

MINUTES
LAKE COUNTY ZONING BOARD
May 6, 2009

The Lake County Zoning Board met on Wednesday, May 6, 2009 in the Commission Chambers on the second floor of the County Administration Building to consider petitions for a rezoning and a conditional use permit.

The recommendations of the Lake County Zoning Board will be transmitted to the Board of County Commissioners for their public hearing to be held on Tuesday, May 26, 2009 at 9:00 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Egor Emery	District 4
Paul Bryan, Chairman	District 5
Mark Wells	At-Large Representative
Larry Metz	School Board Representative

Staff Present:

Brian Sheahan, AICP, Planning Director, Planning and Community Design Division
Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Karen Block, Senior Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ann Corson, Office Associate IV, Planning and Community Design Division
Ross Pluta, Engineer III, Engineering Division
Tracy Millhorn, Code Enforcement Officer, Code Enforcement Division
Melanie Marsh, Deputy County Attorney

Chairman Bryan called the meeting to order at 9 a.m. He led in the Pledge of Allegiance and gave the invocation. He noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor and that this meeting had been noticed pursuant to the Sunshine Statute.

Chairman Bryan stated that speaker cards have been received for PH#02-09-5, Paul & Sandra Baker/Kim Ducharme; therefore, this case will be removed from the consent agenda and placed on the regular agenda. He explained the process when hearing cases on the regular agenda.

Chairman Bryan stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case. These exhibits will be on file in the Planning and Community Design Division. Anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room.

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Minutes

MOTION by Timothy Morris, SECONDED by Scott Blankenship to approve the April 1, 2009 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Wells, Metz

AGAINST: None

MOTION CARRIED: 7-0

CASE NO.:

CUP#09/5/2-5

AGENDA NO.: 1

OWNERS/APPLICANTS:

Winston and Carolyn Braswell

Steve Greene, AICP, Chief Planner, presented the case and staff recommendation of approval. He showed the aerial from the final package on the screen. He noted that staff has received one letter of support regarding this activity. This request is similar in nature to mining and quarrying uses with the exception that Mr. Braswell is not extracting any minerals or materials from his property. As such, it is not a full-fledged mining activity. The stockpiling of dirt and materials is no more obnoxious or detrimental than mining or quarrying. To illustrate the effect on adjacent properties, Mr. Greene submitted seven pictures of the area as County Exhibit A and showed them on the screen. During the site visit, Mr. Greene said staff noticed that there was no landscaping or fencing, as indicated in the pictures. To date, there have been no letters of opposition received. With specific conditions and enforcement, staff felt that any adverse impacts on adjacent properties could be reduced. Conditions proposed include limits on the stockpiling height and timeframes for installation of fencing and landscaping. The applicant, Mr. Braswell, has indicated his willingness to minimize any adverse impacts by installing a privacy fence along the perimeter. With regard to public facilities, Public Works has required driveway aprons. The Department of Health commented that as long as the activity remains a family-owned activity and not fully commercialized, the on-site well and septic system would be adequate. Fire services are available about seven miles from the property. Mr. Greene stated that a representative from the Code Enforcement Division was present to answer any questions.

Referring to the original ordinance, Ordinance No. 2001-72, Page 2, Section 2C regarding buffering and screening, Larry Metz asked if that condition had been met. From what staff observed, Mr. Greene said it appeared that the applicants had not complied with that requirement. Mr. Metz then referred to Section 3A of the Ordinance regarding the consequences if the conditions are not met.

Chairman Bryan questioned what staff would do to ensure that the conditions would be enforced if this new ordinance was approved. Mr. Greene replied that there is a notice from the Code Enforcement Division in the staff report. In addition, a Code Enforcement official is present to answer that question.

Winston Braswell submitted three new letters of support as well as the letter of support from Mary Gerding that was previously submitted as Applicant Exhibit A. He explained that at the time of the first ordinance request, a County Commissioner had come out to look at the property. Neither that Commissioner nor Mr. Braswell felt that buffering “would do any good.”

Timothy Morris said he was sitting on this Board and heard this case when it was originally heard in 2001. The fencing and the buffering were probably the “make or break” of the ordinance. He voted for it at that time. The problem he has now is that Mr. Braswell has chosen not to do what the ordinance required him to do because he did not feel he needed to. He questioned whether Mr. Braswell will meet the requirements of this new ordinance. When Mr. Braswell pointed out that the neighbors have no problem with his operation, Mr. Morris reiterated that Mr. Braswell has not complied with the requirements of the ordinance. When Mr. Morris asked the timeframe when the buffering and fencing will be added to the property, Mr. Braswell said it would be done as soon as the economy improves and he can afford it. Mr. Morris said there had been a neighbor who complained at the public hearing in 2001. Mr. Braswell said he apologized for that in the letter.

