

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 8, 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; Mark Wadsworth, Chair; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

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 150 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)

Bruce Moia abstained from voting, as his company has been hired to engineer the proposed project.

Kim Rezanka, Attorney with the Law Firm of Lacey Lyons Rezanka, 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 also a representative and he will speak about the types of homes being proposed. The project is intended to be an infill development of manufactured homes on 58 acres. The subject property includes a small TR-2 parcel of a half-acre at the south end; it includes almost 51 acres of RU-1-11; and it includes a 7-acre BU-1-zoned parcel behind Winn Dixie. She stated currently, the property has RU-1-11 zoning with a BDP limiting the 51 acres to 154 units. The developer is proposing 150 units on 58 acres and TR-1 zoning. The TR-1 lot size is identical to the RU-1-11 zoning, at 6,500 square feet; only the configuration is different, with RU-1-11 requiring lots of 75 feet by 75 feet, and TR-1 requiring lots of 65 feet by 100 feet. The request is for TR-1 on all 58 acres, removal of the existing BDP from 2006, and inclusion of a new BDP limiting the number of units to 150, and a buffer to the south, but the entire subdivision will have a 15-foot natural subdivision buffer, which is required by the subdivision code. The northern lots abut the Port St. John Unit 1 development; to the east is Clearview Terrace Mobile Home Park, which is also TR-1; to the south is Cedar Lake Mobile Home Park, which are half-acre lots; and there are other manufactured home communities and mobile home parks in the area. She stated that she and her clients held an informational meeting on January 19, 2021, at the Port St. John Community Center, with 36 attendees who were mostly interested in what would be on the subject property. There were many concerns raised in the public comment emails. Some of the history of the property is that it was rezoned in 1990 to RU-1-11 from TR-1, and it was limited to 154 lots on 51 acres. She said the 2006 BDP added only a few items, one of them being that from Vineland Street be prohibited which is why it is in the proposed BDP, but it was never the developer's intention to use Vineland Street as an access. There's been a concern that there are two accesses to the project, one off of Clearview Drive, which is the northern road, and one to the south off of Cedar Lake Drive, which comes off of another road called Broadway Boulevard. The 2006 BDP limited Clearlake Drive to emergency

access only, and the developer does not mind leaving it for emergency access. She said the developer doesn't think it's fair to put all of the traffic onto Clearview Drive, but if that is what the board determines is appropriate, the developer is fine with that. Per the staff comments there are no road or school issues; City water will be brought to the site, and Cocoa sewer is proposed. The County's sewer plant does not have enough capacity, so if sewer is not brought from Camp Road or another manner, the developer would use the high-end nutrient reduction septic tanks and have quarter-acre lots, but that is not the developer's intent nor what he wants. She said the developer intends to bring City of Cocoa sewer through the Watermark PUD subdivision off of Camp Road. There have been many issues raised about tortoises, scrub jays, and wetlands, but the Land Development Code does not require an environmental study for zoning, it is only required for commercial and industrial rezoning requests. There have been two environmental studies, and there are gopher tortoises but they can be relocated. The scrub jay survey is beginning this week or next because it can only be done in March. There are scrub oaks, and if there are scrub jays they can be relocated properly. She noted those are environmental issues that are site plan issues, not rezoning issues. As to wetlands, there's only 1.56 acres of wetlands on the entire 58 acres, so wetlands are not an issue and County code will be required. She stated the only recent rezoning in the area was the Watermark PUD in 2018 and those lot sizes are 40 feet by 100 feet and 4,800 square feet, which is smaller than what is being requested today. Watermark had 129 acres and 417 lots were approved, which is a density of 3.8 units per acre, and in December 2020 it was reduced to 363 lots. She pointed out that the request is not inconsistent with the Port St. John Small Area Study and it is consistent with the Comprehensive Plan. There have been concerns that properties will be devalued, but there is no evidence as to how they will be devalued, or how much they will be devalued, and some of the neighbors are merely speculating. She noted she has provided the board information on property appraisals, and how appraisers use similar house types, so a manufactured home is not going to be used to determine the value of a concrete block home or a single-family home. These are going to be newly constructed homes; they will each have their own lots, and they are built to HUD standards. The homes will be built to 100-mph wind standards, so they are well-constructed homes. She stated the project will include a 7-acre parcel of BU-1 behind Winn Dixie that, if developed as currently zoned, could allow a 55,000 – 70,000 square-foot shopping center, which could equal trips of 2,200 – 3,000 trips per day on U.S. 1 in that area. She said using the ITE trip manual rates from 2016, 154 single-family homes as proposed on the 51 acres would generate 1,471 trips per day; for 150 manufactured homes, the rate is much smaller at 700 trips per day, less than half of what it would be for single-family homes. She requested the ability to ask questions of those testifying today if necessary, rebuttal time, and approval of the rezoning request to TR-1, removal of the existing BDP, and approval of a new BDP.

