MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Jason M. Kuchmay
Snyder Morgan Federoff & Kuchmay, LLP
Syracuse, Indiana

ATTORNEYS FOR APPELLEES

Patrick R. Hess
Bran C. Heck
Beckman Lawson, LLP
Fort Wayne, Indiana

IN THE COURT OF APPEALS OF INDIANA

Margaret Rockwood, Individually and as Trustee of the Margaret A. Rockwood Revocable Trust, Dated January 23, 2007,

Appellant-Plaintiff,

v.

Crown Point Holdings, LLC, Patrick Casey, Helen Casey, and the Steuben County Board of Zoning Appeals,

Appellees-Defendants.

January 9, 2023

Court of Appeals Case No. 22A-PL-1492

Appeal from the Steuben Circuit Court

The Honorable Allen N. Wheat, Judge

Trial Court Cause No. 76C01-2112-PL-553

Tavitas, Judge.

Case Summary

[1] Margaret A. Rockwood, individually and as trustee of the Margaret A. Rockwood Revokable Trust (collectively "Rockwood"), appeals the denial of her petition for judicial review of the decision of the Steuben County Board of Zoning Appeals ("BZA"), which granted a special exception to Crown Point Holdings, LLC ("CPH") for the construction of a ten-unit condominium on Crooked Lake. Rockwood appeals and claims that: (1) the special exception was improper because the condominium project violates the density requirement for wells set forth in the Steuben County Zoning Ordinance ("the Zoning Ordinance"), and (2) the condominium project is inconsistent with the character of the Crooked Lake Residence District and the Steuben County Comprehensive Plan ("the Comprehensive Plan"). Because we disagree with Rockwell's arguments, we affirm.

Issues

I. Whether the condominium project violates the well density requirements of the Zoning Ordinance.

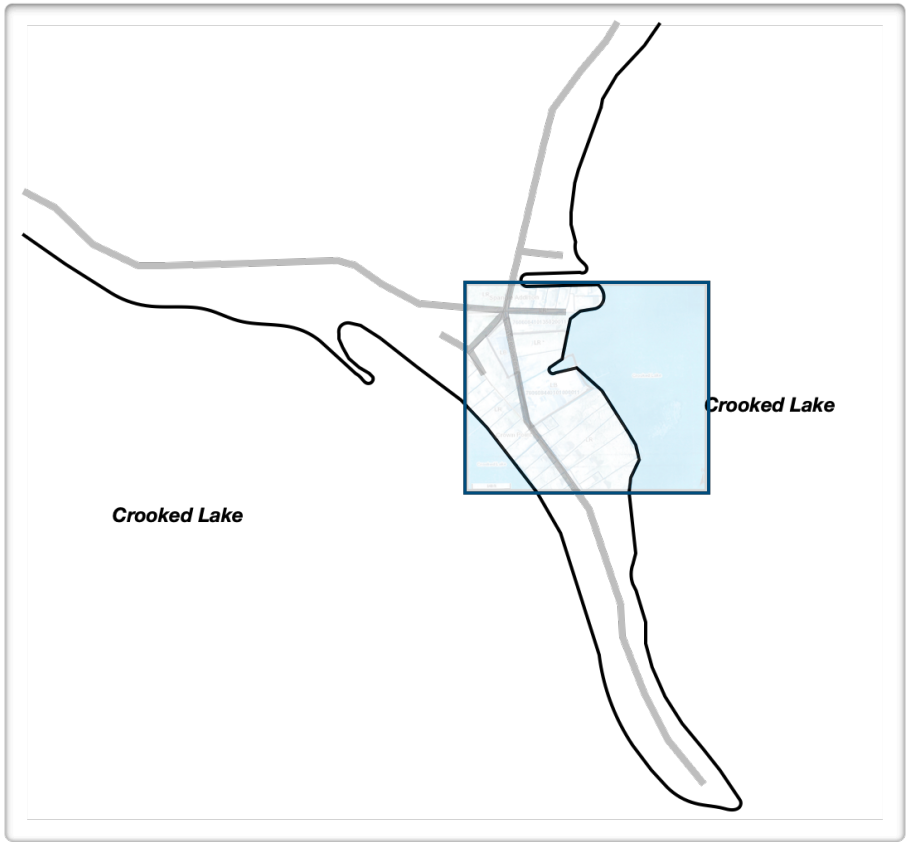
II. Whether the condominium project is consistent with the character of the Crooked Lake Residence District and the Comprehensive Plan.

