

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 5, 2021**, 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: Ron Bartcher; Harry Carswell; Brian Hodgers; Bruce Moia; Mark Wadsworth, Chair; William Capote; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Michael J. and Annette Costello

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 5 acres, located on the west side of Appaloosa Boulevard, approximately 0.19 mile north of Percheron Drive. (2940 Appaloosa Boulevard, Melbourne) (21Z00005) (Tax Account 2700924) (District 5)

Annette Costello, 2940 Appaloosa Boulevard, Melbourne, [Ms. Costello distributed a handout to the board members. The handout can be found in file 21Z00003, located in the Planning and Development Department.]

Jeffrey Ball advised the board there were emails submitted to staff late Friday and yesterday, and there are also videos submitted by a neighbor for the board to watch when appropriate.

Ms. Costello stated there is a Code Enforcement issue on the property from a complaint filed by her neighbor, Karen Shepherd, for her lighted covered arena. She stated after several visits and adjustments from Code Enforcement Officer Steve Novack, she has been trying to get the lighting to where it is supposed to be which is .02 lumens; initially it was at .04 and after moving things around, it is now .02 at the property line, and the code states it has to be .02 at the property line to be compliant. She said she thought everything was resolved, but on December 20th she received a letter from Mr. Novack stating she had to fix the lighting and stop earning board. She said sent a certified letter back to Mr. Novack addressing those issues and that she was in compliance with the .02 lumens. She said she did not hear back from Mr. Novack until late March, and assumed there were no more issues.

Mark Wadsworth advised Ms. Costello that the board is to address the zoning request, not the Code Enforcement issues.

Ms. Costello stated Mr. Novack told her she was not zoned AU, but RR-1. She said they are still working with Mr. Novack and the neighbor because there is still confusion in the lighting of the arena, and they are ordering dimmer switches so the neighbors will be more comfortable. She stated in 1999 her daughter wanted to ride, so they bought a thoroughbred and boarded it at Wickham Park; in 2001 they bought their house at 2940 Appaloosa Boulevard and moved the horse there. In early 2002 they put in a dirt arena, 20 meters by 60 meters, and inside there were six telephone poles with two floodlights on each pole so their kids could ride in the evenings. In 2004, Wickham Park closed for the barn renovation project, and people started reaching out to her to board. She said she called Zoning to verify they could do that, and based on the address she gave, she was told they were already

zoned agriculture and it would not be a problem to do that, so they started boarding horses and have been boarding on and off since then. In 2011 a trainer came to her property to train, and he also had other students he would train; she never charged the trainer, as he was paid by the people he was training; he provided the service to his students. She said at that point she started charging for boarding because she was told she could do that. In 2012, Karen Shepherd moved in next door; the arena and all of the existing lighting were already there. In 2017, the United States Dressage Federation said if she provided a covered arena, they would provide training to train their trainers. She noted before doing that, she reached out to Karen Shepherd and told her what they were planning; she told Ms. Shepherd what they wanted to do and why they wanted to do it, and they offered to plant trees between the properties or blackout shades, and Ms. Shepherd declined all of it, and said she agreed it would be pretty. She pointed out that the training aspect never happened because the trainer accepted a job elsewhere. She said in hopes of getting a tax break, she called the County and was told there is an application for a tax status of agricultural, and she completed the form but did not submit the application. She stated the operation was going on, but they were not earning any money, except for the boarding because she thought they were agricultural. She said Ms. Shepherd filed a complaint with Code Enforcement and that's when Steve Novack started coming out, and that's when she learned they were never zoned AU, but were zoned RR-1. She said the only way she could charge for boarding was to apply to change the zoning.

Jeffrey Ball stated the request before the board is to change the zoning from RR-1 to AU. The board's responsibility is to evaluate that request based on compatibility and consistency with the Comprehensive Plan. There is a Code Enforcement action against the property owners, and those will have to be addressed in a separate manner outside of this request.

Mr. Wadsworth asked if a BDP would be out of the question for AU. Mr. Ball replied the AU zoning will address the concerns raised by Ms. Costello; RR-1 does not allow for a commercial agricultural business; however, AU will allow them to do that.

Public comment.

