile Home Parks, or in the proposed development, because they are different types of homes. Property appraisals are influenced by sales of similar properties and current market trends. Page 10 of the handout are the HUD standards for manufactured homes. Manufactured homes and mobile homes are really the same thing; however, the standards increase substantially due to winds

and other criteria of building codes. Page 10 also lists the manufactured housing federal statutes, and Mr. Dottore will speak to that. Page 11 is part of the federal standards to ensure uniform and effective enforcement of construction and safety standards to ensure that the public interest is duly considered in determination of the federal standards and their enforcement. Page 12 is the definition of manufactured homes according to the federal law, which is also very similar to Page 13, which is the federal statute definition of manufactured homes. I've also cited on Page 13 the definitions from the Brevard County Code for mobile homes, modular coaches, and modular factory built homes. Page 14 is the plat of the Clearview Terrace Mobile Home Park, which was intended to have 55 units; not all of the lots are developed, and some have one home on two lots. She said there has been a concern that people don't want rental homes in the area, but only 19 of the 55 lots in Clearview Terrace have homestead exemptions, leading her to believe that the rest of them are rentals if they are not vacant. Page 15 is the TR-1 zoning criteria that shows the rear setback has to be 20 feet and the size of the lots are 7,500 square feet. Page 16 is the existing zoning of RU-1-11 with a minimum lot size of 7,500 square feet and 20-foot setbacks. The zoning to the north is RU-1-9 and has a lesser minimum lot size of 6,600 square feet, although most of them are larger than that, and the setbacks are the same as well. She stated pursuant to the small area study, TR-1 is vastly under-developed in Port St. John, it's only 2.7% of the total acreage in Port St. John. For RU-1-11, there is 3.49% total acreage, with 100 acres vacant. As to the complaints and concerns from the neighbors, they are speculative as to the property values; the code is very specific and a MAI appraiser actually has to state that the development will devalue property. Generally, people are concerned about the unknown; they like their backyards, they like seeing the wildlife, but the developer has the right to develop as has been granted previously. She stated she would like the right to question those who testify today if she needs to, and she requests approval of the rezoning to TR-1 with a BDP as presented.

Kevin Shropshire asked what Ms. Rezanka meant when she said some of the homes may have to have septic. Ms. Rezanka replied that currently the capacity of the sewer plant in the area is only 70, so they can only get sewer for 70 if they can't connect through Camp Road, then the remaining lots would have to be one-quarter acre, per County code, and they would have to have the upgraded septic systems. Mr. Shropshire stated that would be about 80 septic tanks, and he knows the County is working to remove septic tanks within a mile of the river, and even though they are new septic tanks, down the road they may have to look at the cost of removing them. Ms. Rezanka stated the developer has every intention of bringing sewer up Camp Road through the Watermark subdivision.

Maureen Rupe asked if the septic systems would be the advanced systems. Ms. Rezanka replied yes, the 60% nutrient reduction because that is what the code requires.

Ms. Rupe stated she knows there are gopher tortoises, scrub jays, and eagles on the property, and asked if Fish and Wildlife been to the property. Ms. Rezanka replied they were on the property 15 years ago and they issued a take permit for scrub jays, but until there is an environmental study they won't visit the property. She noted the developer cannot do anything until all agencies approve it.

Ms. Rupe asked since DEP has taken over from the EPA, will it make any difference to the wetlands on the property. Kim Rezanka replied no, because they still have to abide by County code and can only impact .08%; there is only 1.56 acres of wetlands on the entire property, and 55.4 acres of uplands.

Ms. Rupe asked if the BDP was revised to limit the number of homes to 150 from 200. Ms. Rezanka replied there is currently a BDP on the property for 154 units from 2006; and they are now proposing 150 units on 58 acres. Ms. Rupe stated there is nothing to stop her client from coming back in the

future and ask to have the BDP removed. Ms. Rezanka stated the land will not support more than 147 units because of stormwater retention and compensatory storage. She said there might be availability to get a couple more, and that's why they limited the BDP to 150 units.