Facts

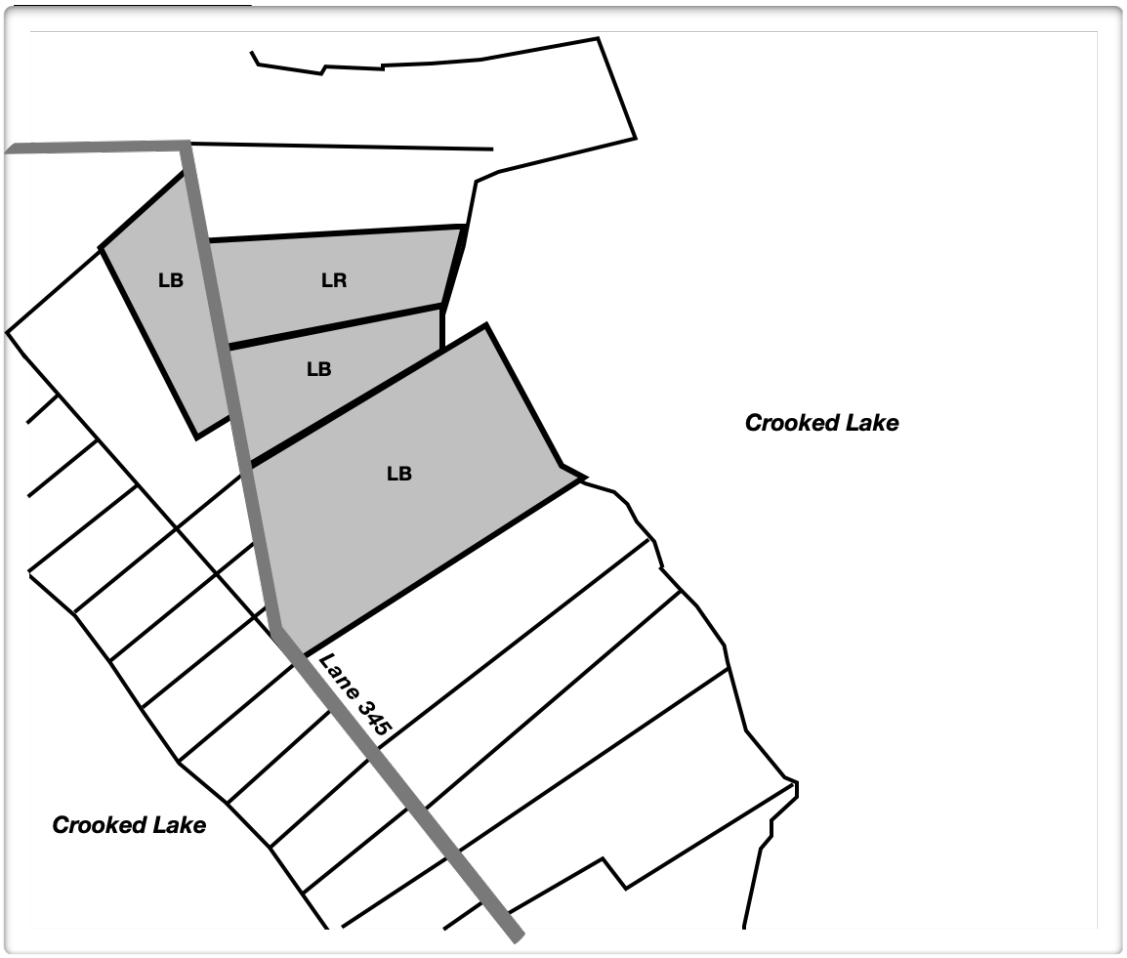
[2] Rockwood lives on one parcel on Lane 345 on Crooked Lake, which is in Stueben County, Indiana. Patrick and Helen Casey owned four parcels also on Lane 345 on Crooked Lake: one parcel was zoned as Lake Residence ("LR"),

