

Minutes Planning and Zoning Board / Local Planning Agency

3:00 PM

Call To Order - 3:00 P.M.

Approval of Minutes - January 10, 2022

H. Public Hearings

- H.1.** *Sunil Rajan, Sudhir Rajan, and Suresh Rajan (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.09) to change the Future Land Use designation from NC to CC. (21PZ00082) (Tax Account 2412234) (District 2) This item was tabled from the 01/10/22 meeting.*

Kim Rezanka, Attorney representing the applicant, handed exhibits to the board. The exhibits can be found in file 21PZ00082, located in the Planning and Development Department.

Jeffrey Ball noted that the proposed site plan Ms. Rezanka handed to the board has not been vetted by staff to make sure it meets the Land Development Regulations, it is for discussion purposes only.

Kim Rezanka stated she represents Nick Rahal, who is the contract purchaser for the .92-acre parcel of land located directly north of Divine Mercy Catholic Church on Courtenay Parkway. She said what she gave the board is a concept plan; however, it is the plan that has been submitted to FDOT for review and she hopes to submit for a site plan soon, which will also go to MIRA for its recommendation. She stated the reason for the change from Neighborhood Commercial to Community Commercial is to have a drive through on the property. Mr. Rahal owns the current Dunkin Donuts on the west side of N. Courtenay Parkway, next to the Solar Car Wash and the Cozy Corner Café, it is three different units on a 1.37-acre parcel, and it is a very confusing site to get in and out of, with traffic backing up into N. Courtenay Parkway during high traffic hours, so Mr. Rahal would like to move it to a larger site and make it a contemporary site with a double drive through. She stated the proposed new location is on the east side as opposed to the west side, so it will hit all of the traffic going to the Port and to S.R. 528, it's a better location for traffic because people can come in and continue on in the same direction. She noted the only residential is across the street to the west, and she has not received any public comments. She stated the proposed site plan depicts its own separate entrance access off of N. Courtenay Parkway, adjacent to the entrance into Divine Mercy Church. Rick Kern, the Engineer of Record, has met with FDOT and the driveway permit is close to being accepted. She explained that the preference is to have the entrance separate to avoid confusion and conflicts with traffic coming on Sunday mornings and other peak times. The church no longer has a school, but it has all of the buildings for a school, and it could open again. She said FDOT will require the request to Divine Mercy during its final review, but it would put the entrance up to the east and it would be very confusing. Mr. Rahal has talked with a consultant for the Diocese who does not think Divine Mercy will agree to it, but that will be required during FDOT review. There is Neighborhood Commercial to the east to buffer any residential that could be developed there. There is a strip mall to the north, but there is a buffer of vacant land between it. She noted that MIRA approved the request unanimously.

No Public Comment.

Henry Minneboo asked if the church is not interested in any kind of access to their property.

Rick Kern replied yes, there has been some informal contact through a consultant of theirs. He said FDOT is ready to issue the permit as soon as the site plan is approved, and he will contact the church. Mr. Minneboo asked if FDOT mentioned a potential right turn lane to get into the site. Mr. Kern replied no, the distance is too short for a right turn lane. He explained that FDOT doesn't want traffic coming out of the church making a right or left turn, be in conflict with somebody in the right turn lane, if it's a shared right turn lane, there would be some conflicts.

Peter Filiberto stated there will be two drive through lanes, so that should alleviate some of the traffic off of Courtenay Parkway. He asked if there will be a dry retention pond on the property. Mr. Kern replied yes. Mr. Filiberto noted there are some wetlands on the property and asked if they will be preserved. Mr. Kern replied yes, there is a small amount of impact.

Liz Alward stated the buffer on the north side will eventually be the entranceway into that property in the back if it becomes a subdivision, and asked if a wall will be required in the site plan, because it buffers residential. Ms. Rezanka replied yes.

Motion by Peter Filiberto, seconded by John Hopengarten, to approve the request for a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. The motion passed unanimously.

Result: APPROVED

Mover: Peter Filiberto

Seconded: John Hopengarten

- H.2.** Robert Griffith requests a change of zoning classification from RRMH-1 to TR-1. (21Z00035) (Tax Account 2102136) (District 1) This item was tabled from the 01/10/22 meeting.

Robert Griffith, 3435 Old Dixie Highway, Mims, stated he would like to split the property in half and build a house.

No public comment.

Liz Alward asked if the new lot will have its own access. Mr. Griffith replied yes.