Nick Dottore, 4425 Sheridan Avenue, Cocoa, stated he will be speaking on the matter of quality and construction of the new manufactured homes. He said he believes that people of modest means deserve more quality housing options than what presently exists in the county, which is why he's before the board with another affordable housing community featuring manufactured homes. He stated his vision for the project requires an investment of \$14 - \$15 million, which includes brand new two-bedroom, two-bath, and three-bedroom, two-bath homes manufactured by Jacobsen Homes, which is based in Plant City and in business since 1953; he may also look at Palm Harbor Homes who also have a stellar reputation. He noted that funding is approved and available upon issuance of a building permit. He stated the terms 'manufactured home' and 'mobile home', are often used by the general public and government departments to describe the same type of home. Mobile homes and manufactured homes were distinguished from each other in 1976 when the National Mobile Home Construction and Safety Act became effective, which is the HUD code. A manufactured home is

required to be built on a permanent steel chassis, and wheels for transport on highways, which means they must comply with DOT requirements. He stated the intent of the HUD code was to improve the durability and quality of manufactured homes and it's the only federally regulated national building code. The HUD code sets standards for design and construction, body and frame requirements, thermal protection, plumbing and electrical, fire safety, and energy efficiency. Manufactured homes are built in three standard sizes: single-wide, double-wide, and triple-wide. Each home is internally inspected multiple times throughout the phases of construction to confirm proper construction and quality. If the home is placed on blocks or metal piers, skirting can be added to make the home more visibly appealing; they can also be placed on permanent foundations or on a basement, just like a site-built home. He pointed out that the manufactured homes in the development will be on full concrete pads. He stated within the HUD code is a dispute resolution program, which means if a consumer is unhappy with the quality of the home, the manufacturer, or the dealer, they can submit a complaint through the dispute resolution program. [Mr. Dottore distributed a wind zone map of Florida to the board. The wind zone map can be found in file 20Z00036, located in the Planning and Development Department] He stated Brevard County is in Wind Zone I, which is 100-mph; Wind Zone II is 110-mph. He emphasized the difference in the construction of manufactured homes in connection with the wind zone map, and stated nothing is different between a home that is constructed for 100-mph wind zones versus 110-mph; the only thing that is different is how they are anchored to the ground and the County strictly enforces how homes are anchored into the ground, and that is the only difference between wind zones II and III. He noted that last month he hired Atlantic Environmental Services to do an assessment of gopher tortoises and scrub jays, even though he couldn't do a formal survey until March. He said if the board feels that the proposed project is viable and the use of the property works, he looks forward to working with the County.

Public Comment

Thomas Amstadat, 5941 Cedar Lake Drive, Cocoa, stated he has been in his home since 1982, and he was there when the property was rezoned in 1990. He said the original zoning was GU and they tried to get TR-1 but the neighbors said if they're going to try to develop, it needs to be TR-2 because TR-1 would be too much traffic on Cedar Lake Drive. They agreed to develop with FPL giving them a right-of-way to have all of the traffic go out Clearview Drive in exchange for the RU-1-11, which would allow an increase in density. He said the current BDP states there would be an emergency access only road through Cedar Lake Drive, and now they want to eliminate that condition.

Cecile Denning, 1173 Vineland Street, Cocoa, stated she would like to know the ratio between the concrete pads and the roads versus the acreage, and asked how it will affect the runoff. She said taking the slope into consideration, and combining it with the roads and concrete pads it will be a big mess. She stated a lot of the runoff now gets absorbed in the dirt, but during a bad storm it's like a river in peoples' yards. She stated her other concern is that when the brush was cleared along the edge of the property it became a highway for four-wheelers, and she would like to have a wall instead of a fence so it can't be climbed.