Ms. Rupe asked Ms. Rezanka if she does not believe the development will devalue the property around it. Ms. Rezanka replied no, because it's new development and there is no evidence that it will; it's all speculative. She stated appraisers will look at regular construction versus manufactured homes when they do appraisals. The development will actually increase the value of the manufactured homes to the east and south, and it will not have any impact on the homes to the north.

Carmella Chinaris stated it is mostly a hardwood wooded area, and asked what is the timeline as far as when things happen, and when can the board request an environmental study be done on the property. Jeffrey Ball replied the environmental aspects will be addressed during the subdivision plan process. Ms. Chinaris asked if that is contingent upon approval or disapproval. Mr. Ball replied the rezoning is the first stage of the development process, and once that happens, then developer will petition County staff for a subdivision plan, which is engineering plans, to establish the lots, and then infrastructure to support that, including engineering, stormwater, and other environmental permitting that would be required to develop the property. Ms. Chinaris asked if the board is not within its scope to ask for an environmental report on the property before it votes to approve or disapprove. Mr. Ball replied the board can ask for whatever it wants, but when considering rezoning, two things are looked at, and those are consistency with the comprehensive plan and compatibility with the surrounding area, and that is the purview of the rezoning before the board. Ms. Chinaris pointed out that the existing zoning dates back to 1991 and environmental issues may have changed in 20 years. Mr. Ball state that is correct, and things do change, and as Ms. Rezanka has stated, there are no updated environmental reports to provide to you.

Wendy Porter-Hyde stated under 'environmental constraints' in the staff comments it says, "The subject parcel contains mapped hydric soils with potential for wetlands". She said Ms. Rezanka stated there are 1.56 acres of wetlands on the property, and asked when that figure was determined. Ms. Rezanka replied that was done in December 2020. Ms. Porter-Hyde noted the staff comments also state, "Portions of the subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas." and asked if that has been determined yet. Ms. Rezanka replied it has been determined and the environmentalist says it is not. She stated just because there are soils doesn't mean there are wetlands, it means there's the potential for wetlands. She said those comments were done by the Natural Resources Department and the maps they use have been around for a long time and have not been updated.

Ms. Rupe asked why the request is going to the County Planning and Zoning Board before it gets to the County Commission. Mr. Ball replied the original application was to rezone with a BDP limited to 200 units, which would be an increase in density; the applicant has since reduced the number of units in the BDP to 150, but because the request was advertised, the Planning and Zoning Board is required to hear it. Ms. Rupe stated the Port St. John board was started because they are in Port St. John, they know the people and they know the problems, and now it seems like it's going to the P&Z, which they were trying to avoid. Mr. Ball stated the Planning and Zoning Board does not circumvent Port St. John's advisory responsibility, it's just an added layer.

Nick Dottore stated regarding septic systems, he spoke with the engineer about an alternative to connecting to the Cocoa system, and 7,780 feet is what his sewer system will have to be if he can't tie into Watermark, so there is an alternative and he has no intent of utilizing septic systems.

Regarding the environmental issues, he engaged Atlantic Environmental a few weeks ago and they generated a report dated February 18, 2021. He stated he asked for a sample of what is on the property, and what they typically do is look at 15% of a property and issue a report, and based on his findings, he indicated there are 43 gopher tortoises currently that he would have to relocate.

Ms. Chinaris asked if that is on 15% of the property. Mr. Dottore replied based on the 15%, the overall property, Atlantic Environmental ran an extrapolation and said for the entire project he is looking at approximately 43 tortoises. As for the scrub jays, they cannot do a scrub jay survey until March because of FWC regulations, but he did have a sampling done and found no indication of scrub jays. Today, he asked for a formal survey for scrub jays and that will be completed this month. He said he will be going over and above what would normally be done in this process to try to get the information that the board wants and that he needs in order to make it a viable project.

