

are consistent with their underlying land use designation.

Ms. Kovac asked if anyone from the public wished to speak on the item.

Ms. Cecelia Ward, introduced herself to the Board as President of JC Consulting in support of the text amendment. She stated it would be difficult to pass the Land Use correction but keep the commercial zoning, especially in case of a catastrophic event. She stated they have prepared an as-built survey and recorded it on city file to document what the site is like today.

Ms. Kovac closed the public hearing.

(1:13:24)

MOTION was made by Carla Coleman and seconded by Richard Klosiewicz to recommend approval of the code amendment to the City Commission, in order to allow for reconstruction of nonconforming structures that are consistent with their underlying land use designation, as described in the staff report. All voted in favor of the motion.

(1:13:58)

5. [LN-117](#) SANTA BARBARA ISLE REZONING

Request:	Rezoning
P&Z#	21-13000003
Owner:	Frank M. Russo, Trustee / Jin-Marie Russo 2020 Family Trust
Project Location:	300 & 400 Circle Dr.
Folio Number:	494306150030 & 494306150040
Land Use Designation:	L (Low 1-5 DU/AC)
Zoning District:	RS-1 (Single Family Residence 1)
Commission District:	1
Agent:	Andrea Harper (954-788-3400)
Project Planner:	Maggie Barszewski (954-786-7921 / Maggie.barszewski@copbfl.com)

Ms. Maggie Barszewski, Planner with the City, introduced himself to the Board. Members of the public for this item and Ms. Barszewski were sworn in by Pamela McCleod, Planner and Notary Public in the State of Florida.

Ms. Barszewski stated that the Applicant, Frank M Russo, Trustee, is proposing to rezone 2 of the 6 lots on the island from Single-Family Residence 1 (RS-1) to Single-Family Residence 2 (RS-2). The subject property is located on two lots within the island/peninsula that lies in Lake Santa Barbara. The property owner intends to create 4 potential lots and permit the construction of 4 new single-family homes. The existing land use allows up to 5 units per acre, and given the size of these two lots the land use provides the development rights to support doubling the density. Code section 155.2404 requires consistency with the Comprehensive Plan and the staff report lists 5 policies that require compatibility with the adjacent uses. No conceptual site plan or elevations were provided as evidence of how this additional density could be designed in a manner compatible with the remaining 4 lots. The request may be considered “spot zoning”, which is typically considered inadvisable. Spot zoning is defined in the APA (American Planning Association)’s resource “A Planner’s Dictionary”, as a change in district boundaries characterized by the following:

- a. Individuals seek to have property rezoned for their private benefit,
- b. Usually, the amount of land involved is small and limited to one or two ownerships,
- c. The proposed rezoning would give privileges not generally extended to properties similarly located in the

- area, and
- d. Applications show little or no evidence or consideration of the effect on surrounding property (including adequate buffers).

Finally, concerning Climate Change - this island is particularly vulnerable to sea level rise (SLR). She presented maps showing Sea Level Rise and FEMA Base Flood Elevation. She stated that in order to consider the full impact of a rezoning approval that would provide for the intended result of 4 new structures being constructed, conceptual site plans and elevations are necessary. The applicant could demonstrate how the finish floor elevations will be designed and elevated above the projected 3 feet of sea level rise without flooding the adjacent lots, which might address some of Staff's concerns about the impact that this request would have on adjacent properties.

The Applicant should be aware that for any future construction on the island, easements must be dedicated for the existing and any proposed drainage infrastructure. In addition, a development agreement may be needed, prior to building permit approval, to share the costs of upgrading and/or installing the appropriate outfall pipe(s) with tidal backflow prevention valves, as determined by the City's Utilities Department, on any and all outfall pipes to mitigate high tide flooding.

Given the information provided to the Board, as the finder of fact, staff provides the following recommendations and alternative motions, which may be revised or modified at the Board's discretion.

Alternative Motion I: Recommend denial as the Board finds that the rezoning request is not consistent with the Future Land Use Element goals, objectives, and policies of the comprehensive plan.

Alternative Motion II: Table this application for additional information as requested by the Board.