Motion by Ron Bartcher, seconded by Peter Filiberto, to recommend approval of a change of zoning classification from RRMH-1 to TR-1. The motion passed unanimously.

Result: APPROVED

Mover: Ron Bartcher

Seconded: Peter Filiberto

- H.3.** Scott Minnick requests a change of zoning classification from AU to RR-1. (21Z00025) (Tax Account 2102550) (District 1) This item was tabled from the 11/15/21 and 01/10/22 meetings.

Dwayne White, 3209 Ronald Road, Mims, representing the applicant, stated the lot is one-acre in an area that has a lot of half-acre lots and Mr. Minnick would like to build one home.

No public comment.

Motion by Liz Alward, seconded by Brian Hodgers, to recommend approval the change of zoning classification from AU to RR-1. The motion passed unanimously.

Result: APPROVED

Mover: Liz Alward

Secunder: Brian Hodgers

- H.4.** Lance C. Boncek requests a change of zoning classification from GU to AU(L). (21Z00046) (Tax Account 2403955) (District 1)

Lance Boncek, 3375 Angelica Street, Cocoa, stated he'd like to build a garage on his property for his family's vehicles, and it would be a 30-foot by 40-foot steel building.

No Public Comment

Peter Filiberto asked if Mr. Boncek wanted to do any agritourism uses on the property. Mr. Boncek replied no.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval a change of zoning classification from GU to AU(L). The motion passed unanimously.

Result: APPROVED

Mover: Ron Bartcher

Secunder: Robert Sullivan

- H.5.** *Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.08) to change the Future Land Use designation from NC to CC. (21PZ00081) (Tax Account 2100183) (District 1)*

Kim Rezanka, Attorney representing the applicant, handed out exhibits to the board [the exhibits can be found in files 21PZ00081 and 21Z00044, located in the Planning and Development Department] She stated before the board is two applications to change the land use and zoning on a 4-acre parcel, which is part of a larger 118-acre parcel. She said the handout she gave the board is of the 118 acres, and the four acres is on S.R. 46, closest to I-95 to the east. She said she also gave the board a concept plan by DRMP, it is not for site plan review, but it shows the four acres on the left side, and that is the four acres she is seeking to change from NC to CC. It has not yet been decided what will go on the four acres, but with all of the homes coming to the area, more commercial is needed, and Community Commercial will allow a drive through with the BU-1 zoning being requested. The Loves Travel Stop is to the east, and Chevron and Dunkin Donuts is further to the east. She said the application includes a justification for the request to Community Commercial, it also cites the 2007 Mims Small Area Study which states that commercial should take place in this location.

Jeffrey Ball noted that the concept plan for the residential portion has not been vetted to make sure it meets County code.

Ron Bartcher stated the analysis says that based on a Floor Area Ratio for traffic analysis, S.R. 46 would be a 1,000% increase in traffic. He said with no plans for what will be on the property, his biggest concern is that traffic on S.R. 46 would be at an unacceptable level.

Ms. Rezanka stated a traffic study has been requested, but it is not final yet. She said S.R. 46 is not at capacity, but it will be a site plan issue when a commercial use comes in.

Mr. Bartcher asked if the staff report is correct in stating S.R. 46 is at 66% capacity. Mr. Ball replied yes, at the time of the report, that is correct. Staff goes by the highest and best use, so that might not be what the applicant is doing, that's just a best guess to notify everyone that there may be a problem.

Mr. Bartcher stated the applicant is asking for BU-1 which allows a drive through, and that

increases the traffic rate. He said he is not sure they would be creating as much commercial space as what was shown in the worst case scenario, but even if they created half of that, it's too much traffic for that road.

Mr. Ball explained the applicant has options. They can wait for available capacity, if there is a capacity issue; they can phase the development to meet the traffic demands; or they can pay their way, as a proportionate share to provide the added capacity to the road. The applicant for the commercial use will need to provide a site plan that shows the square footage of the commercial area and a traffic study to show how many trips, and at that time they will have to do a concurrency review to see if there are enough available trips that are left on the road.

No Public comment.

Liz Alward stated not knowing what the use is going to be, as far as intensity, such as evening hours and lighting, concerns her. She said while commercial is good along that corridor, planned commercial, including the surrounding residential is important also.

Peter Filiberto stated he has the same concerns regarding the traffic, but he doesn't see those concerns with Item H.5.