Ms. Chinaris asked how much of the hardwood area is going to be cleared. Mr. Dottore replied he has hired Susan Hall to do an evaluation and she issued a report to him on scrub oak matter, and essentially she's working with engineering to help preserve as much as possible, and what he can't preserve, he has to re-plant at a cost of \$225,000.

Ms. Rupe asked if there are heritage trees on the property. Mr. Dottore replied Ms. Hall did not indicate that, but it doesn't mean there are not.

#### Public Comment:

Zac Brigante, 1101 Vineland Street, Cocoa, stated his house backs up to the subject property. He said Fish and Wildlife has pictures of scrub jays and gopher tortoises. He stated he and other neighbors have been guided to not necessarily eliminate the project, but just ask for compromise. He said he had an appraisal in January, and while it wasn't done by a MAI appraiser, he did say if there were single-wide family homes, it would have impacted his decision, and if it didn't, what it would have done is, his home may have been the same value, but it might not have been the home chosen to be purchased. He said his house is 5,000 square feet house and they are talking about a 15-foot buffer off of his porch, which is 12 feet from the property line, a row of manufactured homes. He stated Fish and Wildlife asks for onsite relocations instead of offsite and it's 750 square feet per gopher tortoise, so a buffer along the back side of Vineland Street would eliminate a lot of concern, it would give a buffer to the wildlife, and it would allow Vineland Street to not have mobile homes stacked against backyards. He said he would also like less traffic coming in, less septic tanks and sewers. The subject parcel was purchased as an undesirable piece of property to develop, and that's why it's been vacant; FPL runs through the middle of it, which will give people radiation issues; there are railroad tracks on one side, and Winn Dixie on the other, so it was purchased at a lower price. Now they are intending to change it into something that it wasn't to benefit the developer.

Ms. Rezanka requested to cross-examine Mr. Brigante. Ms. Chinaris stated Ms. Rezanka can ask questions at the end of public comment. Mr. Ball explained the meeting is quasi-judicial and Ms. Rezanka has the right to cross examine witnesses.

Ms. Rezanka asked Mr. Brigante to verify his property on an aerial map [The aerial map can be located in file 20Z00036 located in the Planning and Development Department], and asked if the sheds to the south of his property are his sheds. Mr. Brigante replied yes, when he purchased the house, the lot was cleared farther than the survey. Ms. Rezanka asked if Mr. Brigante has continued to use the property that is not his, but belongs to her client. Mr. Brigante replied yes, his kids play

football on the small piece of grass off of his back deck. Ms. Rezanka asked if Mr. Brigante has been asked to stop using the property by Justin Savich, her client's representative. Mr. Brigante replied he spoke to Justin two years ago when he was driving his Jeep through the backyard and it was not mentioned.

Ms. Rezanka provided Mr. Brigante an email from February 10, 2021 [The email can be found in file 20Z00036 located in the Planning and Development Department], and asked if he received that email. Mr. Brigante replied he did not receive the email because it is his work email address and his I.T. department would not allow it to come through.

Ms. Rezanka asked Mr. Brigante if he has the pictures he mentioned from the Wildlife Commission regarding scrub jays and tortoises. Mr. Brigante replied yes, they've been texted to Lauren Barth, the biologist. Ms. Rezanka asked if he has submitted the pictures to County. Mr. Brigante replied he does not know if they were copied on any emails.

Ms. Rezanka stated Mr. Brigante said the subject property was purchased at a low price, and asked if he knew who purchased it at a low price. Mr. Brigante stated he has been talking to the owner of the land for about two years, and his understanding when he talked to Justin he was offering to sell to me so that we never had to develop it, and then he had a survey done in 2018 and he said \$50,000 was the purchase price, but he doesn't know if that was for the entire property, or if it was split up. Ms. Rezanka asked if Mr. Brigante knew Mr. Savich purchased the property out of a foreclosure from a bank. Mr. Brigante replied it was not discussed. Ms. Rezanka asked Mr. Brigante if he knows what HomeIn Project Administration is purchasing the property for. Mr. Brigante replied no.

