

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 13, 2023**, 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); Robert Sullivan (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Paul Body, Senior Planner; Trina Gilliam, Senior Planner; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, Bruce Moia advised the board of a conflict of interest on Items G.3. and G.4., and he abstained from voting on those items. Mr. Moia completed two forms, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Offices. The forms are attached to the minutes.

Approval of the October 16, 2023, P&Z/LPA Minutes

Motion by Bruce Moia, seconded by Logan Luse, to approve the P&Z/LPA minutes of October 16, 2023. The motion passed unanimously.

Paulk Family Trust

A Small Scale Comprehensive Plan Amendment (23S.19), to change the Future Land Use designation from RES 1 (Residential 1) to RES 2 (Residential 2). The property is 0.75 acres, located on the west side of Turpentine Rd., approx. 125 ft. south of Tiger Lane. (No assigned address. In the Mims area.) (23SS0019) (Tax Account 2100923) (District 1)

Paulk Family Trust

A change of zoning classification from AU (Agricultural Residential) to SR (Suburban Residential). The property is 0.75 acres, located on the west side of Turpentine Rd., approx. 125 ft. south of Tiger Lane. (No assigned address. In the Mims area.) (23Z00063) (Tax Account 2100923) (District 1)

Wilbur Paulk, 4370 Fletcher Lane, Titusville, stated he would like to rezone in order to build a single-family residence.

No public comment.

Motion by Ben Glover, seconded by Logan Luse, to recommend approval of the Small Scale Comprehensive Plan Amendment from RES 1 to RES 2. The motion passed unanimously.

Motion by Ben Glover, seconded by Bruce Moia, to recommend approval of a change of zoning classification from AU to SR. The motion passed unanimously.

Linde, Inc. (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment (23S.21), to change the Future Land Use designation from RES 4 (Residential 4) and CC (Community Commercial) to all CC. The property is 9.97 acres, located on the southwest corner of Wiley Ave. and U.S. Highway 1. (2719 U.S. Highway 1, Mims) (23SS00021) (Tax Accounts 2103325 & 3019428) (District 1)

Linde, Inc. (Kim Rezanka)

A change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial), to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 0.65 acres, located on the southwest corner of Miami Ave. and Arizona St. (2162 Arizona St., Melbourne; and 4215 Miami Ave., Melbourne) (23Z00072) (Tax Accounts 2863326 & 2801026) (District 1)

Kim Rezanka, Lacey, Lyons, Rezanka Law Firm, Rockledge, stated two years ago the same owners were in front of the board for a rezoning to expand the existing facility in Mims, but at that time they were known as Praxair; they have since merged with Linde, Inc. and have become much larger. She stated Linde owns the 35-foot-wide parcel to the east, which will be left as a buffer. The purpose of the requests is to relocate Linde's truck facility to allow the existing truck parking and maintenance to move from the production facility on the river to the U.S. Highway 1 site, approximately 1 mile west. The existing truck facility was built approximately 60 years ago and needs to be demolished to make room for plant expansion at the main site. [Ms. Rezanka provided a handout to the board. The handout can be found in files 23SS00021 and 23Z00072, located in the Planning and Development Department].

Benjamin Vasquez, Linde Facilities Manager, 2801 Hammock Road, Mims, stated Linde is an air separation plant that makes three, nonhazardous, products out of the atmosphere: liquid oxygen, liquid nitrogen, and liquid argon. He said the need for the plant expansion is mostly from the space industry, which is growing tremendously. He said Linde has outgrown its footprint at 2801 Hammock Road, and the truck shop and trucks need to be moved. He stated the hope in the future is to also move the distribution center to the subject property.

Kim Rezanka stated the new site will house the distribution supervisor, an administrative assistant, and three truck supervisors. There will be approximately 25 tanker trailer units that will be housed there, but they will not all be used, and it will be an average of 15 of the tanker trailer units coming and going per day. She said the trucks will park there, fill up at the main site, and distribute to the space center. There will be two fuel islands, and the entire site will be fenced and landscaped for safety and aesthetics. She noted the staff report states the intended use can be considered compatible with the approved and proposed uses in the area.

No public comment.

Henry Minneboo asked if Linde's process is the same as Air Liquide's process on North Courtenay Parkway.

Mr. Vasquez replied Air Liquide is one of Linde's competitors, and it is also an air separation process. The biggest difference in operations is Linde is a bulk producer that moves liquid product; Air Liquide's plant is largely a gaseous production, mostly high-pressure nitrogen that is piped around the Cape facilities and launch pads. It is the same process, but different application.

