

From: [Woodard, Patrick](#)
To: [Jones, Jennifer](#)
Cc: [Schmadeke, Adrienne](#); [Bellak, Christine](#)
Subject: FW: Land Usage Change Request - Curry Dell
Date: Wednesday, September 30, 2020 11:23:00 AM

Jennifer,

Here is another ex parte communication in agenda item H1 for tomorrow's meeting.

Regards,

Pat Woodard



Pat Woodard
Chief Legislative Aide to Commissioner Smith
Brevard County, District 4
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From: Robin Silvea <thesilvea5@gmail.com>
Sent: Wednesday, September 30, 2020 11:02 AM
To: Commissioner, D2 <D2.Commissioner@brevardfl.gov>
Cc: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: Re: Land Usage Change Request - Curry Dell

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Mr. Lober,

I am heartened to hear that the HOA attorney was able to meet with you yesterday and give you some background. I do, however, have a few follow-up questions pertaining to the rezoning itself, especially regarding your statement of legality.

First, does the developer and out-of-state property owner have more legal standing in a court of law to have their status changed and therefore can sue the county for lost revenue, than a collective group of homeowners does to have it *not* changed and therefore sue for their losses, specifically the major impact this will have over the next several years in lost property value and other hardships. Or is it just less likely.

If the property was the last remaining agricultural plat of land in close proximity, I could understand that the rights would swing in that direction. However, looking at Brevard County's own property appraiser website, there are numerous large acreage fruit farms still in existence from Pineda northward, including a large farm one parcel to the south. Knowing this, I don't understand why this particular property has more claim to EU status for monetary gain, than homeowners can claim it should remain agricultural for their own monetary protection.

Secondly, if the Board of Commissioners approves this status change and this proceeds to the site planning process, which is closed to the public, who will guarantee that the homeowner's concerns will be addressed. Will the board get a chance to review the plans? Will you personally commit to following up on this?

Again, thank you for your time.

Robin Silvea

On Sep 29, 2020, at 3:32 PM, Commissioner, D2 <D2.Commissioner@brevardfl.gov> wrote:

Ms. Silvea,

I met, in-person, for nearly two hours, yesterday with counsel for the HOA to the N of Curry Dell Ln and received an immense amount of background information from the perspective of the nearby residents he (albeit indirectly) represents by virtue of representing their HOA.

In short, I empathize with your concerns and while you raise some valid points, some of them may not lawfully be considered in deciding the rezoning application. Many apply to the site development process, not to the rezoning. Were I to ignore the factors I am entitled and required to consider in favor of those I am not, the County would likely be successfully sued, needlessly costing taxpayer funds and only delaying what eventually takes place.

I am set to speak, with their attorney's "blessing," with some of the property owners this afternoon about the rezoning application.

Please understand that I must largely disregard my personal feelings in considering the proposed rezoning. To be blunt, I do not realistically see any outcome in which the developer is not allowed to build **some number** of lots on that property. I would greatly prefer that number be far less than eleven and if there is an opportunity to limit the number of lots, I would be inclined to pursue it.

Based upon the factors I am entitled to consider and given that it is unquestionable that the proposed zoning is consistent with the area, the chance of the rezoning, itself, being shot down is low.

Again, though, many of the concerns you raised apply to site development and plan approval, not to the rezoning, itself. The rezoning being passed does not mean they may build whatever they would like to build. They must still go through the site development process as required under the County's Code. Without being able to access Curry Dell Ln, I don't see any readily apparent way in which they could get eleven lots in the space they have. Thus, they may get their rezoning and still be stuck with three or four homesites, not eleven as they'd apparently like to see.

Kind regards,

Bryan

cc: JG, D2

From: Robin Silvea <thesilvea5@gmail.com>

Sent: Tuesday, September 29, 2020 1:06 PM

To: Commissioner, D2 <D2.Commissioner@brevardfl.gov>

Cc: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>;

Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>

Subject: Land Usage Change Request - Curry Dell

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Morning Commissioner Lober,

I reside at 3800 S. Courtenay Parkway, adjacent to the property owned by Carmen Franzi, which is requesting a land status change from agricultural to estate use for the purposes of an 11-home subdivision (his preferred plan). I'm writing to express my opposition to the proposal, as it will not conform to the surrounding area's agricultural usage and large estate home use.

This narrow sliver of land is much different than what has been approved in the past, such as Georgianna Reserve or other neighborhoods off of S. Tropical Trail and Courtenay Parkway, in that it is not even wide enough to sustain a dedicated road for the 11-homesite plan the developer would prefer to propose. Clark Development first sought the approval from the HOA on Curry Dell Lane to use their existing roadway, and was denied. The HOA has been maintaining the private road for approximately 15 years and has had to hire an attorney to legally defend the right to their own roadway. Brevard County has also recognized Curry Dell Lane as privately owned by the HOA in their records as well.

Furthermore, the land does not have a barrier to other homes, natural or man-made that would lessen the impact to the surrounding homes. It is literally crammed in between a private access road on one side and estate homes on the other, creating I believe, a massive safety issue. The land is also unique in that it was not previously leveled and has many old and established live oak trees, buttonwoods and white mangroves, as well as emerging wetlands. As a lifelong resident of Brevard County, it is what all of South Merritt Island used to look like and is absolutely beautiful.

The developer's site plan proposals also directly contradict Brevard County's own ordinance regarding wetland restrictions.

Sec. 62-3694. of Permitted uses.

Residential land uses within wetlands shall be limited to not more than one dwelling unit per five acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five acres, as unbuildable. The preceding limitation of one dwelling unit per five acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than one and eight-tenths percent of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in section 65-3694(c)(6).

His plans would include building on a 2-acre lot east of Courtenay Parkway on the Banana River, which is deemed 100% wetlands. Because this plat was not subdivided prior to September 1988, and is not part of a five acre parcel, it is unbuildable even with mitigation. If he maintains the entire acreage as a whole, he will need to build on less intrusive land, on the west side of the street, where there is also substantial evidence of emergent wetlands. There are a lot of issues here.

We tried at the committee meeting hearing to discuss many of our concerns: access roads, traffic and school impacts, drainage, density of homes etc., but we were told that those were site plan issues. However, the site plan approval process is closed to the public. So, this is our only avenue to address our concerns. It is a massive catch-22.

I think there would be some sort of support for the homeowner to change status if this was for a single-family residence or even two or three estate homes, but not for an 11-home subdivision with minimal lot lines, setback issues and wetland concerns on the riverfront. I would only ask that if you feel that development is necessary, then please come to the site and view it for yourself. Or commit to limiting home density, having only large acreage estate use on the front end, as a contingency of approval - that the developer would have to come before you again and the public so that this process is not hidden from those most impacted.

Simply, the developer, who does not own the property, should not have more rights to request the status change than the tax-paying voters have to oppose it.

It was asked in the committee meeting, "What did people expect when they bought their homes?" They expected that the land usage would remain the same, agricultural, as it had been for many years. I implore you to advocate for your citizens and oppose this.

Thank you for your time and serious consideration,

Robin Silva