Cecile Denning, 1173 Vineland Street, stated she would like to know if the manufactured homes will be placed on concrete pads, and she would like to know what the ratio is from all the concrete, to what is there now. The subject property slopes up from her house, so that means it has to slope down somewhere, and will it slope toward the river, or slope down and make a river in the other neighborhoods. She stated the whole property is an unofficial wildlife refuge, and she has pictures of the tortoises, and she has seen the birds, and she doesn't know where they are going to go. She said she was told that tortoises are not supposed to be relocated because they can carry diseases to other places. She said she doesn't have a problem with development, per se; however, it's a slowly moving ball that is rapidly going by, and by the time it gets to the bottom it steamrolls over everything. She said they will not know how the development will affect them until it is too late.

Vincent Price, 798 Alcazar Avenue, asked the applicant what the reason is for requesting TR-1 from TR-2, and if it is because it is a narrower lot. Ms. Rezanka replied yes, that is the reason for the request to TR-1. Mr. Price asked if the reason was to get more housing. Ms. Rezanka replied TR-1 allows for narrower lots.

Julie Lynn Ulrich, 5965 Cedar Lake Drive, Cocoa, stated Cedar Lake Drive is not a mobile home park, it is individually owned homes on half-acre lots, it's a dead-end street and very quiet. She said she would like to keep the binding development plan that exists right now. She said her main concern is the animals; there are burrowing owls; a panther; an eagle; Indigo snakes; scrub jays, there are tortoises, and more than 45 of them, as she has 15 that come into her yard. She said during the meeting with the applicant, it was stated that the people who will rent the homes are not permitted to buy them because the developer won't sell them for five years, so there will be renters in there for five years. She said she knows how rentals work, they will take the kitchen sink and run. She stated the traffic on Cedar Lake cannot handle 40 homes on the south side; two vehicles per house is 80

vehicles coming out of Cedar Lake Drive. When the plan was changed in 2006 they didn't want mobile homes there because of hurricanes. She said she would like to see block homes and a buffer to keep Cedar Lake quiet. She asked to be able to keep the emergency exit only for emergencies. She said she has two calls into biologists with Fish and Wildlife and they are watching so no one can touch that property.

Matt Denning, 1173 Vineland Street, stated tortoises are not supposed to be moved because they do get a respiratory infection if they are moved. He said the proposed development will be on the Atlantic Ridge, which has some serious aquifer concerns, so they might want to get a geological study on it. They are talking about re-distributing the land and the water flow, and there is no way to know which way the water will flow. It could go to the river, it could go to the railroad tracks, it could go north, or it could go south. It will definitely affect a lot of people one way or another.

Sue Price, 798 Alcazar Avenue, Cocoa, asked what kind of buffer would be provided if the zoning was left as RU-1-11.

George Ritchie replied the RU-1-11 zoning has a 20-foot rear setback for the primary structure, accessory buildings would have a 7.5-foot setback from the rear, a screen porch would have a 10-foot setback, and a pool screen enclosure would have a 5-foot setback. The proposed development would have a buffer per the subdivision code that would abut the perimeter of the development.

Ms. Price said Ms. Rezanka mentioned a 15-foot buffer, and asked if that would be different for RU-1-11. Mr. Ritchie replied the buffer is a landscaping code provision, so it's not a zoning setback. Ms. Price asked if it is optional. Mr. Ritchie stated it is not optional, it's required by another department during the review of the subdivision plan. Ms. Price asked if the buffer varies depending on the zoning. Mr. Ritchie replied the buffer is not part of the zoning, it is part of the subdivision review process.

Ms. Chinarris asked what the current BDP requires. Mr. Ritchie replied the current BDP requires a buffer along the inside of the south property line. That's the only condition in the BDP that's currently in effect.

