

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 12, 2022**, 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: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Brian Hodgers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS). *Per Section 62-183(2), the District 2 Alternate member was not eligible to vote.*

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Jane Hart, Planner III; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Approval of the August 15, 2022, P&Z/LPA Minutes

Motion by Bruce Moia, seconded by Peter Filiberto, to approve the P&Z/LPA minutes of August 15, 2022. The motion passed unanimously.

Mark A. and Rebecca L. Oostdyk

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 10.89 acres, located on the west side of Cox Rd., approx. 820 ft. north of Rayburn Rd. (2030 Cox Rd., Cocoa) (22Z00036) (Tax Account 2405176) (District 1)

Mark Oostdyk, 2030 Cox Road, Cocoa, stated he would like AU zoning in order to build a single-family home and have an agricultural business.

Mark Wadsworth asked if he would be selling from the property. Mr. Oostdyk replied yes, on a small scale. He said he has a commercial building in Cocoa that he sells goods out of, so there will not be an interruption to the residential area.

Ron Bartcher asked how many cattle and sheep would be on the property. Mr. Oostdyk replied it would be within a responsible limit, and would be mostly for educational purposes. He said he would probably have a maximum of three cows.

Mr. Bartcher asked if he works with schools. Mr. Oostdyk replied it would be education for his own children who are homeschooled.

Mr. Bartcher asked if he plans to do any slaughtering on the premises. Mr. Oostdyk replied if allowed, he would slaughter chickens.

No public comment.

Motion by Ron Bartcher, seconded by Henry Minneboo, to recommend approval the requested change of zoning classification from RR-1 to AU. The motion passed unanimously.

CGCR Holdings, LLC (Kelly Hyvonen)

A Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4), to CC (Community Commercial). The property is 4.83 acres, located approx. 500 ft. east of Grissom Pkwy., and approx.

.80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) (22SS00009) (Tax Account 2400719) (District 1)

CGCR Holdings, LLC (Kelly Hyvonen)

A change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 4.83 acres, located approx. 500 ft. east of Grissom Pkwy., and approx. .80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) (22Z00031) (Tax Account 2400719) (District 1)

Kelly Hyvonen, Land Development Strategies, 355 Spoonbill Lane, Melbourne Beach, stated the entire parcel is 10.70 acres, with the western portion having a Community Commercial land use designation and a zoning of BU-2. Her client is seeking the same for the eastern portion of the subject property in order to provide some heavy commercial uses consistent with the industrial uses to the south in the City of Cocoa, as well as further to the north on Grissom Parkway. The entire parcel has access to Grissom Parkway. The property will have City of Cocoa water, but not sewer. The specific use for the property has not been determined yet, but it will go through the site plan process. She noted there was an environmental assessment on the property and there are no protected species on site, but there is a small area of wetland in the northwest corner that is just under a half-acre. The future use will not encroach on the pre-existing uses to the east, and though there is Residential 4 land use to the east, it is not developable property.

Public comment:

Terrence Mulreany, 1649 Pineapple Avenue, Melbourne, stated he owns 8.5 acres of property near the subject property and he supports the rezoning because it would benefit his property as well as the applicant's.

Bruce Moia asked what Ms. Hyvonen's client plans for the property.

Ms. Hyvonen replied they want to keep the options open, but because the Amazon distribution center is to the south, they are considering some type of office or warehousing, or possibly a distribution center themselves. She said they understand traffic volumes are nearing capacity on Grissom Parkway, and they are keeping that in mind.

Ron Bartcher stated there is warehousing to the south, so approving the request will extend the warehousing area into a potential residential area, and that is a concern; however, because there is no infrastructure in the residential area, it would be difficult to develop.

Motion by Ron Bartcher, seconded by Bruce Moia, to recommend approval of a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4, to CC. The motion passed unanimously.

Motion by Ron Bartcher, seconded by Bruce Moia, to recommend approval of a change of zoning classification from IN(L) to BU-2. The motion passed unanimously.