Alternative Motion III: Recommend approval of the rezoning request as the Board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use Element goals, objectives, and policies, and all applicable Zoning Code standards.

Staff recommends Alternative Motion I.

Ms. Kovac asked if the Board had any questions of staff.

Ms. Aycock stated that the December 2019 FEMA flood map update has not been approved yet so they are still at 5 feet plus one foot or 18 inches above the crown of the road. She stated since the maps are not adopted and may not be, she doesn't know how that affects these houses as the change will also affect the rest of the houses on the island. Ms. Jean Dolan responded that the 2019 flood maps are not adopted yet. The changes will affect the entire island but existing homes will not be required to raise their elevation. New development will need to go from Finished Floor Elevation of 6 to a Finished Floor elevation of 9. Ms. Aycock stated that existing homes which do substantial improvements equaling more than 50% of the value would be expected to elevate. Ms. Dolan agreed. Ms. Aycock asked who owns the properties. Ms. Dolan responded the applicant owns both properties. Ms. Aycock asked if the applicant has done outreach to the rest of the homes on the island. Ms. Dolan responded yes.

The following persons were in attendance to answer questions on behalf of the applicant.

2. Dodie Keith (301 East Atlantic Boulevard, Pompano Beach)
3. Michael Vonder Meulen Beal (301 East Atlantic Boulevard, Pompano Beach)

Ms. Dodie Keith introduced herself to the Board. She stated she was in attendance representing the property owner. She stated that the Mr. Russo is a 36-year resident of Pompano Beach and is a very involved resident in the community. Mr. Russo became a home builder in the 90s and builds predominantly estate homes. He has done 6 large estate homes in the city and the family has been very involved with their children and sports. The property purchase was done in an irrevocable land trust for the children and the family. The lots will be redeveloped as estate

homes of the same or greater scale. Mr. Russo's intent is to raise the value of the properties in the area and make better projects in the area.

Mr. Michael Vonder Meulen introduced himself to the Board. He stated the request to rezone is from RS-1 (Single Family Residence) to RS-2 (Single Family Residence) in the Santa Barbara Isle. The request is consistent and compatible with permitted density on the Future Land Use Plan Map as well as the goals, objectives, and policies of the Comprehensive Plan. The request is going from single family to single family. He stated that for a site-specific rezoning, conceptual drawings are not required and this was a new comment that he had not yet seen in the staff report. The criteria is solely that the request is compatible with the Future Land Use Plan Map as well as consistency and compatibility with the goals, objectives, and policies of the Comprehensive Plan. He showed the property aerial and context, as well as entrance into circle drive. He showed images and aerials of all of the island's lots. He stated that prior to COVID-19, lots 1 and 2 were both used as vacation rentals. Lot 3 is vacant. Lot 4 has a house on it that is proposed to be demolished. Lots 5 and 6 are homesteaded. He stated the original request was a minor adjustment for lot width. After the surveys were done, it was clear that the County Property Appraiser has an error on lot width, which prevented the lots to qualify for the adjustment. After researching the area and all options available, the request ended up being to rezone the properties from RS-1. He reviewed Goal 01.00.00, Policies 01.03.02, 01.03.03, 01.03.11, and 01.03.12 which in his opinion assert the request as being consistent with the required criteria. He stated that the island is designated Low (5 units per acre), which is consistent with the proposed density on these lots with over one acre lot area. The new residences have not been designed yet, will be of high quality, and will be compatible with the surrounding homes. The proposed homes will be between 4,500 and 5,500 square feet, whereas the existing homes are 2,317 to 5,307 square feet. Both lots face Lake Santa Barbara. All other lots in the city that face Lake Santa Barbara as well as the Intracoastal Waterway are also zoned RS-2 with single family homes. This is a logical progression. Additionally, these new homes are required to meet the Florida Building Code, the flood regulations, and the wind load regulations. Two additional homes will be deminimus to the impact on mass transit, especially with the location of two bus stops close to the entrance on Circle Drive. He stated the issue of climate change can be addressed by two separate strategies: seawall elevation, and exceeding flood elevations. The seawalls on this property are already being increased with permits already applied for: BP21-5080 and BP21-5077. He stated they will be coming up with a compatible design for the homes, as well as exceeding the base flood minimums and maintaining all drainage onsite. Regarding "spot zoning", Mr. Vonder Meulen stated that A Planner's Dictionary has multiple definitions for the same term. Other definitions include:

- The zoning of a small land area for a use which differs measurably from the zoned land use surrounding this area...
- Such zoning does not conform to the Future Land Use Plan and is not otherwise necessary in order to protect the health, safety, welfare, or morals of...
- An arbitrary zoning or rezoning of a small tract of land, usually surrounded by other uses or zoning categories that are of a markedly or substantially different intensity, that is not consistent with the comprehensive land use plan, and that primarily promotes the private interest of the owner rather than the greater welfare.

He stated that he would like to provide the Board a synopsis of a public meeting held on June 10th, 2021. He also stated they have letters of support from the other lots on Circle Drive.

Ms. Kovac asked if the Board had any questions of the applicant.

Ms. Coleman asked staff to provide a definition of the difference between RS-1 and RS-2. Ms. Dolan asked if the request is from the purpose statement of the zoning districts or if the lot sizes. Ms. Coleman asked if the difference is limited to the lot sizes and the density. Ms. Dolan responded yes. Ms. Coleman asked if the issue would be a smaller footprint on RS-2 as opposed to RS-1. Ms. Dolan responded yes. Ms. Coleman stated that the city has been working so hard on sea level rise and what that will mean for the city as a whole. She stated she has concern about adding more homes on a tiny island. She asked if any of the other RS-2 homes located on an island. Mr. Vonder Meulen responded yes, Terra Mar Island. He pointed that out on the Distance to Similar Development slide. Ms. Coleman asked how many letters in support are from residents. Ms. Keith responded all of them are owned by

residents that live in those homes. Some are short-term rentals. Ms. Coleman asked if they were full time residents. Ms. Keith responded no. Ms. Keith stated that the comparison comes down to the lot sizes. She reiterated that the purchase of the lots was made using the county property appraiser's information, which had an error. Without the error, the lots would meet the lot size of the RS-1 district. They purchased these lots with the right intent and will not be the minimum 7,500 square feet of the RS-2 zoning district. She added that existing homes will be held to the same flood elevation standard as the new homes will when they renovate, and Broward County requires seawalls to be elevated without a renovation trigger. She added that this property owner is already elevating his seawall. She stated that in the last 5 years, they were able to create two lots out of one on Lake Santa Barbara, which improved the value of all the homes in the area. Ms. Coleman stated she was very concerned and there was a difference of opinion on sustainability. She stated she does not feel they meet the criteria for sustainability and sea level rise. She added she believed this is indeed spot zoning and the proposed development would be incompatible with an island in the middle of the lake. She asked if there was more detail on the plans. She stated this is not a compelling case, whether were required to submit drawings or not. Ms. Keith stated all requirements will be met but those drawings are not completed as of yet as this would simply need a building permit. Ms. Coleman stated this is a request for rezoning, which is different.

Mr. Klosiewicz asked what type of effects will be encountered regarding sea level rise and density. Ms. Barszewski responded that there will be more homes on the island that will need to be elevated with a different profile. Mr. Klosiewicz asked if two homes already have to meet those regulations, what additional impact would be brought on by two more homes. Ms. Barszewski stated the impervious area would increase. Ms. Dolan stated there would be a challenge one way or the other. Ms. Keith stated there would be no difference as they are looking to go vertical with multiple floors. The impact of pervious is deminimus. The streets will not be impacted, neither will the drainage. Ms. Klosiewics asked if the floor and seawall elevations will need to increase. Ms. Keith responded yes; they will follow all requirements of the code. Mr. Klosiewicz stated he didn't see the difference of two additional homes and how that would impact sea level rise.

Ms. Aycock stated she didn't see why the island is zoned RS-1 when everything around it is zoned RS-2. She added that everyone will need to eventually raise their seawall. Sustainability is more about building in existing areas rather than in new areas. She agreed the lot coverage and pervious would be the same as well. Ms. McLamore added she didn't see a difference either.

Ms. Kovac asked if anyone from the public wished to speak.

