

Minutes Planning and Zoning Board / Local Planning Agency

3:00 PM

Call To Order 3:00 P.M.

Approval of Minutes - September 20, 2021

This agenda item was approved.

Result: APPROVED

Mover: Bruce Moia

Second: Peter Filiberto

H. Public Hearings

H.1. Rodney F. McConkey requests a change of zoning classification from GU to AU. (21Z00023) (Tax Accounts 2312740, 2312741, 2312742, 2312743) (District 1)

Rodney McConkey

A change of zoning classification from GU (General Use) to AU (Agricultural Residential). The property is 8.36 acres, located on the east side of Golfview Ave., approx. 500 ft. north of Port St. John Parkway. (No assigned address. In the Port St. John area.) (Tax Accounts 2312740, 2312741, 2312742, 2312743) (District 1)

Rodney McConkey, 2000 Cheney Highway, No. 103, Titusville, stated he would like to use the property for farming, as well as have farm animals, such as cows and horses. He would like to grow fruits and vegetables to sell at a roadside stand or to a co-op in Titusville.

Ron Bartcher asked if Mr. McConkey has any plans for growing commercial crops, packaging, or processing, the higher intensity commercial uses. Mr. McConkey replied no, not at all.

Liz Alward stated part of the agricultural zoning classification includes agritourism and asked Mr. McConkey if he plans on any kind of agritourism, such as barn weddings. Mr. McConkey replied he has not considered doing anything like that, he just wants a place to be able to grow fruit and vegetables and have animals. He said a wedding venue might be in future plans, but it is not in the cards right now.

Ms. Alward asked if Mr. McConkey would be willing to consider a stipulation that doesn't include agritourism at this time if the board were to consider approving AU. Mr. McConkey replied if necessary, but he doesn't think it's an issue. Ms. Alward stated at some point in the future if he considers doing agritourism, he could always come back to the board and request it. Mr. McConkey replied he has no problem with the stipulation.

No public comment.

Motion by Peter Filiberto, seconded by Liz Alward, to recommend approval the requested change of classification from GU to AU, with the stipulation that agritourism is prohibited. The motion passed 6:1, with Bruce Moia voting nay.

Bruce Moia stated he is opposed because the whole strip of land there is zoned AU and he doesn't see a need to restrict him over and above his neighbors.

Result: APPROVED WITH CONDITIONS

Mover: Peter Filiberto

Seconders: Liz Alward

- H.2.** Julia A. and James W. Garrison request a change of zoning classification from AU to RU-1-11. (21Z00024) (Tax Account 2419400) (District 2)

Julia A. and James W. Garrison

A change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential). The property is 0.24 acres, located approx. 365 ft. south of Lucas Rd., approx. 145 ft. east of Bevis Rd., on the north side of Bevis Rd. (21Z00024) (1048 Bevis Rd., Merritt Island) (Tax Account 2419400) (District 2)

John Campbell stated he is a registered land surveyor representing the applicants.

Julia Garrison stated she and her husband would like to build a two-bedroom residential home, but it currently does not meet the required lot size for AU, and she would like to rezone to RU-1-11.

Mr. Campbell explained the lot was created in 1965 when there wasn't much officiality in the County and people split up properties however they wished. There are five other properties in the surrounding area that are of the same size and the same general position of Ms. Garrison's. In addition, the homes in the surrounding area are compatible with what the Garrison's want to build. [Mr. Campbell displayed photos, survey, and floor plans to the board. The exhibits can be found in file 21Z00024, located in the Planning and Development Department]. He stated the lot is well drained and there are no wetlands on the property. Concurrency indicates the roads can handle the requested zoning classification and the City of Cocoa will provide water service.

No public comment

Mr. Campbell stated there is no sewer available, but the lot has every other utility and will hook up to City of Cocoa water.

Peter Filiberto asked staff for clarification on the gravity main near the property.

Jeffrey Ball stated it would be up to the utility provider to provide that service. If they decide to go with septic, they will need to get a permit from Environmental Health. If sewer is available, the applicants will have to hook up to sewer.

Liz Alward noted there are many small AU lots in the area that are rezoning to residential and she supports the request.

Motion by Bruce Moia, seconded by Peter Filiberto, to recommend approval of the change of classification from AU to RU-1-11. The motion passed was unanimously.

Result: APPROVED

Mover: Bruce Moia

Seconders: Peter Filiberto

- H.3.** Scott Minnick requests a change of zoning classification from AU to SR. (21Z00026) (Tax Account 3023195) (District 1)

Scott Minnick

A change of zoning classification from AU (Agricultural Residential) to SR (Suburban

Residential). The property is 0.50 acres, located on the west side of U.S. Highway 1, approx. 479 ft. north of Glenn Rd. (3074 U.S. Highway 1, Mims) (Tax Account 3023195) (District 1)

Anne Nelson, 2959 Finsterwell Drive, Titusville, stated she is the representative for Scott Minnick, who would like to build a single-family home on the half-acre lot.

No public comment.

Mark Wadsworth asked the size of the proposed home. Ms. Nelson replied it will be 1,400 square feet under air.

Ron Bartcher stated he believes the change is consistent and compatible.

Motion by Ron Bartcher, seconded by Brian Hodggers, to recommend approval of the change of classification from AU to SR. The motion passed unanimously.

