

Meeting Date
December 20, 2016



AGENDA	
Section	Consent
Item No.	II.D.4

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Janice Renk, Denial of Rezoning Request				
DEPT/OFFICE:	County Attorney/Eden Bentley, Deputy County Attorney				
Requested Action:	Approve findings of fact upholding denial of the request for rezoning 1.89 acres from AU and GU to RU-2-8 on South Tropical Trail 200 feet south of River Cliff Lane.				
Summary Explanation & Background:	<p>On November 3, 2016, the Board of County Commissioners heard the request to rezone the property from Agricultural (AU) and General Use (GU) to Multifamily RU-2-8. The Board of County Commissioners denied the request and directed the staff to return to the Board with findings of fact. The requested resolution is attached. Please note the full record referenced in the resolution has been sent to the Board members electronically. A full paper copy of the record will be available at the meeting in the clerk's files.</p>				
Contact:	Phone/e-mail:633-2090 Eden.Bentley@brevardfl.gov				
Clerk to the Board Instructions:					
Exhibits Attached:	Resolution with Exhibits				
Contract /Agreement (If attached):	Reviewed by County Attorney	Yes	<input type="checkbox"/>	No	<input type="checkbox"/> PR <input type="checkbox"/>
County Manager	Assistant County Manager		Department Director / Extension Scott Knox/52090		
Stockton Whitten	Assistant County Manager				



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December 21, 2016

M E M O R A N D U M

TO: Scott Knox, County Attorney Attn: Eden Bentley

RE: Item II.D.4., Resolution to Approve Findings of Fact for Janice Renk, Upholding Denial of Request for Rezoning of 1.89 Acres from AU and GU to RU-2-8 on South Tropical Trail, 200 Feet South of River Cliff Lane

The Board of County Commissioners, in regular session on December 20, 2016, adopted Resolution No. 16-226, approving Findings of Fact for Janice Renk, upholding denial of request for rezoning of 1.89 acres from AU and GU to RU-2-8 on South Tropical, south of River Cliff Lane. Enclosed is a certified copy of the Resolution.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)

cc: Planning and Development Director

RESOLUTION NO. 16- 226

**A RESOLUTION SETTING FORTH THE FINDINGS OF FACT AND CONCLUSIONS
OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
PERTAINING TO THE DENIAL OF REQUEST FOR REZONING FROM AU AND GU
TO RU-2-8 ON PROPERTY OWNED BY JANICE RENK**

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida as follows:

STATEMENT OF THE CASE AND FACTS

This request for rezoning from Agricultural (AU) and General Use (GU) to Multi-Family RU-2-2-8 came before the Brevard County Planning and Zoning Board (P&Z) on September 12, 2016 after being tabled by P&Z August 8, 2016. The P&Z Board denied the request. The vote was unanimous. R-94. The item came before the Brevard County Board of County Commissioners on November 3, 2016 after being tabled on October 13, 2016. The Board of County Commissioners heard the applicant and members of the public. R-127- R-141.

The documentary evidence and record page number for the document is listed below and the documents are attached as Exhibit A, 1-141. These documents and transcripts or minutes create the record and will be referred to as R-001 to R-141.

Description	Page Numbers
Location Map, Aerial Map, and Future Land Use Map	R-001 to R-003
Zoning Map	R-004
Certification and Brevard County Planning and Development Office file for 16PZ00064 Janice Renk	R-005 to R-079
Map TOWNSHIP 25, RANGE 36, SECTION 02 16PZ00064	R-006
Brevard County Planning And Development Application For Zoning Action, Comprehensive Plan Amendment Or Variance 16PZ00064	R-007 to R-008
Calculation of Public Hearing Application Fees – Zoning Office and Accela Fee Sheet 16PZ00064	R-009 to R-010
Receipt dated 6/9/16 16PZ00064	R-011
Zoning Information Worksheet 16PZ00064	R-012
Notice to Applicants for Change of Land Use 16PZ00064	R-013
Quit Claim Deed	R-014 to R-015
Authorization To Act As Applicant – Robert Potter 16PZ00064	R-016
Surveyor’s Map 16PZ00064	R-017
Brevard County Property Appraiser Property Information 892 S Tropical Tr. Merritt Island FL 32952 16PZ00064	R-018