Motion by Peter Filiberto, seconded by Bruce Moia, to recommend approval of the Small Scale Comprehensive Plan Amendment from NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of a change of zoning classification from GU to BU-1. The motion passed 9:1, with Ron Bartcher voting nay.

Result: APPROVED

Mover: Peter Filiberto

Secunder: Bruce Moia

H.6. Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a change of zoning classification from GU to BU-1. (21Z00044) (Tax Account 2100183) (District 1)

Kim Rezanka, Attorney representing the applicant, handed out exhibits to the board [the exhibits can be found in files 21PZ00081 and 21Z00044, located in the Planning and Development Department] She stated before the board is two applications to change the land use and zoning on a 4-acre parcel, which is part of a larger 118-acre parcel. She said the handout she gave the board is of the 118 acres, and the four acres is on S.R. 46, closest to I-95 to the east. She said she also gave the board a concept plan by DRMP, it is not for site plan review, but it shows the four acres on the left side, and that is the four acres she is seeking to change from NC to CC. It has not yet been decided what will go on the four acres, but with all of the homes coming to the area, more commercial is needed, and Community Commercial will allow a drive through with the BU-1 zoning being requested. The Loves Travel Stop is to the east, and Chevron and Dunkin Donuts is further to the east. She said the application includes a justification for the request to Community Commercial, it also cites the 2007 Mims Small Area Study which states that commercial should take place in this location.

Jeffrey Ball noted that the concept plan for the residential portion has not been vetted to make sure it meets County code.

Ron Bartcher stated the analysis says that based on a Floor Area Ratio for traffic analysis, S.R. 46 would be a 1,000% increase in traffic. He said with no plans for what will be on the property, his biggest concern is that traffic on S.R. 46 would be at an unacceptable level.

Ms. Rezanka stated a traffic study has been requested, but it is not final yet. She said S.R. 46 is not at capacity, but it will be a site plan issue when a commercial use comes in.

Mr. Bartcher asked if the staff report is correct in stating S.R. 46 is at 66% capacity. Mr. Ball replied yes, at the time of the report, that is correct. Staff goes by the highest and best use, so that might not be what the applicant is doing, that's just a best guess to notify everyone that there may be a problem.

Mr. Bartcher stated the applicant is asking for BU-1 which allows a drive through, and that increases the traffic rate. He said he is not sure they would be creating as much commercial space as what was shown in the worst case scenario, but even if they created half of that, it's too much traffic for that road.

Mr. Ball explained the applicant has options. They can wait for available capacity, if there is a capacity issue; they can phase the development to meet the traffic demands; or they can pay their way, as a proportionate share to provide the added capacity to the road. The applicant for the commercial use will need to provide a site plan that shows the square footage of the commercial area and a traffic study to show how many trips, and at that time they will have to do a concurrency review to see if there are enough available trips that are left on the road.

No Public comment.

Liz Alward stated not knowing what the use is going to be, as far as intensity, such as evening hours and lighting, concerns her. She said while commercial is good along that corridor, planned commercial, including the surrounding residential is important also.

Peter Filiberto stated he has the same concerns regarding the traffic, but he doesn't see those concerns with Item H.5.

Motion by Peter Filiberto, seconded by Bruce Moia, to recommend approval of the Small Scale Comprehensive Plan Amendment from NC to CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of a change of zoning classification from GU to BU-1. The motion passed 9:1, with Ron Bartcher voting nay.

Result: APPROVED

Mover: Bruce Moia

Secunder: Robert Sullivan

- H.7.** *Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a Small Scale Comprehensive Plan Amendment (21S.10) to change the Future Land Use designation from RES 2 to RES 4. (No assigned address. In the Mims area.) (21PZ00089) (Tax Account 2100183) (District 1)*

Kim Rezanka, Attorney representing the applicant, stated the proposed development is for a 118-acre parcel that currently has a mix of land uses, and she is asking to change 49 acres of RES 2 to RES 4 to allow the clustering and preservation of open spaces and wetlands. The NC and CC areas to the east will stay the same because residential can be built in those land use designations. She stated currently, the concept plan has 193 units, but that changes each time there is a survey or study on the property. She said they are asking for the RU-1-7 zoning to clean up the mix of zoning that is currently on the property over the entire 73.59 acres, with a BDP limited to 199 units, and that will allow flexibility to leave a lot of open space. To the west

is a 75-acre strip of land owned by St. Johns River Water Management District, and they use that as access to get behind the subject property where they have EELs land and a lot of easements. The wetlands will be preserved for the most part. The property is very high in the area to the north, where the fresh water pond is, and they will be using that for all of the amenities and keeping as many of the hardwood trees as they can.

