

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 15, 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: Board members present were: Henry Minneboo (D1); Brian Hodgson (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Mark Wadsworth, Chair (D4); Liz Alward (D4); Logan Luse (Alt. D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Melissa Wilbrandt, Associate Planner; Jane Hart, Planner III; Alex Essee, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Daren T. and Regina M. Dempsey

A change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential). The property is 1.41 acres, located on the east side of N. Tropical Trail, approx. 120 ft. north of Citrus Club Dr. (4850 N. Tropical Trail, Merritt Island) (22Z00033) (Tax Account 2318342) (District 2)

Jeffrey Ball stated the North Merritt Island Dependent Special District Board heard the request on August 11th and recommended the SR (Suburban Residential) zoning classification, citing density and lot size issues with the surrounding area. Also, part of the recommendation was that the Board of County Commissioners not take action on the request until there is a district 2 commissioner in office.

Regina Dempsey, 1385 Bishop Road, Merritt Island, stated the property is currently non-conforming, and RU-1-13 is the zoning that will assist in making it conforming.

Bruce Moia stated the property is non-conforming to the existing zoning of AU, and asked why Ms. Dempsey chose RU-1-13 when there are other zoning classifications that would qualify.

Ms. Dempsey replied the current house on the property is 1,359 square feet, and RU-1-13 is the classification that changes the non-conforming status.

Public comment.

Jeff Duncan, 4855 N. Tropical Trail, Merritt Island, stated the crux of his objection is that the zoning change being requested isn't going from the existing house to two houses, but up to five houses, per the RU-1-13. He said he would not object if they wanted to go to a zoning that would allow for one additional house, for a total of two houses on the property. He said he used the Brevard County zoning and Future Land Use web application site map to determine the actual zoning for each parcel of land in the area. On North Merritt Island, from S.R. 528 north to NASA Causeway, and S.R. 3 west to the Indian River, the only existence of RU-1-13 is the River Island Estates development, which is 2.3 miles away from the subject property. There are no standalone examples of RU-1-13 in the large section of Merritt Island, which demonstrates the unprecedented and out of character nature for the requested zoning change. He stated his second concern is that because district 2 doesn't currently have a county commissioner in office, he asks that the zoning request be put on hold until after the election and there is a district 2 commissioner in place.

Mary Gonzalez, 4990 N. Tropical Trail, Merritt Island, stated she is three properties north of the subject property. North Merritt Island is rural and has been rural, and almost everybody there has an acre or more, even the smallest subdivisions are .34-acre lots, but the requested zoning will allow five houses per acre. The Future Land Use Map is RES 4, but apparently it can be five houses per acre instead of four, but that is too dense, and even four houses per acre doesn't exist on North Merritt Island. She said RU-1-13 is inconsistent because it is too dense and not necessary because it could be zoned SR, which would allow for one house per half-acre with a minimum house size of 1,300 square feet. There has not been any other development in the area for the last three years, and there is also no development approved but not yet constructed in that time period.

Pam Felski, 361 Treasure Lagoon Lane, Merritt Island, stated she is opposed to the change of zoning classification as a 20+-year homeowner in the area. She said RU-1-13 is out of character with the existing neighborhood and area, and it would negatively impact the value of the adjacent AU properties that are there, as well as the EU-zoned properties across the street. The change to RU-1-13 is inconsistent with the historical land use patterns in the area and is incompatible with the surrounding area. She stated since the owner has stated her desire to have two residences on the 1.41-acre lot, a more appropriate change would be to the SR classification with a minimum lot size of a half-acre and a minimum living area of 1,300 square feet, which takes into account the current home at 1,359 square feet. She concluded, given the impact of what the decision would have in the area, it would be greatly appreciated if the request could be tabled until there is a district 2 commissioner.

Mr. Moia asked if Ms. Dempsey has a plan.

Ms. Dempsey replied she doesn't have a firm plan at this time, but she was considering maybe subdividing off and building a home next to the home already on the property. She said she doesn't want to demo the house in order to build two houses. She noted she is in the process of getting a building permit to move a shed to help with the conforming, and that is tabled until the rezoning is completed.

Mr. Moia noted there is no RU-1-13 zoning in the area. Ms. Dempsey replied there are townhomes being built within one mile.

Mr. Moia asked if Ms. Dempsey would want five houses on the property. Ms. Dempsey replied maybe in the future, but maybe not five, maybe three or four. She said she might just build one and leave the house that is there.

Robert Sullivan asked if Ms. Dempsey would be amenable to the SR zoning. Ms. Dempsey replied SR doesn't conform with the zoning.

Mr. Moia asked if she believes the SR would not conform. Ms. Dempsey replied she was told in the meeting that she would have to demo the other house and just build two houses.

Mr. Ball stated the minimum living area for SR is 1,300 square feet, so the existing house would be okay; however, there is a problem with the lot width, so if Ms. Dempsey wants to split the lot, the minimum size for an SR lot is 100 feet, and according to the survey it is 195 feet, so in order to split the lot she would need a variance. As of right now, the lot conforms to RU-1-13.

Ms. Dempsey asked if the current house on the property is in compliance.

Mr. Sullivan replied yes, it is in compliance. He stated the alternative that was recommended at the North Merritt Island meeting was SR, and asked Ms. Dempsey if she is amenable to that.

Mr. Moia stated SR means she would have to get a variance to build a second home, or agree to a BDP to limit the density to two units.

Ms. Dempsey stated there is a subdivision next to the property that has quarter-acre lots.

Liz Alward asked Ms. Dempsey when she bought the property. She said she is interested if she bought a piece of property with a non-conforming home on it without knowing what she's going to be doing with it. Typically, when someone makes that kind of an investment they have an idea how to get a return on the investment.

Mr. Wadsworth stated Ms. Dempsey purchased the property in March 2022.

Henry Minneboo stated whatever is approved, the board has to be careful because it will be opening the door for many issues. He said the request is not conducive to this particular area, and there will be a lot more people asking for the same thing.

Ms. Dempsey stated the house that is on the property was built in 1950 and she appreciates that house. She said she was considering, maybe in three or more years, putting another house on the property and just based on the square footage of the existing home she thought this is what was necessary to stop it from being non-conforming. She said at the end of her street 110 houses are being built, and around the corner multi-family is being built.

Motion by Robert Sullivan, seconded by Henry Minneboo, to recommend denial of a change of zoning classification from AU to RU-1-13. The motion passed unanimously.

Ms. Dempsey asked if she can agree to a BDP (Binding Development Plan) and split the lot for one more house, and keep the current house.

Mr. Moia stated she can propose a BDP at the County Commission meeting if she chooses.