Result: APPROVED

Mover: Ron Bartcher

Second: Brian Hodggers

H.4. Robert F. Erario and Jeremy Sothea Sun request a change of zoning classification from BU-1 and AU to all AU. (21Z00027) (Tax Account 2001826) (District 1)

Robert F. Erario and Jeremy Sothea Sun

A change of zoning classification from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all AU. The property is 7.24 acres, located on the west side of U.S. Highway 1, approx. 500 ft. south of Aurantia Rd. (4740 N. U.S. Highway 1, Mims) (Tax Account 2001826) (District 1)

Robert Erario, 4740 U.S. Highway 1, Mims, stated he would like to rezone back to AU. The property is a total of 7.25 acres; one acre is BU-1; and the remaining 6.25 acres is AU. He stated he would like to rezone all 7.25 acres to AU in order to have a wholesale plant nursery on the front, and to have farm animals in the future.

Patricia Frank, 3825 Aurantia Road, Mims, stated her property borders the subject property to the north.

Bruce Moia asked if her property was the AU lot that is the first lot going west from U.S. Highway 1, on the left.

Ms. Frank replied yes, the convenience store is on the corner and she has the surrounding property around the store. She said she and her neighbor have concerns because in March or April they were told there was going to be a wedding venue on the property and that Mr. Erario would be putting up a wall because their business zoning required him to put up a wall. She said the loophole is that they have intentions of doing a business and if it's changed to agricultural zoning, the Florida Statute uses the word 'ceremonial', which would allow weddings and ceremonies to take place, meaning loud music and alcohol, and possible drugs, with no fence, no border, and no wall. She said it would put her family and grandchildren at risk to people who might stray away. She said she would like to see a fence or a wall built to protect their families. The front lot is zoned BU-1 because the previous owners had a motorcycle shop; and before that, it was a bar. She said she has already been through the problems of loud music, fights, and police being called regularly. She stated if they want to do that, then they can put up a wall or a fence like they originally told her they would. She further stated that the

previous owner built a building within three feet of her property line, and you can't walk around the building without stepping on her property.

Mark Wadsworth stated during permitting, they will have to meet setbacks.

Ms. Frank stated a wall or a fence is her only request.

Mr. Erario stated he wants to put up a fence because Ms. Frank's property is overgrown with vines and poison ivy that is coming onto his property. He said there are not any buildings within three feet of her property line; he was granted a variance last month and the building is 12 - 14 feet from her property line.

Mr. Wadsworth asked if Mr. Erario would be opposed to a BDP to build a wall. Mr. Erario replied he would be willing to put up a vinyl fence, but not a concrete wall.

Jeffrey Ball stated he would ask the board to be specific on the criteria for a fence or wall as far as height, location, and material, because staff will need to be able to enforce them.

Ron Bartcher asked if Mr. Erario is planning on having a wedding venue on the property. Mr. Erario replied no, he does not have any current plans for a wedding venue. Mr. Bartcher noted if there were to be a wedding venue, it looks like there are a couple of buildings on the property, and asked if those could be used, or would they have to be refurbished to be used as a wedding venue. Mr. Erario replied they are not; he lives in the house; one building is a garage; and the other building is a laundry room.

Liz Alward asked if Mr. Erario has any plans for agritourism at this time for the property. Mr. Erario replied no. Ms. Alward asked if Mr. Erario would be amenable to taking agritourism off the table and just do bona fide agritourism. Mr. Erario replied he would not want to agree to that because he doesn't want to be singled out. He stated he wants to go back to the original zoning, which is AU.

Ms. Alward stated to her, AU is compatible but agritourism is not, considering the surrounding land uses and properties. She said she is inclined not to support it, especially since the applicant doesn't have any plans to do agritourism at this time.

Peter Filiberto asked Mr. Erario how long he has owned the property. Mr. Erario replied three years. Mr. Filiberto noted it looks like in 2019 or 2020 he dug a pond that was nonconforming. Mr. Erario replied he did not dig a pond, it was just a holding water spot and he moved a little bit of dirt, and it was only one foot deep.

Mr. Filiberto stated there was also unpermitted land clearing activities that may have potential wetland impacts. Mr. Erario noted he was cleared on all of that. Mr. Filiberto stated there is scrub jay occupancy on the property. Mr. Erario responded it was part of a scrub jay area, but no scrub jays were found.

Mr. Filiberto stated he agrees with Ms. Alward. If Mr. Erario agreed to restrict agritourism he would support the request. He noted he could always come back and apply for it again.

Mr. Bartcher asked staff, if the applicant decided he wanted to do a wedding venue, is that something that would be permitted in AU.

Mr. Ball replied yes, the agritourism umbrella is very broad from the State, and the concern is that when you allow AU zoning, that is a use that can happen within that zoning classification.

Bruce Moia asked, if the applicant was to propose a wedding venue, would he have to go through the site plan process and meet all of the county's codes. Mr. Ball replied yes.

Mr. Moia stated there is agricultural zoning to the north and south; they both have the right to do whatever agricultural allows; the applicant is down-zoning from BU-1 to AU, and he doesn't see the problem. The board would be saying he can't do it, but his neighbors to the north and south could.

Motion by Bruce Moia, seconded by Brian Hodgers, to recommend approval of the change of classification from BU-1 and AU to all AU. The motion passed 5:2, with Liz Alward and Peter Filiberto voting nay.

Result: APPROVED

Mover: Bruce Moia

Seconded: Brian Hodgers

Public Comment

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>