Zac Brigante, 1101 Vineland Street, Cocoa, stated his backyard is on the northern side of the subject property. He said in 2017 Hurricane Irma came through with 94 mph wind gusts, and according to FEMA, 4 single-family homes were destroyed, along with 37 mobile homes, 2 multi-family homes, and 2 businesses. According to the Property Appraiser's Office, there are 8,463 mobile homes in Brevard County, and 179,437 single-family homes, which means there are 21.2 times as many single-family homes as there are mobile homes in Brevard County, yet 9.25 times as many mobile

homes were destroyed from Irma. He said he had an appraisal done in January that valued his home at \$368,000. He said if the 29 lots that will abut Vineland Street are eliminated, that would be a good buffer, it would allow the onsite relocation of the protected species instead of offsite, and it would be less traffic through Cedar Lake Drive and Clearview Drive. He stated he contacted a MAI appraiser who said he would have to find an exact example of this affecting property value. He said it may not affect property value, but it might affect if it's narrowed down to two homes of equivalent price and size, one with a view of the mobile home park, and one with a different view. He stated he knows the response from the community has been overwhelming and he hopes the board takes that into consideration.

Tom MacFarland, 1099 Vineland Street, Cocoa, stated he built his home in 1976, and was told by his contractor that there was a binding site agreement in the area behind him that there would only build block homes built there. He said he is worried about the value of his home, and no one can convince him that the value of his home is not going to drop if the proposed development is approved.

Julie Lynn Ulrich, 5965 Cedar Lake Drive, Cocoa, stated she's been speaking with a biologist who is aware of the animals and protected species on the subject property. She said she frequently has between 12 to 15 gopher tortoises coming into her yard from the subject property. She also stated she has the Audubon Society checking on an eagle on the property. She said she was at the County Commission meeting in 2006 and the neighbors' concession was to keep the homes as block homes because of hurricanes. She explained that Cedar Lake Drive is a small street that goes into Broadway Boulevard, and between CVI and the mining, there are 40 trucks per day on the street, and with 40 new homes on the south side of the FPL lines, at two cars per house, that's a lot of vehicles coming down Cedar Lake Drive and out onto Broadway. She said her main concern is that the proposed homes will not be for sale, they can only be rented. She stated she would like Cedar Lake Drive access to be for emergencies only.

End of public comment.

Kim Rezanka stated Ms. Ulrich lives in a manufactured home in Cedar Lake. The developer does not have a concern with limiting it to emergency access, he just feels that it would be too much traffic on Clearview Drive, but it can be added back into the BDP. As to the stormwater and runoff, there are very large retention ponds planned, so the runoff will be addressed during site plan as is the practice, and as of right now there is no drainage treatment on the property. As to the 100 mph wind concern of Mr. Brigante, that is a building code issue, not a zoning issue. She stated the proposed development will not be low income housing, it will be affordable housing, and it's very discriminatory when people call it low income. She noted that Mr. Brigante uses her client's property for his own personal use; he has a shed on the property and uses it for his own purpose. Regarding the property values, a property's appraisal value is based on sales of similar properties and by current market trends. Appraisers use comparable properties and a manufactured home is not comparable to a concrete block structure or to a wood structure. Regarding that the homes were supposed to be concrete block at RU-1-11, there is no requirement that concrete block be built in single-family homes; that is a mistake, and that's not in the BDP from 1991 or 2006. [Mr. Rezanka distributed Code Section 62-1151 to the board. Section 62-1151 can be found in file 20Z00036, located in the Planning and Development Department] She stated an environmental study is not necessary except for commercial and industrial, and the items to be considered is the character of the land, the area surrounding the property being considered, which is manufactured homes to the east and to the south. Single-family home is the use, whether it's manufactured, block, or stick. The subject property

is vacant and has not been developed because there are some challenges to it, and the fact that it hasn't been developed is criteria the board can consider, that now someone is coming in to develop it. She stated the staff comments include a preliminary traffic analysis which she believes is incorrect based on the BU-1 zoning which could have 2,400 trips from the property. The development will decrease the number of trips because it is manufactured homes from single-family homes by the ITE trip generation manual. The request is compatible with the existing land use, which is single-family homes; there are manufactured homes to the east and south, and single-family homes to the north. People are concerned about crime and safety, but there's no evidence that will be a problem; the decrease in property values is speculative. She said as for the protection of the wildlife, if there is an eagle on the property the development won't be built, but she doesn't believe there is an eagle there. Scrub jays and tortoises can be relocated and/or mitigated. She noted that she mis-spoke at the Port St. John meeting last week, and tortoises cannot be entombed any more, so they have to be relocated. She stated it has been written in several of the public comment emails that manufactured homes are undesirable, and that is unfair and discriminatory, and there are high construction standards and Florida law protects manufactured homes from discrimination of the zoning code. There is nothing in the zoning code distinguishing manufactured homes from other single-family homes. Some of the emails from the surrounding residents are from people who live 10 miles away, some were three miles away, and some of them say exactly the same thing, but they are all speculative; they don't have any facts and there's no evidence in any of the emails. The developer or owner is not required to engineer the site before a rezoning, they only have to show compatibility, that the use makes sense, and that they're going to protect the neighbors and follow the codes, and that's exactly what this developer is going to do.