Dieter Tytko (Kim Rezanka)

A change of zoning classification from RR-1 (Rural Residential) to RU-2-4 (Low Density Multi-Family Residential). The property is 1.01 acres) Located on the east side of Highway A1A, approx. 700 ft.

north of Cortez St. (6345 Highway A1A, Melbourne Beach) (22Z00039) (Tax Account 2955625)
(District 3)

Kim Rezanka, Lacey Lyons Rezanka, 1290 U.S. Highway 1, Rockledge, stated there are a number of rumors going around about the subject property, and she would like to clear them up. She said the request is not for 10 units, the property is only one acre in size and the most number of units it will hold is four, or maybe three. The property was administratively rezoned to RR-1 in 1998, but if the County Commission wanted to change it to one unit per acre, the Future Land Use would have been changed at the same time, and it was not. She stated Sterling House condominiums are to the north, which are 37 condos zoned RU-2-10, and Gull House condominium on the south side has 11 units and is also RU-2-10. The requested zoning of RU-2-4 is consistent with the Future Land Use of Residential 4, and is also consistent with the existing condos to the north and south. The sale price of the proposed units will be in the millions and will enhance the property values of Sterling House and Gull House, and the proposed units will be approximately 3,500 to 4,000 square feet. She stated another rumor is that the subject property is in the coastal high hazard area, but it is not. There is also a rumor that the proposed use will bring high traffic, but a four-unit townhouse will only bring seven trips per unit, for 28 maximum trips per day, which is not a lot of traffic. The property has remained vacant because it is not realistic to build without being able to have more than one unit, especially when it has a Residential 4 Directive land use. She said a statement that has been made repeatedly by residents in the area is that the request would violate the coastal management element of the Comprehensive Plan, but that is not true. The coastal management element does say that Brevard County shall increase residential density designations, but when you look at the glossary of the Comprehensive Plan it defines a residential land use designation as, 'designations that stipulate varying density allowances', and the request is not to change the Future Land Use of RES 4, it is only to change the zoning. She said she has confirmed with Environmental Health that high performance septic tanks can be used on the property, and they will also have to have well water, or find some way to bring water. She stated there are several residents in Gull House that are worried about views, but that is not a rezoning issue. A public comment letter was submitted by Jennifer Ognibene, who is a Gull House resident and she is worried about breezeway, height, setbacks, an increase in density, floodplain, land clearing, septic tanks, tree preservation, gopher tortoises, climate change, and blocked views. The only concern of hers that is of any relation to the zoning matter is an increase in residential density, her other concerns are site plan issues, which will all be addressed during site plan and will be engineered to meet County codes. She stated some residents in the area are worried about 'creep', that if the zoning is changed for the subject property it will creep up and down the barrier island, but the property is between two condominiums and is not creeping anywhere. The request is consistent and compatible with what is there, and it is consistent and compatible with the comprehensive plan.

Bruce Moia asked for clarification on the water and sewer availability.

Clayton Bennett, Bennett Engineering and Consulting, stated the subject property is in an area that is serviced by the South Brevard Water Co-op and they have indicated that an 8-inch water main is available on the west side of A1A and they have provided a cost estimate to extend water service to the site to provide potable water. Sewer would be served by the nitrogen reducing septic tanks.

Mr. Moia stated the actual number of units that can go on the property depends on if that connection can be made. Mr. Bennett stated water is available and they are working to make that connection.

Ron Bartcher asked if there will be multiple septic tanks and drainfields, or if there will be a common tank. Mr. Bennett replied it could be designed either way. Mr. Bartcher asked if it would be preferable to have single tank. Mr. Bennett replied there will be an association, so the association can be over the one system with common maintenance, or it can be done individually.

Robert Sullivan asked if the applicant is willing to do a development plan that says the zoning will revert to RR-1 if the site cannot get water. Ms. Rezanka replied that has not been discussed with her client, but they will be limited by whatever they're allowed to do. She said at this point they believe they can have water and sewer and could have three or four units.

Henry Minneboo asked if the property is exactly one acre. Ms. Rezanka replied, the contract says it is exactly one acre, but the title company has been looking at the FDOT (Florida Department of Transportation) right-of-way that has been an issue, and that is why it may be three units instead of four. When they come in for site plan they will have to certify that they own one acre and it's not subject to right-of-way.

Public comment:

James McGrath, 6400 S. A1A, Melbourne Beach, stated he lives across the street from the subject property. He said but when he discussed water with the South Beach Water District for his house they told him they were maxed out, and he could not get water. He noted the water line runs on the west side of A1A, not on the east side. He stated there has not been an appraisal done to find out what's going to happen to the property values to the homes to the south. There are no multi-family homes south of the condominiums, they are one-acre, one-family homes. He said he would like to know the number of families that will be on the property.