Thomas Amstadt, 5941 Cedar Lake Drive, Cocoa, stated he was at the previous rezoning meetings and the subject property was zoned to TR-2 as a compromise because they wanted TR-1. The RU-1-11 was a compromise between the County Commission and the citizens to allow greater density and also to eliminate the possibility of being a mobile home park. TR-1 would allow a mobile home park and they did not want that due to hurricane concerns. There are a lot of people on Cedar Lake Drive who were not notified per the 500-foot rule; no one on Broadway Boulevard was notified. People on Broadway do not like that suddenly there will be more traffic. The reason there is not a homestead exemption on some of those properties is because they are owned by snowbirds and they can't have homestead exemption in Florida. There are only a few rentals.

Jose Cadiz, 1151 Vineland Street, Cocoa, stated the neighbors need to find out what is true and what is actually on the property, because he hasn't seen a report. He stated the existing BDP needs to remain on the property. He asked if the questioning of Mr. Brigante by the attorney was necessary. He said he thought it was more of an attack on him. He said he wants to see real reports and surveys that are current and valid, not ones from 2002, and he wants to know what they are going to do about the sewage.

Sue Price asked the square footage of the proposed homes. Mr. Dottore replied 1,000 to 1,500 square feet.

Zac Brigante stated he has heard the development will be affordable housing, or lower income rentals, so crime might be another thing to mention. He noted a surveyor came out yesterday to do a survey and said he saw at least 50 tortoise burrows, and according to the biologist, there are two tortoises per burrow, so that's how many he saw on the north perimeter of the property. He said a larger buffer behind Vineland Street is his goal, but the crime aspect with affordable housing is also concerning.

Ms. Rupe polled the audience and asked if everyone in attendance was in objection to the request. Ms. Rezanka objected to the polling.

Corey Pereno stated she takes offense to crime and low income housing. The way the world is today, people cannot afford \$300,000 homes, a 1,000 square foot home doesn't mean you're getting crime. There are a lot of young families trying to get into affordable housing so they can live a good life; it doesn't mean that they are criminals.

Kimberly Sapp, 1189 Vineland Street, Cocoa, stated she received a letter in 2006 from FPL saying her house was under eminent domain because of the gas line coming through. She asked if her house was under eminent domain in 2006, how can they put a trailer park on top of the gas line. At the other meeting, they said something about putting up a privacy fence after the buffer, but the first hurricane will knock down the privacy fence and they will not fix it. They need a 6-foot block wall instead of a privacy fence.

Father Stewart, 1159 Vineland Street, Cocoa, stated one of the things he is worried about is that there has been no discussion about busing the kids from the homes in the new development, or what the taxes are going to be like, and he thinks that needs to be taken into account.

Tom MacFarlane stated he built his house on Vineland Street in 1976 and his main concern is the value of his house dropping. He asked why a BDP is considered binding when there is nothing binding about it. He said when he built his house he expected it to increase in value over the years and now it is going in the opposite direction. He said when he moved into his house there were many scrub jays in the area and he has four gopher tortoises living in his yard right now.

End of public comment.

Ms. Rezanka stated she apologizes for speaking out, but asking to poll the audience is clearly not permitted, and she is preparing to sue the County if she needs to, which is why she is asking questions and setting the stage as she is. [Ms. Rezanka provided an email to the board. The email can be found in file 20Z00036 located in the Planning and Development Department]. She said the reason she asked Mr. Brigante a question is because of the email she provided to the board. She said she showed the same email to Mr. Brigante and he said he never received it. She said she has no reason to doubt him, but the email was sent to his work email from which he sent the board emails.

Ms. Chinarris asked why the email is pertinent. Ms. Rezanka replied Mr. Brigante's testimony is biased because he uses the property as his own personal property and he's tried to buy property from her client and has been denied. She said it is part of setting the record for a lawsuit. Ms. Chinarris stated



the email really has nothing to do with the auspices of the board for what they doing tonight. Ms. Rezanka stated the board can judge the credibility of the people who testify before it and that's why it's relevant. She said the board can take it or not take it; that is up to the board.

