

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, October 8, 2020**, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Viera, Florida.

Board members present were: Mary Hillberg, Chair; Jack Ratterman, Vice Chair; Gina Lindhorst; Catherine Testa; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Approval of July 16, 2020, Minutes

Motion by Gina Lindhorst, seconded by Jack Ratterman, to approve the minutes from July 16, 2020. The motion passed unanimously.

St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)

A Small Scale Plan Amendment (20S.05) to change the Future Land Use designation from RES 1:2.5 to RES 1. The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00018) (Tax Account 2317060) (District 2)

St. Luke's Episcopal Church of Courtenay FL, Inc. (John Campbell)

A change of zoning classification from IN(L) (Institutional Use – Low Intensity) to RR-1 (Rural Residential). The property is 1.50 acres, located on the east side of N. Tropical Trail, approx. 257 ft. south of Church Road. (5500 & 5555 N. Tropical Trail, Merritt Island) (20Z00019) (Tax Account 2317060) (District 2)

Jeffrey Ball – It's my understanding that the applicant wishes to have a land use change for the pastor's residence because this property, in conjunction with the property on the west side of N. Tropical Trail, was used as a place of worship. For whatever reason, they are no longer in operation and they would like to sell off the pastor's residence, and in order to do that, the land use and zoning need to be changed.

John Campbell – I brought Cheryl Stremara with me, who is the church representative, and I've asked her to give a brief history of the church.

Cheryl Stremara – The church was formed as a mission in 1886, and our first church was built in 1988. We acquired the property that the rectory is on in 1911; our first full-time rector was appointed in 1962 and the rectory was built after that in order to provide him a home, as well as a private office and meeting spaces for Christian education and other types of meetings. Subsequently, we built a large fellowship hall that has an adjoining office area, so we no longer need the rectory for those functions. Our last rector left last year; he returned to England. We have a search committee to find a new part-time rector. We don't anticipate needing the rectory, but we won't sell it until we have that person on-board, just in case they might need it. We want to have all the pieces in place in case that's the decision.

Mary Hillberg – We're happy to hear that you're not closed.

Cheryl Stremara – We haven't folded, no. We're still alive and doing fine. It's just that the rectory is a 1960's home.

John Campbell – Cheryl has asked me to address the board for the technical stuff and the surveying. I've got some exhibits, and the first one is the GIS zoning map with the parcel outlined in yellow. The property to the south is government property; the property to the north, for the most part, is either SR with half-acre lots, or EU, which is even smaller; and also to the north is RR-1. There is a provision in the code that we can have a transitional zoning from the higher density requirements. We would like you to address first the density, which is currently one unit per two and a-half acres; our parcel is 1.5 acres, and there is no way we can make it larger. The church property is on the west side of the road. I have some other exhibits, but I think most of you are my neighbors and most of you know about our church. The important thing is that the deed to this piece of property, which is 1.5 acres, was transferred to the church 110 years ago, so we've existed before anything else in this area existed, and I think we can cut this really quick. We need your help, the church has surplus property because they no longer need the rectory, and that's the reason for this request. There is an existing single-family home on the property. The property is 1.5 acres; therefore, if RR-1 zoning is granted there is no way we can build two units. The house is over 50 years old and I would think that the life of that house has probably reached its maximum, and the land value is worth more than the home is. I've surveyed the property with the dimensions of the property. Also, Cheryl was able to get the deed, which is dated 1911; the deed itself is pretty hard to read, but I've transcribed as much of it as I could in order to do the survey. I'm here to ask for your help in first changing the Future Land Use to Residential 1, and then secondly, I would hope that you approve the zoning change. I notice we don't have any objectors here, and we have no objections from the North Merritt Island Homeowners Association. If you have any questions, myself or Cheryl would be happy to answer them.

Jack Ratterman – What is the little red square in the graveyard?

Cheryl Stremara – That is the Porcher mausoleum, and it was transferred to them in 1914.

Ted Balke – I have a question. Why can't the property be changed to GU rather than changing it to Residential 1 and violate the Tropical Trail Small Area Study?

John Campbell – The property can't be GU because I believe GU requires five acres.

Ted Balke – No, it does not. The house next to you is already GU, and all you have to do is comply with the County board, and that would let you have an acre and a half as one house, which is exactly what your north neighbor is, rather than change the small area study that took three and a half years and calls for the entire island to be converted over to 2.5 acres for a house, for development, and the North Tropical Trail study that is already in force.

Mary Hillberg – Ted, may I say that I think you mean the North Merritt Island area, not the whole Merritt Island.

Ted Balke – Both sides of Courtenay.

Mary Hillberg – On North Merritt Island.

Ted Balke – The east side, unfortunately, is Residential 1 and they're doing it as one house per acre, as opposed to one per 2.5. We wanted the whole thing to be one per 2.5, all of North Merritt Island, which was never put into effect, but the North Tropical Trail is in effect at one per 2.5.

Jeffrey Ball – The Future Land Use of 2.5 was recommended by the North Merritt Island Study several years ago, so this property does not meet that minimum 2.5 acres. That's the reason for the land use change, to allow for that property to be used as a single-family home, regardless of it being attached to a house of worship.