while the other three were zoned Local Business ("LB"). The Caseys operated a commercial marina on their property. The marina property contained two large buildings, twenty-six boat slips, a boat ramp, parking spaces, and fuel storage tanks for boats on Crooked Lake. The lake front portion of the marina was deteriorated and had rusted pilings, old decking, and broken wood pieces.

[3] The following demonstrative map depicts an overview of Crooked Lake and the peninsula on which the properties at issue are located.[1] The outlined area is depicted below in more detail.



[1] The maps depicted are based on those contained in the record, which are of varying quality. *See e.g.*, Appellant's App. Vol. II pp. 34, 36; Appellee's App. Vol. II pp. 57, 63-64. The maps in this opinion are included only for demonstrative purposes.



The Caseys' properties are depicted in the map above in gray, with their zoning indicated. Rockwood's property is located across Lane 345 on the other side of the peninsula. *See* Appellee's App. Vol. II pp. 130-33.

[4] CPH entered into negotiations with the Caseys to purchase their property, remove the marina, and construct, in its place, a ten-unit building consisting of two-story condominiums, with each unit having an attached garage with a twenty-five foot driveway. The condominium project included a grassy common area separating the units from the lake. CPH's development plan also called for removal of the existing boat ramp, clean-up of the shoreline, and

construction of a natural-stone seawall. Although there are no condominiums on Crooked Lake, there are several two-story homes.

[5] On August 23, 2021, CPH submitted a Permit Application Form to the BZA for the Crooked Lake condominium project. The Zoning Ordinance identifies permitted uses, special exception uses, and prohibited uses for the various zones. For property zoned as LR or LB, multi-family dwellings are a special exception use. Appellant's App. Vol. II p. 100, Appellee's App. Vol. II p. 138. Accordingly, CPH filed a Special Exception Application for the condominium project along with its Permit Application. The BZA set the Special Exception Application for a hearing on October 12, 2021.

[6] At the Special Exception Hearing, Randy Strebig, a member of CPH, presented the Special Exception Application on behalf of CPH, and members of the public spoke in favor of and in opposition to the Special Exception Application. Rockwood and others voiced their objections to the application. Other members of the public also spoke. At the conclusion of the hearing, the BZA closed the public-comment portion of the hearing and continued the matter to November 8, 2021. At the November 8, 2021 hearing, the BZA voted to approve CPH's Special Exception Application by a vote of 4-1.

[7] Rockwood then filed, on December 7, 2021, a verified petition for judicial review of the BZA decision. CPH answered the petition on December 31,

2021.[2] On February 6, 2022, the BZA filed its record of the Special Exception Application. Both parties then filed memoranda in favor of their positions, and, on May 4, 2021, the trial court entered an order affirming the decision of the BZA. Because the order was entered prior to Rockwood filing a reply to CPH's memorandum, the trial court vacated its May 4th order and permitted Rockwood to file her reply brief. Rockwood filed her reply brief on May 19, 2022, at which time she also filed a motion to join as a party the Margaret A. Rockwood Revokable Trust, which is the owner of the Rockwood property. On May 27, 2021, the trial court granted the motion to add the Trust as a party but reinstated its earlier order. Rockwood now appeals.