Howard Kendall, 6309 S. A1A, Unit 353, stated he abuts the subject property to the south. He said he, along with many others in Sterling House, purchased their homes over the years at above market value with the understanding that the vacant subject property is zoned for a single-family home. Now the owner is asking to rezone to RU-2-4 with two to four units. If approved, it will negatively affect the value of the Sterling House residents and negatively impact their lives. He said the level of noise will be increased, as well as the level of pollution from automobiles, and depending on the type of septic system installed, the air pollution could increase. He said the southeast views enjoyed from the Gull House residences will be substantially diminished and potentially eliminated, and that will substantially reduce the value of those condominiums. He said he requests that the Planning and Zoning Board maintain RR-1 zoning for the subject property.

Mel Scott, 6415 S. A1A, Melbourne Beach, stated he lives a couple of parcels to the south of the subject property. He said he would like to be established as a subject matter expert; he began his employment with the County in 1993 when the Comprehensive Plan Amendments began; and he also signed the zoning resolution as the Zoning Official in 1998 when the subject property was administratively rezoned to RR-1. He stated in 1998, the subject property was listed as .87 acres, and in the application today it is listed 1.01 acres. He said he doesn't know if an applicant can go through a zoning application and actually receive an increase in the bundle of rights on a piece of property without exactly knowing what the acreage is, and he recommends tabling the request until that is cleared up, because it is very consequential. He stated Ms. Rezanka said her client is limited by what they can do, but what they can do is RR-1, and the market has recognized this property as being RR-1 since 1998, and since then the market has reacted to the tremendous creation of sense of place in

the South Beaches that started in the '90's and persists today. He noted recently a house two miles north of Sebastian Inlet broke the record for sale price, so value in the South Beaches is reacting to single-family, and most of Floridana beach to the south of the subject property is single-family residential. The Sterling House and Gull House were the poster children for reducing density in the '90's because the area was going to be condo and multi-family all the way down to the inlet, but the amendments in the comp plan prevented that. He said the board is not obligated under the law to grant maximum density permitted conceptually by the Comprehensive Plan. He asked the board to consider compatibility and trends.

Mr. Moia asked if a certified boundary survey was submitted. Ms. Rezanka replied yes, and it is certified for one acre. She said the seller has a title policy for one acre, and the seller is selling it at one acre to the contract purchaser. FDOT has said they have not maintained it or taken it, but the title company is still excluding it, so she's trying to get the title company to figure out what it's going to do. She said an attorney is going to have to tell the County that the developer owns the one acre.

Mr. Moia asked if the boundary survey was done with the benefit of a title report. Kim Rezanka replied yes. Mr. Moia asked if the title report excludes what may or may not be a right-of-way taking by the DOT. Ms. Rezanka replied it excludes anything not of record, 'including but not limited to'. Mr. Moia asked if it could have been a potential dedication that never happened. Ms. Rezanka replied yes, it's not being used as right-of-way and it's not been maintained as right-of-way. It may be an easement that has never been taken and is still in the ownership of Dieter Tytko. If it is subject to a taking by FDOT, it likely would not be in the site plan.

Ms. Rezanka stated regarding Mr. McGrath's comments, the proposed zoning is RU-2-4 and Section 62-1371 of the zoning code is very clear that four houses could be built on one acre, or three houses on .87 acres. She said it will be a maximum of four homes and four families. She stated Mr. Kendall lives in Sterling House which is a 37-unit condo in three phases; Gull House is 11 units, and they both have RU-2-10 zoning. Regarding the noise and air pollution, there are specific performance standards for both construction and for the owners of the condo villas. She said she doesn't know why the Future Land Use wasn't changed when it was rezoned, but she suspects it's because of the condos on each side. The owner is selling one acre, the survey has been done at one acre, and that is what has been submitted, because that's what the surveyor has stated. She stated the board is not obligated to permit, but it is certainly consistent and compatible with the condominiums on both sides at RU-2-10, and the requested RU-2-4 is less dense.

Mr. Hopengarten asked the anticipated height of the buildings. Ms. Rezanka replied up to 35 feet. Mr. Hopengarten asked the height of the condos next door. Ms. Rezanka replied she believes they are three floors over parking, which is allowable with the way height is calculated.

Mr. Moia stated he doesn't know when those condos were built, but the coastal control line has been moved. There was a 1988 line and now there is a new line that he thinks is west of A1A, so he thinks the proposed project would be subject to a lot more requirements for setbacks than the existing buildings would have been to the north and south, so the views will probably not be an issue when they have to meet the State's requirements in addition to the County's coastal setback.

Peter Filiberto stated regarding the traffic, the request meets the traffic concurrency data, the increase is only .03 percent. For school concurrency, it is below the threshold. He asked if the units will be rentals. Ms. Rezanka replied no, they will not.