No public comment.

Ms. Rezanka stated she held a community meeting on January 27th and invited neighbors within 500 feet; 50 people were invited, and five people attended who were excited about the project and wanted to put bids on lots.

Bruce Moia stated the request makes sense and it's good transitional zoning from what is to the west and east.

Brian Hodgers asked why the development is being limited to 199 units in a binding development plan. Ms. Rezanka replied it is to prevent two accesses, development over 200 units requires two access points and the flow wasn't correct.

Ms. Alward asked if the project be connected to water and sewer. Ms. Rezanka replied yes. Peter Filiberto stated he was concerned about only having one access, as far as emergencies. Ms. Rezanka stated there may be the potential that if there has to be emergency access that St. Johns would allow the use of their property, but she doesn't know at this point.

Robert Sullivan stated in the staff report, one of the concerns is capacities of the north water treatment plant. He asked if staff could you include the capacities of the plants and project what percentage of capacity could be taken up by such a large development.

Jeffrey Ball stated since staff is not the authors of that information and it changes daily, he would be reluctant to do that because they might be at or near capacity today and pull permits tomorrow and not have capacity. It's a number that changes based on applications that come through the door.

Henry Minneboo noted capacity analysis is not easy to come by. Bruce Moia stated it fluctuates, and that is why it is vetted in the concurrency process.

John Hopengarten stated the School Concurrency projects 93 students, and asked if there are plans for a playground in the development.

Clarke Sprinkle, Surrey Homes, stated yes, there will definitely be something along those lines, they just don't have the specifics at this time.

Mr. Hopengarten asked if the applicant has looked at hardened stops for school buses, so the kids don't have to walk through wet grass. Mr. Sprinkle replied they have not done that yet, but if the buses pull into the community, something will be provided for the children as a bus stop.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 2 to RES 4 The motion passed unanimously.

Motion by Bruce Moia, seconded by John Hopengarten, to recommend approval of a change of zoning classification from AU, GU, BU-1, and BU-2, to RU-1-7 with a BDP. The motion passed

unanimously.

Result: APPROVED

Mover: Bruce Moia

Secunder: Robert Sullivan

- H.8.** Jackson Family Trust; and C.B. Davis Family Trust (Kim Rezanka) request a change of zoning classification from AU, GU, BU-1, and BU-2, to RU-1-7 with a BDP. (21Z00043) (Tax Account 2100183) (District 1)

Kim Rezanka, Attorney representing the applicant, stated the proposed development is for a 118-acre parcel that currently has a mix of land uses, and she is asking to change 49 acres of RES 2 to RES 4 to allow the clustering and preservation of open spaces and wetlands. The NC and CC areas to the east will stay the same because residential can be built in those land use designations. She stated currently, the concept plan has 193 units, but that changes each time there is a survey or study on the property. She said they are asking for the RU-1-7 zoning to clean up the mix of zoning that is currently on the property over the entire 73.59 acres, with a BDP limited to 199 units, and that will allow flexibility to leave a lot of open space. To the west is a 75-acre strip of land owned by St. Johns River Water Management District, and they use that as access to get behind the subject property where they have EELs land and a lot of easements. The wetlands will be preserved for the most part. The property is very high in the area to the north, where the fresh water pond is, and they will be using that for all of the amenities and keeping as many of the hardwood trees as they can.

No public comment.

Ms. Rezanka stated she held a community meeting on January 27th and invited neighbors within 500 feet; 50 people were invited, and five people attended who were excited about the project and wanted to put bids on lots.

Bruce Moia stated the request makes sense and it's good transitional zoning from what is to the west and east.

Brian Hodgers asked why the development is being limited to 199 units in a binding development plan. Ms. Rezanka replied it is to prevent two accesses, development over 200 units requires two access points and the flow wasn't correct.

Ms. Alward asked if the project be connected to water and sewer. Ms. Rezanka replied yes. Peter Filiberto stated he was concerned about only having one access, as far as emergencies. Ms. Rezanka stated there may be the potential that if there has to be emergency access that St. Johns would allow the use of their property, but she doesn't know at this point.

Robert Sullivan stated in the staff report, one of the concerns is capacities of the north water treatment plant. He asked if staff could you include the capacities of the plants and project what percentage of capacity could be taken up by such a large development.