Discussion and Decision[3]

Judicial Review of Zoning Decisions

[8] Indiana Code Section 36-7-4-1614(d) provides for judicial review of decisions of a board of zoning appeals and states that a reviewing court:

---

[2] As the owners of the lots on which the condominium project was to be completed, the Caseys were named as parties in Rockwood's petition for judicial review. On January 26, 2022, after CPH purchased the Caseys' property, the trial court dismissed the Caseys as parties by agreement of the remaining parties.

[3] CPH argues that Rockwood did not have standing to seek judicial review of the BZA's decision because she did not prove that she was an aggrieved party. To have standing to seek judicial review of a decision of a board of zoning appeals, a person must be "aggrieved" by that decision. *Benton Cnty. Remonstrators v. Bd. of Zoning Appeals of Benton Cnty.*, 905 N.E.2d 1090, 1097 (Ind. Ct. App. 2009) (citing *Bagnall v. Town of Beverly Shores*, 726 N.E.2d 782, 786 (Ind. 2000); Ind. Code § 36-7-4-1003(a)). "To be aggrieved, [a petitioner] must experience a substantial grievance, a denial of some personal or property right, or the imposition of a burden or obligation." *Id*. (citing *Bagnall*, 726 N.E.2d at 786). "Generally, the BZA's decision must infringe upon a legal right of the petitioner that will be enlarged or diminished by the result of the appeal and the petitioner's resulting injury must be pecuniary in nature." *Id*. The petitioner must show some special injury other than that sustained by the community as a whole. *Id*. Here, in her verified petition for judicial review, Rockwood attested that her property value would suffer as a result of the condominium project. Appellee's App. Vol. II

> shall grant relief . . . only if the court determines that a person seeking judicial relief has been prejudiced by a zoning decision that is:
>
> **(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;**
>
> (2) contrary to constitutional right, power, privilege, or immunity;
>
> (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
>
> (4) without observance of procedure required by law; or
>
> (5) unsupported by substantial evidence.

Id. (emphasis added).

[9] Our Supreme Court has explained:

> A trial court and an appellate court both review the decision of a zoning board with the same standard of review. A proceeding before a trial court or an appellate court is not a trial *de novo*; neither court may substitute its own judgment for or reweigh the evidentiary findings of an administrative agency. The appropriate standard of review, whether at the trial or appellate level, is limited to determining whether the zoning board's decision was based upon substantial evidence.

---

p. 6. This is sufficient to show that she was an aggrieved party. *See Benton Cnty.*, 905 N.E.2d at 1098 (holding that the opinion of the adjoining landowners as to the devaluation of their own property was sufficient to constitute the special injury and pecuniary harm required to establish standing).

St. Charles Tower, Inc. v. Bd. of Zoning Appeals of Evansville-Vanderburgh Cnty., 873 N.E.2d 598, 600 (Ind. 2007) (internal citations and quotations omitted). Further:

> When an aggrieved party seeks relief in court from an adverse administrative determination and attacks the evidentiary support for the agency's findings, he bears the burden of demonstrating that the agency's conclusions are clearly erroneous. That standard requires great deference toward the administrative board when the petition challenges findings of fact or the application of the law to the facts. But if the allegation is that the [agency] committed an error of law, no such deference is afforded and reversal is appropriate if an error of law is demonstrated.
>
> There is a presumption that determinations of a zoning board, as an administrative agency with expertise in the area of zoning problems, are correct and should not be overturned unless they are arbitrary, capricious, or an abuse of discretion.

House of Prayer Ministries, Inc. v. Rush Cnty. Bd. of Zoning Appeals, 91 N.E.3d 1053, 1058 (Ind. Ct. App. 2018) (internal citations omitted; brackets in original) (quoting *MacFadyen v. City of Angola*, 51 N.E.3d 322, 325-26 (Ind. Ct. App. 2016)), *trans. denied*.