Ted Balke – But your codes indicate that you can change this to be a General Use property, and that will permit you with one house for that 1.5 acres and it will not violate the residential agreement.

Jeffrey Ball – Just so everyone understands, GU has a minimum lot size of five acres, regardless of what is existing out there; I don't know the certain circumstances of each of those lots, they may be considered nonconforming lots of record. This property has to meet the five acres and it does not. That's why before the board today is a land use change and a zoning change to bring the property into compliance. This house was used as a rectory with a church, and now it's the intent to separate those properties in the future, and when it's a stand-alone single-family home, there are different requirements that need to be adhered to.

Ted Balke – The property directly to the north, Lot 40, is GU, and according to your Section 62-1151, that property stands with one residence built on it and it is one and one-third of an acre.

Mary Hillberg – Isn't that a nonconforming lot?

Ted Balke – Yes, it is.

Jeffrey Ball – We would have to do the research to confirm that, but from the looks of it, it seems to be.

Ted Balke – The first handout he showed, the map, indicated that you can see that the house directly to the north on that smaller, even, piece of property is a GU.

Mary Hillberg – Are we allowed to change properties into nonconforming properties? Is it appropriate to change property when you're doing a zoning change, into something that is nonconforming?

Jeffrey Ball – No. The guiding principle is that when you change zoning, you remedy the nonconformity. We wouldn't want to change the zoning on a property that doesn't meet that zoning classification.

Mary Hillberg – That's why we wouldn't be going with GU then?

Jeffrey Ball – Correct.

Ted Balke – Not according to your codes 14-20.57 or 97-49.56, or 12-9.7. Those are all of the codes that permit you to make it a non-compliant, one-house property without changing it to Residential 1.

George Ritchie – In looking at the zoning, the GU zoning is a residential zoning, so that has to be consistent with the Comprehensive Plan (Comp Plan). If it was there before the Comp Plan was

initiated or reduced in size, it would be nonconforming to the Comprehensive Plan. The difference between Institutional zoning is that it is not a residential zoning, so there are zero residential units allowed on that property. Because it was used for a church, we allow the pastor to live on that property and it would not be seen as a residential use. What they are trying to do is divide the church from the residence and create that as a residential use. Institutional zoning by itself only needs to meet a 7,500 square-foot lot size, and they could have another Institutional activity, such as a group home or assisted living facility. There are other permitted uses that could be done under the current zoning on that property without a land use or zoning change, but if you want to make this a residential lot to sell to somebody to have a home, then we have to address the Comp Plan size limit because the lot is not grandfathered in for residential use. We have to fix the Comp Plan because the lot is not 2.5 acres, unless they want to convey property over to meet 2.5 acres, we're looking at the Comprehensive Plan amendment. Then, based on having 1.5 acres on that side of the street, we can apply for a one acre-plus zoning. AU zoning is 2.5 acres, but you don't meet the size requirement, so you would have to ask them to get variances to that zoning before they could apply for that zoning. You have the option, if you want to change the land use from one per 2.5 acres down to 1 acre, or do you just want them to change the zoning to something else that would be consistent. You're looking at what the applicant is requesting, and they need two submittals, one to increase the land use intensity from a 2.5-acre lot down to 1 acre, and then use a 1-acre zoning classification so that the house would be a legal permitted use on that property.

Mary Hillberg – And it would be compliant with all of our codes?

George Ritchie – Correct.

Mary Hillberg called for public comment, and hearing none, brought the item back to the board.

Mary Hillberg – The North Merritt Island Homeowners Association has submitted a comment I'll read into the record. "Regarding the rezoning requests 20Z00018 and 20Z00019 of John Campbell Surveying/St. Luke's Episcopal Church, the NMIHOA has no objections. Thank You." Does the applicant have any other comments?

John Campbell – No, I really don't. This is surplus property that needs to be disposed of and there is no other way to do it. If you don't grant our request we won't be able to use it. It is 1.5 acres, which is consistent with everything near it and around it.

Mary Hillberg – Is there a motion here?

Jack Ratterman – I'll make a motion that we accept their request for RR-1.

Jeffrey Ball – If I can just interject, we need to have two motions; one for the land use and one for the zoning.

Mary Hillberg – On the issue of zoning, you're making a motion to change it to RR-1.

Jack Ratterman – Right.

Mary Hillberg – Is there a second?

Catherine Testa – I'll second it.

Mary Hillberg called for a vote on the motion as stated and it passed 4:1, with Ted Balke voting nay.

Mary Hillberg – Next is the Comprehensive Plan amendment to change from Residential 1:2.5 to Residential 1.

Catherine Testa – I'll make a motion to accept.

Gina Lindhorst – Second.

Mary Hillberg – I have one thing for discussion in general for changing to RR-1. The properties on North Merritt Island are so vulnerable to high waters and flooding, and as much as we try to move the water in circles, it still is there. I would prefer that sewer be on this property, and there is no way this board has anything to say about that, but I know it's 865 feet away from the property, and now it's on septic, but for the record I'd like to say that.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Upon consensus, the meeting adjourned at 6:24 p.m.