Ron Bartcher asked how the trucks will go south on U.S. Highway 1. Mr. Vasquez replied there is a cut through from Wiley Avenue, and the trucks will come out onto Wiley Avenue and then go west to U.S. Highway 1. He stated both entrances are proposed to be used, Wiley Avenue as well as U.S. Highway 1.

Mr. Bartcher asked what kind of vegetation buffer there will be along U.S. Highway 1. Ms. Rezanka replied the trucks will be parked further to the west, and in the front will be the parking for the administrative building, and there will be a 7-foot fence.

Motion by Ron Bartcher, seconded by Henry Minneboo, to recommend approval a Small Scale Comprehensive Plan Amendment from RES 4 and CC to all CC. The motion passed unanimously, with Moia abstaining.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of a change of zoning classification from AU and BU-1 to BU-2. The motion passed unanimously, with Moia abstaining.

Charles K. and Judith A. Donaldson (Kim Rezanka)

A change of zoning classification from AU (Agricultural Residential) to RU-2-15 (Medium Density Multi-Family Residential). The property is 2.20 acres, located on the east side of N. Tropical Trail, approx. 0.25 mile south of Crockett Blvd. (1605 N. Tropical Trail, Merritt Island, portion east of N. Tropical Trail) (23Z00070) (Tax Account 2416959) (District 2)

Kim Rezanka, Lacey, Lyons, Rezanka Law Firm, Rockledge, stated the Donaldson's were before the board last year to change the property on the west side to RES 4, so that they could split the property. [Ms. Rezanka distributed a handout to the board. The handout can be found in file 23Z00070, located in the Planning and Development Department.] She stated the subject property is 2.2 acres currently zoned AU, and if it were split as AU it would be nonconforming. The property's Future Land Use is RES 15 and there is RES 15 to the north, south, and east, as well as some RES 10. The parcel to the south and east is an old 2-story apartment complex approximately 300 feet to the south and east, with BU-1 zoning. Immediately to the east is vacant property owned by Brevard County, presumably for affordable housing and on the surplus land list required by the Live Local Act. The Housing Authority owns duplexes that are RES 15 and could be redeveloped as affordable housing. There is also the Big Blue Apartments, LLC, at the end of Easy Street, designated as RES 10. She noted the staff report mentions Waters Mark Plantation that was platted in 2008 but is mostly undeveloped.

No public comment.

Henry Minneboo stated North Tropical Trail has an unwritten dividing line that begins at the store on the corner; throughout the entire length on the east side, everybody has large parcels; they own from North Tropical Trail west to the river, and there is no multi-family of any kind north of the subject property, nor on the east side. He said it's not conducive to the area to change to RU-2-15, because North Tropical Trail is not designed for multi-family on the east side.

Ms. Rezanka stated the dividing line is North Tropical Trail, it is east to west, not north to south. The parcels on the west side are RES 15, and there is similar zoning to what is being requested to the east and adjacent to the subject property; and there are also duplexes and apartments. She said AU is not appropriate to sell off and develop, but workforce and affordable housing is a big issue, and that is what is next door to the east.

Bruce Moia stated he agrees with Mr. Minneboo, adjacent to the east is RU-1-7, and EU to the west. He said it seems like a strange transition based on the adjacent zoning.

Ben Glover stated he agrees as well and said he could support something that wasn't as drastic as RU-2-15.

Mark Wadsworth asked Ms. Rezanka if her client would agree to a lesser zoning.

Ms. Rezanka replied yes, RU-2-4 would be acceptable, which would be a transition from EU and there is RU-2-4 at the other end of Houston Street. She said RU-2-4 would allow 4 units per acre for a total of nine potential units.

Motion by Ben Glover, seconded by Bruce Moia, to approve the change of zoning classification from AU to RU-2-4. The motion passed 8:1, with Minneboo voting nay.

Sundev Inc. of FL (Kim Rezanka)

A change of zoning classification from TU-2 (Transient Tourist Commercial) to BU-1 (General Retail Commercial). The property is 0.92 acres, located on the north side of W. New Haven Ave., approx. 0.22 mile east of I-95. (4520 W. New Haven Ave., Melbourne) (23Z00071) (Tax Account 2800709) (District 5)