Plat Map 892 S. Tropical Tr. Merritt Island FL 32952 16PZ00064	R-019
School Board of Brevard County - RE: Proposed Renk Property Rezoning, School Impact Analysis - Capacity Determination CD-2016-06 dated 6/7/16	R-020 to R-022
Brevard County Planning & Development Department letter to applicant dated 07/22/16 re Public Hearing on 8/8/16	R-023
Courtesy Notices, Radius Map, Address Labels, List of Affected Properties 16PZ00064	R-024 to R-034
Existing Zoning of Subject Property(ies) at Time of Application: 16PZ00064	R-035 to R-036
Location Map Janice Renk 16PZ00064	R-037
Zoning Map Janice Renk 16PZ00064	R-038
Future Land Use Map Janice Renk 16PZ00064	R-039
Aerial Map Janice Renk 16PZ00064	R-040
P&Z Staff Comments, 8/8/16 16PZ00064	R-041 to R-042
Affidavit Robert Potter 9/12/16 16PZ00064	R-043
P&Z Staff Comments, 9/12/16 16PZ00064	R-044 to R-046
BCPS Proposed Renk Property Rezoning School Impact Analysis - Capacity Determination CD-2016-06 for 9/12/16 meeting	R-047 to R-048
Sanitary Sewer Service, Capacity Availability Certificate for 9/12/16 meeting	R-049
Objections and photographs for 9/12/16 meeting	R-050 to R-079
P&Z minutes dated 8/8/16	R-080 to R-085
P&Z minutes dated 9/12/16	R-086 to R-107
Section 62-1371, Code of Ordinances of Brevard County, Florida - RU-2-8	R-108 to R-111
Section 62-1341, Code of Ordinances of Brevard County, Florida - RU-1-9	R-112 to R-113
Section 62-1334, Code of Ordinances of Brevard County, Florida - AU	R-114 to R-117
Section 62-1339, Code of Ordinances of Brevard County Florida - EU	R-118 to R-120
Administrative Policies ,Future Land Use Element, Comprehensive Plan of Brevard County, Florida	R-122 to R-125
Deed printout provided by Ms. Michelman to BCC, 11/3/16	R-126
Minutes of the Board Meetings	R-127 to R-141

The applicant, Janice Renk, requested rezoning from Agricultural (AU) and General Use (GU) to a multifamily residential use, RU- 2-8. R- 7, 8, 41, 42.

The subject property is located on South Tropical Trail south of River Cliff Lane. The surrounding property is zoned AU to south, GU to the east, AU to the west across Tropical Trail and RU-1-9, single family residential to the north. R-4. There are no other multifamily zoning classifications in this area of South Merritt Island. R 1-4, 6, 94, 44-46.

The current AU zoning allows one single family residential structure. The proposed RU-2-8 zoning would allow fourteen multifamily units. R-44. See also, R- 108-11, 112, 113 114- 117 and 118- 120.

At the Planning and Zoning hearing on August 8, 2016, two residents spoke and then item was tabled due to a notice problem. R-81-83.

Elizabeth Michelman spoke, saying there are exclusively single family homes in the area. She said the area is microcosm with homes and an area with a working farm. R-81. She said she was uncomfortable with the direction the application was taking. She asked how the development would be accessed and how so many units would be fit onto the property. R-82.

William Lee Barnhart spoke and he stated that the zoning request is inappropriate and tearing up a residential community. R-82.

At the next Planning and Zoning Board meeting on September 12, 2016, the applicant did not appear. Mr. Minneboo, a board member stated he did not know of any multi-family zoning south of Cone Road. R- 94. Cindy Fox, Planning and Zoning Director for Brevard County stated, "I just want to clarify that while there is no multi-family south of Cone Road, there are some sporadic pieces of commercial, institutional, like churches and schools and convenience markets down there, but really, the only large condominium-type project is probably still under proposed development, so it's not in this area." R-94.

Board member Robert LaMarr stated "Based upon there's no type of classification like that south of Cone Road, I make a motion to deny." R-94.

At the zoning hearing held by the Brevard County Board of County Commissioners on November 3, 2016, the staff introduced the item. The applicant then presented testimony that there was a plan for a multifamily development that would improve the area. R-127-141. The applicant stated sewer service would be extended and that service would benefit the neighborhood. The only other multifamily zoning is a quarter mile away. R- 127, 128.

Numerous residents spoke at the public hearing in opposition to the item. They objected to the multifamily use abutting their single family homes. The citizens also discussed the problems with traffic in the area that would be exacerbated by additional traffic. R-128-136.

Melinda Wilson, RN, owns the property immediately north of the subject parcel. She moved into her house in 1982. Her house is 21 feet from the property line. R- 128. Commissioner Smith asked if landscaping between the properties would help. R-129. Melinda stated she doesn't see how all the duplexes will fit. R-129.