Mr. Filiberto stated there is multi-family to the north and to the south, and usually he has the same concerns as the neighbors when it comes to creep or urban sprawl, but with two multi-family buildings next to this vacant lot, he sees it as consistent and compatible.

Motion by Peter Filiberto, seconded by Ben Glover for discussion, to recommend approval of the change of zoning classification from RR-1 to RU-2-4.

Robert Sullivan stated barrier islands are particularly vulnerable to evacuation, and increased density is directly proportional to how many people can get out. He said it's not just about septic tanks or the water supply, which is pretty much maxed out, a lot has to do with the evacuation capabilities, the roadways, and other congestions, and he would like the board to consider those things.

Ben Glover stated he agrees with Mr. Filiberto that the subject property is a sliver of land between two multi-family units, and he understands it is zoned for a single-family home, but no one would want to build a single-family house there because it would be between two multi-family units.

Motion by Peter Filiberto, seconded by Ben Glover, to recommend approval of the change of zoning classification from RR-1 to RU-2-4. The motion passed 7:3, with Henry Minneboo, Bruce Moia, and Robert Sullivan voting nay.

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust (Kim Rezanka)

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.15 +/- acres, located on the south side of N. Courtenay Parkway, approx. 104 ft. east of N. Tropical Trail. (No assigned address. In the North Merritt Island area.) (22Z00038) (Tax Account 2316453) (District 2)

Jeffrey Ball advised the board that the North Merritt Island Dependent Special District Board heard the request on September 8th and unanimously recommended approval.

Kim Rezanka, Lacey Lyons Rezanka, 1290 U.S. Highway 1, Rockledge, stated the request is to rezone a 1.15-acre parcel that is part of an overall 6.83-acre parcel. She noted the Crisafulli's own the entire property and they intend to combine their property with the property to the south, so there will not be a landlocked parcel. Approval of the request would allow the Crisafulli's daughter to build one single-family home. There is a mix of uses and lot sizes in the area, but single-family homes are prevalent, and the request is consistent with single-family use.

Henry Minneboo asked how long the family has owned the property.

Sonja Crisafulli, 6270 N. Courtenay Parkway, Merritt Island, stated the property has been in her husband's family since 1947, and they live in the family homestead there, on 2.2 acres. She said her daughter wants to build on the 1.15 acres adjacent, and the rear 6.83 acres is also owned by her and her husband, so they will still have a large portion of land that will stay agricultural.

No public comment.

Motion by Henry Minneboo, seconded by Peter Filiberto, to recommend approval of the change of zoning classification from AU to RR-1. The motion passed unanimously.

Andrea Bedard and Nicholas Boardman (Kim Rezanka)

A change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential) and RU-2-6 (Low Density Multi-Family Residential). The property is 1.02 acres, located on the north side of Coquina Rd., approx. 214 ft. east of U.S. Highway 1. (23 Coquina Rd., Rockledge) (22Z00015) (Tax Account 2511124) (District 2)

Kim Rezanka, Lacey Lyons Rezanka, 1290 U.S. Highway 1, Rockledge, stated the subject property was before the board on July 18, 2022. Mr. Boardman owns the Bonsai Lodging Motel on U.S. 1, and he had hoped in July to expand that use. There was a lot of adverse reaction from the neighborhood, so he has come back to change the zoning request to RU-2-4 and RU-2-6, to taper from the Bonsai Motel. The .67-acre portion with the NC Future Land Use is proposed to be RU-2-6, and the .34-acre portion to RU-2-4. She said there is currently a home on the .34-acre portion, and it will remain; what would be developed is the RU-2-6 portion, and that will allow possibly five units, versus what was sought in July, which was 10 - 12 units with the expansion of the motel. She said the request is consistent and compatible with the Future Land Use and with what is in the neighborhood, going from a motel, to one house, and then EU single-family zoning in the RES 4 FLU further to the east and along Rockledge Drive. She said after listening to the neighbors in July, they have come back with a different proposal for consideration.

Bruce Moia stated he appreciates the revised request, it is a more compatible transition between the two zonings.

Public comment:

Jerilynn Bird stated she owns 1971 Rockledge Drive and 1983 Rockledge Drive, which is her home that will be worth close to \$2 million after the current renovations are complete. She said there are other people who are concerned, but they could not attend the meeting today. She stated Coquina Road is not a full-size road, it is a little skinny road that when two cars are on it at the same time, going in opposite directions, it's very hard to maneuver. There used to be a furniture store on the southeast corner of U.S. 1 and Coquina Road with egress to U.S. 1 only. The furniture store was sold to Hounds Town, and somehow they built egress onto Coquina Road. She said adding homes will add more cars trying to traverse on Coquina Road. She said Rockledge Drive is a documented historic road, it is all residential single-family homes, and she would like it to stay that way.