Jeffrey Ball stated since staff is not the authors of that information and it changes daily, he would be reluctant to do that because they might be at or near capacity today and pull permits tomorrow and not have capacity. It's a number that changes based on applications that come through the door.

Henry Minneboo noted capacity analysis is not easy to come by. Bruce Moia stated it fluctuates, and that is why it is vetted in the concurrency process.

John Hopengarten stated the School Concurrency projects 93 students, and asked if there are plans for a playground in the development.

Clarke Sprinkle, Surrey Homes, stated yes, there will definitely be something along those lines, they just don't have the specifics at this time.

Mr. Hopengarten asked if the applicant has looked at hardened stops for school buses, so the kids don't have to walk through wet grass. Mr. Sprinkle replied they have not done that yet, but if the buses pull into the community, something will be provided for the children as a bus stop.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 2 to RES 4 The motion passed unanimously.

Motion by Bruce Moia, seconded by John Hopengarten, to recommend approval of a change of zoning classification from AU, GU, BU-1, and BU-2, to RU-1-7 with a BDP. The motion passed unanimously.

Result: APPROVED

Mover: Bruce Moia

Seconded: John Hopengarten

H.9. John Louis Freeman (Pamela McCarty) requests removal of a BDP in an RU-2-12 zoning classification. (21PZ00090) (Tax Account 2520101) (District 2)

Pamela McCarty, Merritt Island, Florida, representing John Louis Freeman and Michael and Malena Stewart. She said Mr. Freeman purchased the lot with the intention of building a home. Initially, the binding development plan called for multi-family density. Mr. Freeman contacted the seller, who tried to assist him in getting the BDP removed so he can build a house on his lot.

Henry Minneboo asked when the BDP was recorded. Ms. McCarty replied 2005.

Bruce Moia stated he was before the board with the property to the east and north; someone had a contract on all six parcels and came up with a plan that had the BDP but it all fell apart and now there are six individual parcels again and each one of them has to come back to this board to get the BDP removed before anything can be built on them.

Peter Filiberto asked if the applicant would agree to a new BDP stipulating that only one unit will be built on the property. Ms. McCarty replied yes, plans are in place to build one home, and there would not be room for a second unit.

John Louis Freeman, 2021 Julep Drive, stated he only wants to build one unit, and he would agree to a BDP.

Motion by Peter Filiberto, seconded by John Hopengarten to recommend removal of the existing BDP, and adding a new BDP restricting development of one unit on the property.

Public Comment

Denise Stanton, 425 4th Street, Merritt Island, asked how a BDP affects the property in the future if he were to sell.

Mark Wadsworth replied it would remain the same, and this board is only making a recommendation to the County Commission.

Mark Wadsworth called for a vote on the motion as stated, and it passed 9:1, with Bruce Moia voting nay.

Bruce Moia stated everyone else is going to get two units and if he decides in the future he wants two units, he'll have to come back to get it because he's limiting himself to one, and the zoning won't allow for more than two units anyway. To have a BDP to limit it to one when everybody else is going to ask for two, he doesn't see why he should be restricted more than them.

Motion by Liz Alward, seconded by Peter Filiberto, to reconsider the previous motion and vote. The motion was unanimous.

Mr. Filiberto stated he wasn't aware of what Mr. Moia said, and two units is lower density than 13, so he has no objection. He asked why the staff comments recommend the board limit the parcel to one structure. Mr. Ball replied it is up to the board to determine whether it wants a BDP or not, but based on land use and zoning, up to two units are allowed on the property.

Motion by Peter Filiberto, seconded by Liz Alward, to recommend approval of removal of an existing BDP in a RU-2-12 zoning classification. The motion passed unanimously.

Result: APPROVED

Mover: Peter Filiberto

Secunder: Liz Alward

- H.10.** Michael R. and Malena C. Stewart (Pamela McCarty) request removal of a BDP in an RU-2-12 zoning classification. (21PZ00091) (Tax Account 2521132) (District 2)

Pamela McCarty stated the request is the same as the previous item.

No public comment.

Motion by Bruce Moia, seconded by Peter Filiberto, to recommend approval of removal of an existing BDP in a RU-2-12 zoning classification. The motion passed unanimously.

Result: APPROVED

Mover: Bruce Moia

Secunder: Peter Filiberto

- H.11.** Government in the Sunshine Law; Public Meetings

Alex Esseesse, Assistant County Attorney, gave the board an overview of the Government in the Sunshine Law.

Public Comment

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>