Mr. Scott Gooding (290 SE 9th Court, Pompano Beach) introduced himself to the Board was sworn in by Pamela McCleod, Planner and Notary Public in the State of Florida. He stated he was representing Mr. Stephen Riley, who lives at 500 Circle Drive, Pompano Beach, and has for over 26 years. He stated the Board should have a letter from Mr. Riley in their backup material objecting to this request. He read the letter into the record, which mentions objection to a multifamily development. He stated he has lived in the city for 32 years and was with Mr. Riley when he bought his home. He stated Circle Drive is unique and has an amazing frontage, which is probably why Mr. Russo bought the properties. This is a great neighborhood of 6 homes, some of which have been demolished, but will now be 8. He stated Mr. Riley thinks this is spot zoning, in agreement with Ms. Coleman, and objects to the request. Ms. Aycock asked where Mr. Rile is currently. Mr. Gooding responded he is in Omaha and could not be present. She asked if he lives here full-time. Mr. Gooding responded yes, he lives here full time and has for 26 years but is on a trip.

Mr. Saunders asked Mr. Gooding for a copy of the letter as he did not believe it was in the backup. Mr. Gooding provided a copy.

Ms. Kovac closed the public hearing.

Ms. Aycock stated she knows at least one person who owns a house, but lives in Georgia. It seems that only the one person that has representation here lives on the island full time. Mr. Vonder Meulen stated their office contacted the city regarding vacation rental licenses. There were no current licenses but prior to the pandemic, two lots had

vacation rental licenses, which are not homesteaded. The property represented is homestead as well as one other one.

Ms. Coleman asked for the history of the zoning on the island. Ms. Dolan stated they did not have the history and believed this and one other area are the only RS-1 zoning districts in the city. Ms. Coleman stated she wanted to see if it was a city or developer decision. Ms. Dolan responded they did not know.

Mr. Klosiewicz asked if multifamily is being considered since the letter read into the record mentioned multifamily. Ms. Keith responded no, there was never a consideration for multifamily and this is not allowed as a use in RS-2. Mr. Gooding stated Mr. Riley heard there may be townhomes proposed. Ms. Klosiewicz asked if he still objected to single family. Mr. Gooding responded yes, Mr. Riley still objects going from 2 to 4. Ms. Keith stated in the public outreach many residents had this concern regarding multifamily. She stated when they reassured the residents that the use would remain single family, they had unanimous support.

(2:02:14)

MOTION was made by Carla Coleman to recommend denial of Rezoning PZ #21-13000003 as the Board finds that the rezoning request is not consistent with the Future Land Use Element goals, objectives, and policies of the comprehensive plan, per Alternative Motion I, as outlined in the staff report. No second was made, so the motion died.

(2:02:51)

MOTION was made by Richard Klosiewicz and seconded by Maria McLamore to recommend approval of Rezoning PZ #21-13000003 as the Board finds the rezoning application is consistent with the aforementioned pertinent Future Land Use Element goals, objectives, and policies, and all applicable Zoning Code standards, per Alternative Motion III, as described in the staff report. Of the members present, three voted in favor (Aycock, McLamore and Klosiewicz) while Carla Coleman and Joan Kovac who both voted against the motion. The motion passed 3-2.

(2:04:44)

B. AUDIENCE TO BE HEARD

There was no audience to be heard.

(2:04:52)

C. OTHER BUSINESS

1. REPORTS BY STAFF

Ms. Pamela McLeod introduced Ms. Hulda Desrosiers, Assistant Planner, who will be taking over on Advisory Board Secretary duties. Ms. Carla Coleman asked if Ms. McCleod would be saying good-bye. Ms. McCleod clarified that she is still with the city and would stay on to transition for a little while longer.

2. BOARD MEMBERS DISCUSSION

Ms. Carla Colman reminded the Board that all financial disclosures are due.

Mr. Klosiewicz stated he was happy to be back in-person. Ms. Aycock and Ms. Kovac both agreed.

(2:06:36)

I. ADJOURNMENT

There being no further business, the meeting was adjourned.

NOTE: Any person who decides to appeal any decision of this BOARD/COMMITTEE with respect to any