Mark Wadsworth asked the distance from the east end of Clearview Drive to U.S. Highway 1. Ms. Rezanka replied approximately a quarter-mile.

Mr. Wadsworth asked if there is water and sewer anywhere near the property. Ms. Rezanka replied water is available, and sewer is available from the County but only for a portion of the lots. She said her client has said if he can't do the project on sewer, it won't be built, and she can add that to the BDP if the board chooses, but they will be bringing sewer from the City of Cocoa through Camp Road, through the Watermark PUD, or from another place 0.7 miles away. The developer is committed to putting in sewer; otherwise, the development doesn't make sense.

Mr. Wadsworth asked how many units could be developed with the current zoning. Ms. Rezanka replied currently, on the 51 acres there could be 154 units, and on the BU-1 portion there can be at least that many.

George Ritchie stated BU-1 zoning has the same lot size requirements, 75 feet wide by 75 feet deep, and 7,500 square feet per lot. Normally, the density would be equivalent to four units per acre.

Brian Rodgers asked if the development is going to be strictly rentals, or if there will be sales. Ms. Rezanka replied the business plan at this point is that it is rental for five years as a rent-to-own program through affordable housing incentives, and then they can be sold. They are single lots, they will be subdivided and platted as lots, it is not a mobile home park.

Ron Bartcher asked if they will own the lots. Ms. Rezanka replied the developer will own the lots until they are sold.

Mr. Dottore stated it is too soon for him to say what it will be. Mr. Bartcher asked if the development will be a cooperative, similar to another property Mr. Dottore developed. Mr. Dottore replied he doesn't know if it will be a cooperative, but he doesn't believe so.

Ms. Rezanka stated Mr. Dottore's other development was zoned TRC-1 with a conditional use permit for a cluster of mobile homes in a mobile home park.

Peter Filiberto stated there will be retention ponds on the property, and asked if they would be dry retention or regular. Ms. Rezanka replied she believes wet retention. Mr. Filiberto asked if there will be a wall or a fence, or if all of it will be a natural barrier. Ms. Rezanka replied there will be a natural buffer to the north because that is what was required in the 2006 BDP; there is a fence required to the south and they've agreed to keep that. There has not been a decision on any other fencing. The 15-foot subdivision buffer has to go around the entire project. Mr. Filiberto asked if Ms. Rezanka said they wanted access to Vineland Street. Ms. Rezanka replied no, they do not want access to Vineland Street. The restriction to Vineland Street was in the previous BDP's and they have kept it in the proposed BDP. The accesses proposed is Clearview Drive to the east, and Cedar Lake Drive to the south. She said they don't have to have the Cedar Lake Drive access; that was done initially because there were going to be 200 lots and they didn't think it was fair to put all of the traffic on Clearview Drive, but if the board thinks it is best to have Cedar Lake Drive as emergency access only, that is fine with the developer.

Mr. Filiberto stated today is only the rezoning, the project will still have to go through site planning, but as a zoning issue, he is fine with it.

Mr. Bartcher asked if Ms. Rezanka would be willing to add to the BDP that the project be only on sewer and no septic system. Ms. Rezanka replied, yes, if they can't get the sewer they are not going to build it.

Mr. Bartcher stated it was mentioned that the homes will be on concrete slabs, and asked if that means the steel frame of the mobile home sits directly on the concrete slab. Mr. Dottore replied yes. Mr. Bartcher asked if the home is tied down to the concrete. Mr. Dottore replied yes.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-11, TR-2, and BU-1 with a BDP to TR-1, removal of existing BDP, and with the addition of a new BDP limited to 150 units, with the additional condition that the project be connected to sewer. The motion passed unanimously.