Karen Shepherd, 2890 Appaloosa Boulevard, Melbourne, stated she lives directly beside the arena. She said their house is close to the arena because that is where it fit on the property when they built it. She noted when they bought their property there was no arena or lights. The comment from Ms. Costello that she told her everything was okay with the covered arena, that is not what she asked; she said they wanted to do a New England-style roof over the arena so the horses wouldn't get hot; she said nothing about the trainers. She stated once the arena went up, the lights were commercial lights, similar to a gas station. She said she has concerns other than the lights, such as the noise of the operation and the hours of operation, which are often after 10:00 p.m. She said her concern of the property becoming agricultural is grave; there is not another farm that is doing something similar in the area. There are a lot of horses in the area, but they graze in pastures and the properties are not a commercial operation. She said she presented videos that show the brightness. She asked, if the zoning is changed and they sell the property what can future owners do on AU property. She stated the drainage off of the 4,000-ft. roofline drains into her yard. She said she tried three times to talk to the Costello's politely, and was told that she needs to move. She concluded by saying she is very much against the change in zoning.

[Two videos submitted by Ms. Shepherd were played for the board]

Kelly Campbell, 2880 Appaloosa Boulevard, Melbourne, stated she is in favor of the rezoning and thinks it would be beneficial to the horse community. She said the noise and activity is to be expected for a horse property and it is something she has seen at other horse properties. She noted she lives adjacent to the subject property, to the southwest.

Robert Brisbane, 2945 Appaloosa Boulevard, Melbourne, stated he lives directly across the street to the east, and he is in favor of the rezoning. He said he doesn't have the immediate proximity as the neighbor to the south, but as far as the lighting and noise, he doesn't notice it as being a problem.

Mr. Wadsworth stated AU allows a lot of different things, such as growing vegetables and selling them from the property, and asked if that is something in which Ms. Costello would be interested. Ms. Costello replied no, and stated she is only interested in the horse business, and nothing will change since what it has been since 1999 when they bought the property.

Mr. Wadsworth asked staff if the board should place a BDP on the property allowing only horse-related activities. Mr. Ball replied the board can limit the activity through a BDP to horse use only and accessory uses relating to horse stables and a riding arena, but it would be voluntary by the applicant to do so.

Mr. Wadsworth asked if Ms. Costello would be willing to limit the use of the property. Ms. Costello replied yes, because that is all they do now.

Ron Bartcher asked Ms. Costello how many horses she intends to have on the property. Ms. Costello replied with RR-1 zoning they can have 20 horses, but they only have six, and she doesn't expect, nor want, any more than six horses. Mr. Bartcher asked if the six horses are her horses. Ms. Costello replied yes. She stated she used to board until she found out she was in violation, and the whole intent for the rezoning is so she can board horses to defray the costs of upkeep on the property. Mr. Bartcher asked the maximum number of horses she would like to board, including her six horses. Ms. Costello replied there will be six horses total on the property, and she will get rid of her own six horses and board other horses, so the maximum number on the property will only be six.

Mr. Bartcher asked if that can be put in a BDP. Mr. Ball stated it could be added to the BDP along with the limit on the uses. Ms. Costello stated she doesn't have a problem with any of that.

Brian Rodgers stated the board heard a similar request in the somewhat general area recently, and in an effort to keep things consistent the board recommended a BDP that had more details, such as no meat packing, no breeding, et cetera; it was purely for personal use. This applicant is asking for something a little bit different, because there would be a business association to the fact that she'd be doing dressage, or training and so forth, but it sounds like she's not going to be doing any of that other related business that staff just mentioned.

Mr. Ball stated his understanding of the direction the board has given is that a BDP be recommended to limit the uses to horse-related uses, so it would pre-empt any meat processing or cultivation of any product other than having horses on the property.

Ms. Costello stated also no breeding.

Motion by William Capote to approve the change of classification from RR-1 to AU, with a BDP with the two stipulations.

Mr. Ball stated he would prefer that the motion include a BDP to limit the use to horse-related activities only and limit the number of horses to a maximum of six.

Motion by William Capote, seconded by Joe Buchanan, to approve the change of zoning classification from RR-1 to AU, with a BDP limiting the use on the property to horse-related activities only, and limiting the number of horses to a maximum of six. The motion passed 6:1, with Bruce Moia voting nay.

Bruce Moia stated one of the reasons he voted nay is because if there is going to be a commercial operation, there should be more stipulations, because it is a commercial use in a residential area, and he thinks there should be more stipulations.

Abby Jorandby stated if the board wants to re-open the hearing there needs to be a motion and a second to re-open it for consideration, but the BDP is voluntary by the applicant.

Mr. Wadsworth stated the lighting and drainage will be addressed by Code Enforcement. Ms. Jorandby replied it will be, but BDPs can also address the hours of operation or lighting, and that could be a recommendation of the board.