Ms. Chinaris asked if there is a mobile home on the subject property now that will be removed. Ms. Rezanka replied no, it is vacant. Ms. Chinaris asked if there will be a road access through there.

Ms. Rezanka replied yes, and that is in the concept plan before the board. That is the only TR-2 zoned portion that is being rezoned. The land behind Winn Dixie is BU-1, and the developer can already build homes on it at a greater density than RU-1-11 because of the Comprehensive Plan. She said they are trying to make it all consistent with the BDP. As to the access through Cedar Lake, she leaves that up to the board if it wants that as emergency access, the developer is fine with that, but it will leave all of the traffic on Clearview Drive.

Ms. Chinaris asked if there has been a traffic study done on how the development would impact those access roads. Ms. Rezanka replied traffic studies are not required for a local road. The only traffic impact analysis is done on the main roads and that is in the staff comments. Ms. Chinaris stated she things it would become a main road if the access for the development goes through there.

Ms. Rezanka replied it's a neighborhood road. She said the County will require them to make improvements and they will do whatever the County requires. If they want it re-paved, if they want sidewalks, that is a site plan issue, as are most of the issues before the board. The residents here would have her client engineer the entire project before coming for rezoning and that's not the way it's done. The engineering for the project will cost \$250,000 and in fact, the law says they don't have to tell the board exactly what they are doing, only that they want to develop it. The neighbors are asking for things that are not feasible to be done nor are they required. The wildlife will be managed as the law allows. If there are gopher tortoises and if the aren't already diseased they will be relocated; if they are diseased you are not supposed to relocate them, you're supposed to bury them, which is worse. Whatever the County, Fish and Wildlife, and DEP requires, they will do. She stated the property is already allowed to have 156 units, so that wildlife would be impacted if built with what is allowed today. This is an issue of changing for the smaller lots, allowing for manufactured homes, which will be built to withstand 100 mph winds, because that is what HUD requires in the area. Some of the existing mobile homes in the area are very old and are of more concern than the new requirements because of the new standards. The developer will spend \$14 million on the development and it will not impact anyone's taxes but the developer's and the owner of the project. Individual home values are based upon increases by the Property Appraiser; the standard construction is not going to be appraised next to a manufactured home. School concurrency is not an issue because they are not required to do a school concurrency at this point, and when the property is developed they will pay school impact fees that help with the schools. As to the buffer and the setbacks, they don't manage the subdivision code, but the subdivision code does have a 15-foot natural buffer that can't be impacted by the developer. The rear setbacks for TR-1 are the same as the rear setbacks for RU-1-11, which exists, and the same as RU-1-9 to the north. She stated all of the engineering issues are subdivision and site plan issues; they do not have to come before the board with a complete subdivision plan and engineered standards to build. The property value decreases are speculative, there is no indication that will happen. There are already manufactured homes in Clearview Terrace and Cedar Lake. The residents are concerned because they don't want change and they don't know what's going in there even though they've been given concept plans and her clients have been very open about what's going on there, and that's how they know it's a rental complex, but there are rentals in the other neighborhoods.

Ms. Porter-Hyde stated one of the speakers was concerned about the base of the manufactured homes, and asked if they would be on a concrete base. Mr. Dottore replied they will be on cement pads. Ms. Rezanka stated it can be in the BDP if that is what the board wants.

Ms. Chinaris asked what the cement pads would do to the drainage. Ms. Rezanka replied drainage is an engineering issue. She said the lakes on the concept plan are to hold all the water to compensate for pervious versus impervious, and that is why the development is less than 200 units and less than 150 because those lakes are so large. The water is going to drain into the lakes, not to the neighbors. She said ultimately, it may drain to the river after it's been settled, but that is all drainage and engineering. The code has requirements for what has to be pervious and impervious, what trees have to be saved and what trees have to be replanted, and those are all engineering and site plan issues.