A. Special Exceptions

[10] We have explained that "'[a] special exception is a use permitted under the zoning ordinance upon the showing of certain statutory criteria,' while 'a variance is a deviation from the legislated zoning classification applicable to a given parcel of land.'" *S & S Enters., Inc. v. Marion Cnty. Bd. of Zoning Appeals*,

788 N.E.2d 485, 490 (Ind. Ct. App. 2003) (quoting *Town of Merrillville Bd. of Zoning Appeals v. Pub. Storage, Inc.*, 568 N.E.2d 1092, 1094 (Ind. Ct. App. 1991), *trans. denied*), *trans. denied*; *see also* 30 Ind. Law Encyc. Zoning § 65 (2022 Update) ("A special exception is a use permitted under a zoning ordinance upon a showing that certain statutory criteria have been met."). Thus, the granting of a special exception is generally "'mandatory once the petitioner shows compliance with the relevant statutory criteria' whereas the granting of a 'variance is a matter committed to the discretion of boards of zoning appeal.'" *S & S Enters., Inc.*, 788 N.E.2d at 490 (quoting *Town of Merrillville*, 568 N.E.2d at 1094).

[11] We have also explained, however, that:

> [W]hile some special exception ordinances are regulatory in nature and require an applicant to show compliance with certain regulatory requirements (e.g. structural specifications), providing the zoning board with no discretion, **some special exception ordinances provide a zoning board with a discernable amount of discretion (e.g. those which require an applicant to show that its proposed use will not injure the public health, welfare, or morals).** [A] board of zoning appeals must grant a special exception upon the applicant's submission of substantial evidence of compliance with the relevant criteria . . . only as to ordinances falling within the former category. In other words, **when the zoning ordinance provides the board of zoning appeals with a discernable amount of discretion, the board is entitled, and may even be required by the ordinance, to exercise its discretion**.

Id. (emphases added) (quoting *Crooked Creek Conservation & Gun Club, Inc. v. Hamilton Cnty. N. Bd. of Zoning Appeals*, 677 N.E.2d 544, 547-48 (Ind. Ct. App. 1997), *trans. denied*).

[12] The Chapter Zoning Ordinance that governs special exceptions provides in relevant part:

> **Section 17.01 Special Exception Approval**
>
> A use listed in a zoning district as a special exception use may only be established or expanded with the approval of the Board of Zoning Appeals (BZA) following the procedures and requirements of this chapter.
>
> * * * * *
>
> **Section 17.05 Decision Criteria**
>
> The Board may grant a special exception use approval for any use listed as "special exception" in the applicable zoning district of this Ordinance if, after a public hearing, it makes findings of fact in writing that each of the following is true:
>
> (a) **General Welfare:** The proposal will not be injurious to the public health, safety, and general welfare of the community. The development will be served adequately by essential public facilities and services such as: highways, streets, police and fire protection, drainage structures, water and sewage facilities, refuse disposal and schools.
>
> (b) **Development Requirements:** The development of the property will be consistent with the intent of the development requirements established by this Ordinance for similar uses. The development will be designed, constructed, operated and

maintained to be compatible with, and not significantly alter, the existing or intended character of the general vicinity.

(c) **Ordinance Intent:** Granting the special exception use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.

(d) **Comprehensive Plan:** The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.

Section 17.06 Other Considerations

When considering a special exception use request the Board of Zoning Appeals may examine the following items as they relate to the proposed use:

(a) The Special Exception will not endanger the public health, safety, or welfare.

(b) The Special Exception will not be injurious to the use and enjoyment of other property in the vicinity nor diminish and impair property values within the neighborhood.

(c) The Special Exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts.

(d) Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

(e) Ingress and egress points are so designated as to minimize traffic congestion in the public streets.

(f) The Special Exception Use is authorized as a use in that district.

(g) The requirements for Special Exception prescribed by this Ordinance will be met.

Appellee's App. Vol. II pp. 156-57 (bold in original).