Kim Rezanka, Lacey, Lyons, Rezanka Law Firm, Rockledge, stated her client is requesting BU-1 zoning from TU-2 for a medical marijuana treatment center. The structure on the property is currently a defunct mini-mart and gas station, but the gas tanks have been removed. To the east is a gas station and a Comfort Inn; also to the east is MUV, a medical marijuana center zoned BU-2, and there is no fence between MUV and Comfort Inn. Directly across the street to the south is Dunkin Donuts and a vape store. The other cannabis dispensary is to the east and north, off of Wickham Road. She stated there has been a complaint that the proposed use is not consistent with the family values of the Days Inn and Comfort Inn, but the area is very much commercial with different uses. She noted Florida Statutes highly regulate medical marijuana treatment centers since it was passed by over 70% of the voters in 2016; the stores have cameras inside and out; the required hours of operation are different than any restaurant or bar, and they can only sell from 7:00 a.m. to 9:00 p.m. She said the request is consistent with the administrative policies and is consistent with the adjacent and nearby zoning and uses. She noted her client does not oppose to putting up a fence along the east side of the building, as has been asked by Comfort Inn, and it can be a condition of the rezoning if the board wishes.

Bruce Moia asked if the current building will be demolished. Ms. Rezanka replied no, it will be remodeled, but the canopy and gas pumps will be removed. Mr. Moia stated there is a recorded easement where the applicant has agreed to a fence, but he wouldn't recommend it on a busy road such as New Haven Avenue. Ms. Rezanka replied, the fence would be to the left of the Mobile Mart, from that point to the north, but it will have to be 25 feet from the right-of-way.

Public comment.

Naresh Metha, owner of Comfort Inn Suites and Days Inn, stated the guests are families with children in town for sports games and they stay at both properties. He said two years ago MUV opened a medical marijuana dispensary to the east side of Days Inn and put up a six-foot fence. He said when he met with the owner of the Mobil he explained he had negotiated a 10-year lease for another medical marijuana dispensary 1,500 feet from the MUV store. He said his businesses will be

surrounded on two sides by dispensaries and it could have a negative impact. He stated he would like to have a fence as a barrier to distract some of the children and families.

Motion by Bruce Moia, seconded by Robert Brothers, to approve the change of zoning classification from TU-2 to BU-1. The motion passed 8:1, with Hopengarten voting nay.

Lori A. Clark (Chace Bourdon)

A change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 3.72 acres, located on the west side of U.S. Highway 1, approx. .45 miles south of Aurantia Rd. (4550 U.S. Highway 1, Mims) (23Z00069) (Tax Accounts 2004828 & 2004829) (District 1)

Chace Bourdon, 2965 Knox McRae Avenue, Titusville, stated he and his brother have owned a crane rental company for five years and have grown to four cranes and two trucks, and the subject property is a good location to be able to expand the business to Mims. He noted a fence is planned for around the property.

No public comment.

Ron Bartcher asked the location of the truck entrance and exit. Mr. Bourdon replied they are combining a smaller lot within a bigger lot, and the smaller lot has the driveway, and there is median access on U.S. Highway 1 that would be the northbound entrance, and the southbound entrance would be directly from U.S. Highway 1.

Jeffrey Ball stated access will be determined during site plan review and the engineers will look at what is designed and determine what the accesses will be as far as lining up with the median access already in place.

Mr. Bartcher asked if there will be a vegetative buffer along the front of the property. Mr. Bourdon replied yes, they plan to have something pleasing and presentable. Mr. Ball stated landscaping will be addressed at the site plan stage, and it will have to meet code, not only along U.S. Highway 1, but also adjacent to residential.

Robert Sullivan asked the size of the cranes. Mr. Bourdon replied they started with a 45-ton and recently acquired at 250-ton crane. He said they are mostly operator maintained, and the employees are the operators and riggers.

Bruce Moia stated there is AU to the west and to the south, but not to the north, so by code there would have to be a wall on the west and south property boundary, but the residential driveway is on the north side of the property, but it's not zoned AU. He asked if a wall would have to be built along the driveway because it's residential use. Mr. Ball replied yes, unless a waiver is requested to that section of code. He said staff looks at AU as being residential, so a wall would be required.

Paul Body stated there is no zoning on the stem, it may have been a paper road from Plat Book 2 in Indian River Park, but it isn't developed.

Mr. Moia stated there is a right-of-way and a flag stem for a driveway, so they can't access the roadway even if they wanted to, so they don't have frontage on the road to the north, but they do

have a flag stem that is technically a residential use. He said he would think the County would want a barrier if the property is going to be used for outdoor storage of cranes.

Darcie McGee stated staff will look at the buffering between commercial and residential, but no matter the zoning, if it's a residential use the commercial use would need to be buffered.

Motion by Logan Luse, seconded by Bruce Moia, to approve the change of zoning classification from BU-1 to BU-2. The motion passed unanimously.

Upon consensus, the meeting adjourned at 3:55 PM.