Ms. Rupe asked about gopher tortoise diseases. Ms. Rezanka state she is not an environmentalist, that is just what she has been told, that there are diseases that gopher tortoises will sometimes carry. Ms. Rupe asked what she meant by burying them. Ms. Rezanka stated if tortoises are diseased, they can be buried, and that used to be the regulation. Ms. Rupe stated she does not believe they can be buried. Ms. Rezanka stated the developer will do whatever the government requires.

Ms. Rupe stated she read somewhere that the rent on the manufactured homes will be \$1,800 per month, and asked if that is correct. Ms. Rezanka replied she does not know where Ms. Rupe read that, but it is nothing she or her clients have put in writing.

Mr. Ball clarified that the existing BDP limits development to 154 units, not 156. He noted that in the staff comments, staff provides a concurrency review that talks about the trips; it is not a traffic study, it is a preliminary concurrency review based on the number of units and the trips that staff anticipates the development will provide. He said during the subdivision process, engineering will review the proposed development and ask for the appropriate traffic study improvements.

Ms. Rezanka clarified that the preliminary concurrency review in the staff comments was based on 200 units instead of 150 units.

Ms. Chinaris stated the board has approximately 26 emails from neighbors who have not come to speak tonight, who are either objecting or requesting more of a buffer, or more than just a fence. She asked staff if it's within the board's auspices to take the objections of the neighbors into account as an advisory board.

Mr. Ball replied before the board is a request to change the zoning with a BDP. The board's job is to take that into consideration along with the staff comments and all of the other documents staff has provided, and also the testimony provided by the applicant and the public comments received both in written format and verbally tonight.

Ms. Chinaris stated the environmental concerns alone are not adequately satisfied in her opinion by the applicant because of the limited scope of the investigation. There are a lot of woodlands there, there seems to be a lot of endangered species, and a lot of considerations that perhaps haven't been taken into consideration. She said she doesn't feel satisfied that everything has been done that should be done before making such a massive change to an area that could be very environmentally delicate and important. She said the idea of the possible septic tanks so close to the river is another consideration that she feels the board should be very careful about.

Mr. Shropshire noted that Mr. Dottore addressed the septic systems. Ms. Chinaris stated yes, with the idea that it is not his intention to have septic; however, there is this proverbial road that's paved with such intentions, although she is thankful he is mindful of that. She asked the board for a motion.

Ms. Rupe stated the Natural Resources Department has not given any real direction; they don't know, relative to the endangered species.

Motion by Maureen Rupe, seconded by Wendy Porter-Hyde, to deny the request.

Ms. Chinaris called for a vote on the motion as stated.

Greg Messer stated the board is going on the basis that they haven't met any of the County criteria, but before this goes forward, they will have to meet all of the County criteria or it's not going to be approved.

Ms. Chinaris stated that is not the board's only consideration. Mr. Messer agreed that is not the only consideration, but the environmental conditions will be addressed, and the mitigation of the environmental stuff has to be taken care of, and that is why he is uncertain. Ms. Chinaris stated she understands what Mr. Messer is saying, but she thinks that when there is a stack of emails and a large turnout from the surrounding area, that's something that the board really needs to be careful not to be careless. She said that is her opinion. She said if there is a way to satisfy these concerns and come back with a comprehensive environmental study with maybe some compromise on the actual buffer or boundary.

Mr. Messer said he's sympathetic to everybody here, and they all have a reasonable cause for what they want, and the developer does also.

Ms. Chinaris asked staff what happens if the board doesn't have five people voting.

Mr. Ball stated there is a motion and a second on the floor that the board needs to act on. He said if the board wants to open it up for discussion to ask for additional information, that can be done. He said the board can table the request to a date certain to give the applicant additional time to provide the documents the board is requesting; or at the applicants' discretion they can move forward with a denial.

Ms. Chinaris stated the request will be heard by the Planning and Zoning Board on Monday and she feels like the P&Z board should have some indication from this board about how it would advise them to act. She stated there is a motion to deny.

Ms. Chinaris called for a vote on the motion as stated, and it passed unanimously.