[13] The decision criteria listed in Ordinance Section 17.05 are similar to those at issue in *Crooked Creek*, where the ordinance required that special exceptions not be "injurious to the public health, safety, morals, or general welfare of the community" and that the use would "not affect the use and value of other property in the immediate area in a substantially adverse manner." 677 N.E.2d. at 548. In *Crooked Creek*, we held that such criteria, "having no absolute objective standards against which they can be measured, involve discretionary decision making on the part of the board." *Id*. The same was true in *S & S Enterprises,* where the elements of the ordinance had "no absolute objective standards against which they can be measured" and, thus, involved "discretionary decision making" on the BZA's part. 788 N.E.2d at 491.

[14] Accordingly, our role on appeal is to determine "whether the BZA's decision 'is supported by substantial evidence' and has "a reasonably sound evidentiary basis." *Id*. (quoting *Crooked Creek*, 677 N.E.2d at 548). "Evidence will be considered substantial if it is more than a scintilla and less than a preponderance." *Id*. (citing *Crooked Creek*, 677 N.E.2d at 549). "In other words, substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Id*.

II. Well Density Requirements

[15] Rockwood claims that the BZA erred by approving CPH's request for a special exception because the proposed condominium project violates the density requirements for wells as set forth in the Zoning Ordinance.[4] Rockwood insists that, before the BZA could grant the request for a special exception, the proposed project must strictly comply with all zoning requirements.

[16] In support of her position, Rockwood cites *Ayers v. Porter County Plan Commission*, 544 N.E.2d 213, 219 n.9 (Ind. Ct. App. 1989), in which the court noted that "[a] special exception—unlike a variance, a *prohibited* use which involves a deviation from legislated zoning classification—involves a *permitted* use within the zoning classification **if certain criteria** are satisfied." (citing *Ash v. Rush Cnty. Bd. of Zoning Appeals*, 464 N.E.2d 347, 350 (Ind. Ct. App. 1984); *Boffo v. Boone Cnty. Bd. of Zoning Appeals*, 421 N.E.2d 1119, 1127 (Ind. Ct. App. 1981)) (bold emphasis added; italics in original). From this, she concludes that "a special exception ***must meet all requirements*** of a zoning ordinance, or it cannot be approved." Appellant's Br. p. 10 (emphasis in original). We disagree.

[17] As explained above, a special exception is a permitted use under the zoning ordinance upon a showing that certain criteria have been met. *S & S Enters.,*

---

[4] Section 04.03(d) of the Zoning Ordinance provides: "For multiple family developments with [an] on-site well or septic system, a maximum of two (2) dwelling units shall be permitted per acre. For multiple family developments that are served by both a public water and sewer system, a maximum of five (5) dwelling units shall be permitted per acre." Appellant's App. Vol. II p. 102.

788 N.E.2d at 490. These criteria are set forth in the Zoning Ordinance Section 17.05, and none of these criteria require strict compliance with all zoning requirements. Instead, the criteria refer to more general concerns such as public welfare and safety, consistency with the intent of the development requirements, consistency with the comprehensive plan, and consistency with the general purposes of the zoning ordinance.

[18] The grant of the special exception, moreover, is one of many steps in the process. The Zoning Ordinance provides that, if the BZA grants a special exception use, the applicant must then apply for an "Improved Location Permit." Appellee's App. Vol. II p. 162. When such an Improved Location Permit is filed, the Plan Director, or the Plan Director's designee, "shall determine if the site plan/sketch plan complies with the requirements of [the zoning] ordinance." *Id*. at 154. If the plan does not comply with the requirements of the Zoning Ordinance, the applicant may then request a variance. *See id*. at 160 (Zoning Ordinance Section 21.02(e), empowering the BZA to "[r]eview, hear and approve or deny all applications for variances from development standards (such as height, setback, or area) and variances of use."); *id.* at 161 (Zoning Ordinance Section 12.03(b) providing that "[a]ll applications for variances . . . shall be filed by the applicant with the Planning Director[.]"). If compliance with all zoning ordinances were required to grant a special exception, there would be no need for such compliance before an Improved Location Permit is issued.