Shawn Gillaspy, realtor, spoke and said the duplex prices of \$180,000 will be too high and the duplexes will be rental properties. He stated the road is 2 lanes, 35 miles per hour with no divider or turn lane. R-130,131.

Jennifer Underwood of 795 South Tropical Trail stated speeding on South Tropical Trail is a problem now. She stated adding more people, more vehicles, is not the answer. She noted the subject property is agricultural now and it was bought because it was agricultural. The multifamily zoning is closer to State Road 520. R-131.

Beverly Faulkner spoke and said there are traffic hazards due to the short streets and the bad bend in the road. R-131. She also stated multifamily doesn't fit the neighborhood and will impact land values. R-131.

Sue Tillman, a realtor with ReMax spoke and said she represented the buyer and the seller on the property. The sellers planned to use the property the same way. There are pictures of the duplexes planned and they are beautiful. She said she can't see anything but a big plus for the community. R-132.

Cindy O'Healy of 940 South Tropical Trail spoke and stated she likes agricultural uses and does not want 15 more people to fight to get out on to South Tropical Trail. She stated the curve is dangerous. R-133.

Elizabeth Michelman spoke as a resident of South Tropical Trail behind the subject property. She said she is a 20 year resident, the item was unanimously denied by P&Z. She pointed out a 20 foot ingress and egress easement on the subject property which will limit development. She said it is "like a can of sardines, a wonderful healthy product, but when you open it up it is just a can of dead fish." R-133.

Brynne Michelman-Schmalig stated she has lived on South Tropical Trail since 1996. Duplexes will mean all the old oaks die. The property is uneven and fill will be required. The range of people renting the property could affect the safety of the existing residents. R-134.

Victor Rodan stated the community is agricultural and single family homes. It is suburban tending toward rural. He enjoys it that way. R-135.

Deborah Box is on the corner of South Tropical Trail. She stated all the multifamily zoning is located north of Cone Road. R- 135.

Shelly McKenzie lives on South Tropical Trail two houses from the subject property. She is a foster mom with 5 kids who will have to walk past this parcel. The new use will be a nuisance. There is no benefit to anyone except the developer and she opposes the request. R-135,136.

Robert Conard of Oak Grove Lane spoke and discussed the little cookie cutter homes behind the houses. Now there is flooding. It is always busy on Tropical Trail and duplexes will not help the neighborhood. R- 136.

Mr. Potter spoke in rebuttal.136-137.

Mr. Potter said there is no deficiency in the level of traffic on South Tropical Trail. He said Walt Lee has a junk yard on his property and one of the residents offered to sell her property to him (Mr. Potter).

There was discussion by the commissioners about a less intensive zoning such as RU- 2-6 or RU-2-4. R-137.

Commissioner Barfield spoke and stated the rezoning request is totally incompatible with the area. He noted there is no multifamily zoning in the area, P&Z recommended denial and the infrastructure needed for multifamily is not there. R-138.

Commissioner Infantini stated, "I see no multifamily in the area." R-138.

Commissioner Infantini moved to deny the request; the motion was seconded by Commissioner Fisher. The motion passed, 5-0. R-138, 139.

FINDINGS OF FACT

The Board of County Commissioners finds:

1. The subject property is designated Residential on the Future Land Use Map of the Comprehensive Plan. R-2.
2. The subject property abuts single family zoning and single family development. R-4.
3. There is no multifamily zoning classification in the neighborhood. R-4.
4. There are pre-existing traffic problems which would be exacerbated by additional traffic produced by the proposed multifamily development. R-131, 133, 136.

5. Multifamily zoning is incompatible with the surrounding single family zoning and is not consistent with the existing zoning in the area contrary to the requirements of Administrative Policy 3 of the Brevard County Comprehensive Plan, Future Land Use Element. R-122-125.
6. Additional traffic in the area may negatively impact traffic safety and violates the criteria provided in Administrative Policy 3 of the Brevard County Comprehensive Plan, Future Land Use Element. R-122-125.

CONCLUSION

Based on the foregoing, the Board of County Commissioners hereby finds the rezoning request of RU-2- 8 is not consistent or compatible with the existing surrounding zoning classifications and single family uses. Accordingly, the rezoning request is hereby denied.

DONE AND RESOLVED this 20 day of Dec., 2016.

ATTEST:

By:



Scott Ellis, Clerk

By:



Curt Smith, Chairman

As approved by the Board on:
DEC. 20, 2016