Mr. Hopengarten asked the applicant to clarify the difference between the proposal in July and the proposal today, as far as the impact on Coquina Road and the access into the site.

Ms. Rezanka replied, in July, Mr. Boardman was looking to put up to 10 units for transient use, a motel. What he is proposing today is duplexes for rental, but not transient. With the July proposal there could have been up to 20 cars per day on the site, and with today's proposal there will be approximately 5 to 10, but it is still a residential use in a residential zoning. She noted Ms. Bird emailed the board in July and said she wanted the property to remain residential and she was opposed to commercial, and now the request is for only residential and the neighbors are still opposed.

Mr. Hopengarten asked if the units could be used as an Airbnb. Ms. Rezanka replied yes, but it's not the intent. The intent is for duplex rentals with long-term leases.

Mr. Hopengarten stated he's concerned because of the board's rejection of the previous request, and he doesn't see a major shift from what the applicant wanted in July.

Henry Minneboo stated there are people who have been in that area for 50 - 70 years, and they have expressed to everyone their dissatisfaction of doing anything on that property. He said he agrees Coquina Road is substandard, and this kind of development is not conducive to the area.

Brian Hodgers asked if the single-family home on the property is being rented. Ms. Rezanka replied yes, on an annual basis. Mr. Hodgers asked if the request is for four additional units. Ms. Rezanka replied yes, if they will fit on the property. Mr. Hodgers asked for clarification that the applicant is asking for four additional units to have access onto Coquina Road. Ms. Rezanka replied yes.

Mr. Hodgers stated that is what Henry is concerned about and what the board was concerned about in July. Coquina Road is not built for it. He said at the last meeting there was discussion about the possibility of bringing access from the hotel to the subject property, and asked if that is not an option.

Nicholas Boardman, 26 Park Avenue, Rockledge, stated from the initial research he's done, the cost would be very prohibitive. He said there is a dire need for housing in Brevard County, and he listened to the comments in July and downgraded the request. He said he just want two duplexes on the western portion of the land, and it would only be a handful of cars per day, but it will provide a need for the community of smaller housing.

Ms. Rezanka stated in July there was a concern about a commercial use, and there was also discussion about dedicating right-of-way if necessary. She said she doesn't know if that is necessary or if it would be accepted. She said the owners could offer a BDP to address the concerns of short term rentals. She said according to the minutes it was more about an encroachment of commercial into residential, and this request is residential in residential.

Mr. Moia stated he agrees, in July the board did not want commercial against single-family. This new request is classic transitional zoning and knowing the County, Coquina Road will be required to be upgraded, they will have to dedicate right-of-way and widen the roadway if it's substandard.

Motion by Bruce Moia, seconded by Ben Glover, to recommend approval of the change of zoning classification from AU to RU-2-4 and RU-2-6. The motion resulted in a tie vote, with Robert Sullivan, Brian Hodgers, Mr. Hopengarten, Peter Filiberto, and Henry Minneboo, voting nay; therefore, the request is denied.

Proposed Amendments to Section 62-1844, Brevard County Code of Ordinances, Re: Criteria for Tiny Homes and Tiny Homes on Wheels

Jeffrey Ball stated in August, the Board granted legislative intent and permission to advertise code changes to provide for more flexibility for tiny homes. Based on recent discussions with developers there is a request to increase the size of a tiny home from 500 square feet to 750 square feet. The code change also removes the requirement to obtain approval from adjacent property owners for a tiny home, in all zoning classifications that allow tiny homes. The BCAC heard the proposed ordinance last week and unanimously recommended approval.

Henry Minneboo asked if there is a minimum lot size for tiny homes. Mr. Ball replied no, there are no changes to lot size requirements.

Ron Bartcher stated he agrees that the changes are needed, it will allow the creation of a subdivision of tiny homes, and Brevard County needs housing that is affordable.

No public comment.

Motion by Ron Bartcher, seconded by Mr. Hopengarten, to approve the proposed amendments to Section 62-1844, Brevard County Code of Ordinances, Criteria for Tiny Homes and Tiny Homes on Wheels. The motion passed unanimously.

Upon consensus, the meeting adjourned at 4:25 p.m.