[19] If, as Rockwell claims, the project does not meet the well density requirements of the local zoning ordinance, then CPH will have to request and receive a variance.[5] But this does not mean that the BZA does not have authority, at this stage of the proceedings, to grant the special exception request.

III. Consistency with Character of the District and Comprehensive Plan

[20] The final requirement that the BZA must find before granting a special use exception is that "[t]he proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan." Appellee's App. Vol. II pp. 157. Rockwood claims that the proposed condominium project does not meet this requirement. But the question before us is not whether, in our opinion, the proposed use will be consistent with the district and Comprehensive Plan; the question is whether there was evidence before the BZA from which it could make such a conclusion. Here, there was such evidence.

[21] The permitted uses in areas zoned as LR[6] include: (a) single family detached dwellings; (b) modular homes; (c) low-impact home occupations; (d) home-based childcare; (e) public parks; (f) private swimming pools; (g) places of worship; (f) elementary, middle, and high schools; (h) libraries and museums;

---

[5] Rockwood could then object to the variance request. *See Robertson v. Bd. of Zoning Appeals, Town of Chesterton*, 699 N.E.2d 310, 315 (Ind. Ct. App. 1998) (holding that, while only an "aggrieved person" may seek judicial review of a BZA decision, hearings before a BZA regarding the grant of a variance are open to the public and any "interested person" may appear and present relevant evidence) (citing Ind. Code §§ 36-7-4-1003, 36-7-4-920).

[6] On appeal, Rockwood argues that the condominium project is not consistent with the character of the LR district but fails to put forth a cognizable argument regarding the character of the LB zoning district.

and (i) utilities and essential public services. Appellant's App. Vol. II pp. 100-01. As noted, multi-family dwellings, such as the condominium project, are not identified as a permitted use in areas zoned as LR but instead require a special exception. *Id*.

[22] The condominium project consists of two-story residential units with attached garages. Two-story single-family dwellings already exist in the LR district of Crooked Lake. The BZA heard evidence that the condominium building was designed based on existing lakefront properties so as to be compatible with the existing houses. Moreover, the Steuben County Planning Director noted that the project met all the requirements of the LR zoning district, including set-backs and height requirements and that CPH was not yet seeking any variances. From this, the BZA could reasonably conclude that the condominium project is consistent with the character of the LR zoning district. Accordingly, the trial court did not err in concluding that the BZA's decision in this regard was not arbitrary, capricious, or an abuse of discretion.

[23] The same is true regarding the BZA's decision that the condominium project will be consistent with the recommendations of the Comprehensive Plan.

> Our supreme court has observed that a "comprehensive plan is a community's long-range vision for physical development, but implementing the plan as regards a given piece of real estate may not be the best course of action for the community on a given day. A comprehensive plan is 'a guide to community development rather than an instrument of land-use control.'"

Burton v. Bd. of Zoning Appeals of Madison Cnty., 174 N.E.3d 202, 216 (Ind. Ct. App. 2021) (quoting *Borsuk v. Town of St. John*, 820 N.E.2d 118, 121 (Ind. 2005)), *trans. denied*.[7]

[24] We also note that the Steuben County Comprehensive Plan provides, "It is important to keep in mind that **a Comprehensive Plan is not enforceable in itself** and should not be mistaken as a zoning ordinance or as a substitute for other regulatory ordinances." Appellee's App. Vol. II p. 165 (emphasis added). Instead:

> As the primary means of implementing the Steuben County Comprehensive Plan, the **county will maintain and utilize its zoning ordinance, subdivision control ordinance, and other ordinances.** The County will also use department policies, budgets, intellectual and political resources, and private partnerships to influence the successful achievement of the Comprehensive Plan.

Id. (emphasis added). Even Rockwood admitted that the comprehensive plan is "an aspirational document, and not enforceable law in itself . . . ." Appellant's App. Vol. II p. 70.

