

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 14, 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: Henry Minneboo (D1); Ron Bartcher (D1); Lorraine Koss (Alt. D2) (present for and voted on H.3. - H. 14.); Ben Glover (D3) (present for and voted on H.1. - H.13.); Mark Wadsworth, Chair (D4); Liz Alward (D4); David Bassford (Alt. D5) (voted on H.1. - H.12, and H.14; abstained on H.13.); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Peter Martin, Planner II; George Ritchie, Planner III; Alex Esseesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Scott Minnick

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) with a BDP (Binding Development Plan). The property is 3.38 +/- acres, located on the west side of Dixie Way, approx. 500 ft. north of Wheeler Rd. (5170 Dixie Way, Mims) (Tax Account 2004518) (District 1)

Scott Minnick, 1968 Turpentine Road, Mims, stated the subject property is 167 feet wide and he is trying to get access to his lot behind it. He said he originally thought he could come in from Okaloosa, but when he applied for an easement it was denied, and then staff recommended he rezone from AU to RR-1. He noted the lot is nine inches too narrow to apply for a variance.

Public Comment

Jared Adkins, 3000 Sunset Avenue, Scottsmoor, stated he is not an immediate neighbor of the property; however, he is the President of the Scottsmoor Community Association and he is present to voice the concerns of the community. He said he spoke with Mr. Minnick's representative who explained the intent of the rezoning. Afterward he spoke to the community association and conveyed the stated intentions, and the community association unanimously opposed the rezoning, with some members of the association being immediate neighbors of the subject property and others who live in close proximity. The association is not against Mr. Minnick's intention as far as what he wants to build and how he intends to use the land, but what they are against is how it's being done, which is through a rezoning. He stated the community would support some other way into the property. He said the association does not want rezoning to RR-1 from AU, because of the potential ramifications of that rezoning. He noted if the property is rezoned, then sold to someone else, and the BDP changed, it would allow the potential for more homes to be built.

David Laney, 3800 Sam's Lane, Scottsmoor, stated the Mr. Minnick is not eligible for a rezoning because the situation he is attempting to remedy is of his own making. He stated the property does not meet the 150 feet of road frontage required for a 2.5-acre lot; instead, it only has 137 feet. He said it can be rezoned to RR-1 with a binding development plan and still be utilized for the same building consistent with the classification of other properties in the area, and that's fine, but what the ordinance is not intended for is to allow for a rezoning from a modification of an existing lot to receive a variance on that lot for the purpose of benefitting another piece of property.

Henry Minneboo asked if the property is landlocked. Mr. Minnick replied no, it's not landlocked.

Ron Bartcher asked if the 10-acre lot in question is adjacent to Wheeler Road. Mr. Minnick replied yes, but it has not been developed. He stated Okaloosa runs into Wheeler and there's already two homes that come off of that street, and that was his intended plan, but it was not allowed. Mr. Bartcher asked why Mr. Minnick did not want to use Wheeler Road as an access. Mr. Minnick replied, you have to cross Wheeler Road off of Okaloosa. Mr. Bartcher asked if Mr. Minnick's 10-acre property borders Wheeler Road. Mr. Minnick replied yes, it does.

Mr. Bartcher pointed out that getting access to that property from Wheeler Road would mean he doesn't need other access through the smaller lot. Mr. Minnick replied that is correct, if you came all the way from Dixie, but then that would mean a paved road or up-to-County-standard road, which would be very expensive when he could come down Okaloosa, which people already utilize.

Ben Glover asked if anything can be done on the parcel in its current configuration.

Peter Martin stated the subject property fronts Dixie Way and it meets all AU requirements in terms of lot dimensions and size; however, the applicant would like to access the abutting parcel to the west which would require a 25-foot flag stem for a flag lot. The applicant applied for an easement, but it was denied because it doesn't meet the requirements for an easement. The subject property is 159 feet wide. The required lot width for AU is 150 feet; if you take 25 feet away for a flag stem, it would make the lot substandard, but the RR-1 zoning only requires a lot width of 125 feet, which would allow enough room for a flag stem. He noted the BDP submitted with the application limits development to one lot.

Mr. Glover asked Mr. Minnick if his intention is just to provide access. Mr. Minnick replied yes, to the 10.5-acre parcel to the west. Mr. Glover asked what he plans to do with the 10 acres. Mr. Minnick replied he would like to build one home.

Mr. Glover stated he does not know how the board can tell him that he can't make a driveway on one of them when he owns both of them.

Liz Alward asked if there are any limitations to how many homes he can put on the 10 acres.

Jeffrey Ball explained that on a 10-acre piece of property, each of those lots zoned AU has to be 2.5 acres, which is four lots. Under the Subdivision Code, anything over three lots requires a minor subdivision that he would have to go through and each of the lots would be required to have access onto a County-maintained road. The other caveat is that there can only be two flag lots adjacent to each other, so he would be limited to two lots because of the flag stem. If there is another way of getting access to the rear, outside of a flag stem, through Wheeler Road or Todd Lane, but by land use and zoning he can have four lots on the 10-acre parcel.

Ms. Alward clarified for the public that the request is not increasing the density on the existing 10 acres by adding the flag stem. Mr. Ball noted that the 10-acre parcel is not part of the request.

John Hopengarten stated paragraph 4 in the BDP says density shall be limited to one unit per 2.5 acres, which means he could essentially put four houses on the 10 acres.

Mr. Ball explained that the BDP is on the subject property, not on the 10 acres to the west. The RR-1 zoning requires one acre. The BDP is written in a way to recognize Mr. Minnick's rights as far as the

Future Land Use designation of RES 1:2.5, and not the RR-1, which would allow for a one-acre lot. He is capped at one unit per 2.5 acres.

Mr. Bartcher stated he does not see a problem with the request because he is providing a binding development plan, which effectively keeps the zoning the same as the RES 1:2.5. He said his concern in that area is increasing the density, but the BDP keeps the density the same.

Motion by Ron Bartcher, seconded by Liz Alward, to approve the request for a change of zoning classification from AU to RR-1 with a BDP limited to one unit on 2.5 acres. The motion passed unanimously.