[25] Here, evidence was submitted to the BZA that the condominium project was consistent with the Comprehensive Plan. As noted by the BZA, one of the goals of the Comprehensive Plan is to "provide housing opportunities for

[7] The *Borsuk* Court was, in turn, quoting 4 Kenneth H. Young, *Anderson's American Law of Zoning*, § 23.15 (4th ed. 1996).

people with different incomes, needs, capabilities, and desires." Appellant's App. Vol. II p. 104. Strebig testified at the BZA hearing that the condominium project will help achieve this goal by allowing those who have been "priced out" of single-family homes on the lake to purchase a condominium and have access to the lake. *Id*. at 60.

[26] The Comprehensive Plan also seeks to establish residential growth that does not have an "adverse effects on roads, public services, or the natural environment." Appellee's App. Vol. II p. 166. Strebig testified that the condominium project would reduce street traffic because the current use of the property—a marina—causes more traffic than the proposed condominium. The marina has twenty-six boat slips and a boat ramp. Removal of the dilapidated fuel containers at the marina will help protect local water quality, another goal of the Comprehensive Plan. *See id.* at 167. Strebig further noted that by replacing the hard surfaces currently on the marina with grass per the condominium proposal, rainwater runoff to the lake will be naturally filtered. By removing the rusted sheet-metal pilings and concrete walls of the marina and replacing them with a natural, glacial-stone seawall, the condominium project also furthers the goal in the Comprehensive Plan of maintaining the attractiveness and environment of the lake and waterways. *Id*. at 166.

[27] Strebig also explained that converting the Casey Property from commercial (a marina) to residential (the condominium) furthers the goal of the Comprehensive Plan to use lake property for residential and conservational purposes as set forth in the Future Land Use Map. *See id*. at 168. Strebig

further stated that the architectural design of the condominium project is consistent with the already-existing lake houses.

[28] Despite all of the evidence, Rockwell contends that the special exception must be denied because the Comprehensive Plan "*requires* that lake properties cannot diminish the viewshed for non-lakefront owners." Appellant's Br. pp. 17-18 (emphasis in original). The actual language of the Comprehensive Plan in this regard, however, provides:

> Frequently, older homes around the lake are being replaced with much larger houses that maximize the three-dimensional building envelope. These newer homes are changing the character around the lake. For this reason, the county will continue to refine and enforce its zoning regulations to assure that lake properties stay in character with the lake heritage and don't diminish viewsheds or quality-of-life for non-lakefront owners. Specifically, **we want to encourage planning, zoning and enforcement to minimize storage units and large garages in or near major thoroughfares or interfering with vistas in Lake Residential areas**.

Appellant's App. Vol. II p. 104 (emphasis added).

[29] The Comprehensive Plan does not forbid all projects that interfere with or diminish the viewshed of existing non-lakefront homes. Instead, the goals of the Comprehensive Plan, including those of not diminishing the viewshed of existing non-lakefront homes, are implemented through the local zoning ordinances. *See id*. ("For this reason, **the county will continue to refine and enforce its zoning regulations** to assure that lake properties stay in character

with the lake heritage and don't diminish viewsheds or quality-of-life for non-lakefront owners.") (emphasis added). Thus, the viewshed goals of the Comprehensive Plan are implemented through the local zoning ordinances. And, here, the condominium project meets all the requirements of the local zoning ordinances regarding building height and setbacks. Accordingly, we cannot say that the BZA erred by determining that the condominium project will not improperly diminish the viewshed of existing non-lakefront homes.

Conclusion

[30] The BZA's decision to grant the special exception was not arbitrary, capricious, or an abuse of discretion. The condominium project was not required to strictly abide by the well density requirements of the Steuben County Zoning Ordinance in order for the Board of Zoning Appeals to approve it as a special use exception. Furthermore, the BZA heard evidence that the condominium project is consistent with the character of the LR district and the Steuben County Comprehensive Plan. Accordingly, we affirm the trial court's decision to deny Rockwell's petition for judicial review.

[31] Affirmed.

Altice, C.J., and Brown, J., concur.