Chairman Bryan confirmed with Mr. Braswell that he will comply with this new ordinance. Chairman Bryan added that there was some discussion at the Board of County Commissioners (BCC) public hearing in 2001 regarding the need for the buffering. The BCC did vote to include a buffering requirement.

Mr. Braswell said he paid an inspection fee every year, the property was inspected, and he was told that the property was fine. Now he is being told that he is in violation. Chairman Bryan acknowledged that the inspections were paid for and completed, and Mr. Braswell thought he was in compliance.

CASE NO.: CUP#09/5/2-5 **AGENDA NO.:** 1
OWNERS/APPLICANTS: Winston and Carolyn Braswell **PAGE NO.:** 2

MOTION by Egor Emery, SECONDED by Timothy Morris to recommend denial of the request for renewal of a Conditional Use Permit (CUP) to continue the stockpiling of materials (dirt, gravel, fill, sand, bricks, etc.) and the storage of related equipment on Agriculture-zoned property in CUP#09/5/2-5.

Mr. Emery reiterated that the conditions were discussed extensively at the BCC public hearing so Mr. Braswell was aware of the requirements. Mr. Emery felt landscaping is needed to be a good neighbor.

Chairman Bryan referred to the letters of support from the neighbors and reiterated that Mr. Braswell did pay an annual inspection fee and was not found in violation. Chairman Bryan said he could not support denial of this request.

Scott Blankenship agreed. He could not support a denial, but he would hope that Code Enforcement would be more diligent this time in following up on the ordinance. He would like to see Mr. Braswell continue with his business since he said he will comply with this new ordinance.

Mr. Metz reiterated that Mr. Braswell knew at the time of the first approval what he had to do. He decided not to do that. Mr. Metz said he has a big problem with that. Regarding the annual inspections in which Mr. Braswell was not told that he was in violation, this allowed him to have this CUP for five years even though he was not in compliance due to incompetence on the part of staff. However, he should not be allowed to rely on the incompetence of staff to get five more years. The countervailing consideration is the letters of support from the neighbors as well as the long-standing nature of the use and that it is Mr. Braswell's livelihood. He did not feel bad behavior should be rewarded, but he could support a one-year continuation. Mr. Braswell would then be required to come back and show the Board that he deserves the additional four years.

If enforced, Chairman Bryan said the CUP ordinance provides for a CUP to be shut down if it is not in compliance.

FOR: Morris, Gardner, Emery, Metz

AGAINST: Blankenship, Wells, Bryan,

MOTION CARRIED: 4-3

Chairman Bryan stated that this Zoning Board is a recommending body; the case will be heard by the BCC on May 26, 2009.

CASE NO.: PH#02-09-5

AGENDA NO.: 2

OWNERS: Paul & Sandra Baker
APPLICANT: Kim Ducharme

Karen Block, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the final package on the monitor.

When Egor Emery asked what was located on the parcel to the south and west, someone from the audience said it was the Mid-Florida Lakes spray field.

In response to James Gardner, Ms. Block said there is no limitation in the Land Development Regulations (LDRs) as far as the number of horses that can be pastured on the property as long as they are for residential and personal use.

Velva Greene said she was asked to speak for several other people. She submitted a petition of opposition as Opposition Exhibit A. At the request of Mr. Gardner, she pointed out on the aerial the area where the people who signed the petition live. In a letter submitted by one of the owners, Ms. Greene said Sandra Baker spoke of the need for rezoning due to financial reasons as far as trying to sell the property and medical bills. Ms. Greene stated that many of the residents in the area face those same problems. If this property is rezoned to R-1 to allow horses, it will also allow cows, chickens, pigs, and other animals that are considered non-exotic. This is a residential area. There is no place in the area to ride horses. She was also concerned about odor. Many people will be affected by this rezoning.

Mr. Emery pointed out that under the current zoning on the property, it could be developed with 35 new homes. Chairman Bryan said that probably only 20 to 25 houses could be constructed. Ms. Greene said she understood that.

Lynne Salce said she bought her property on Shelly Drive in 1998 and moved to this area in 2000. She said the residents in this area take pride in their property. She said she comes from a farm family and is aware of odor and flies that come as a result of farm animals on a property.

Kim Ducharme, real estate agent for the property, said that many of the inquiries about the property are from people who want horses. The neighbors should not be able to see one or two horses on six acres. A neighbor down the street has chickens, which are not allowed in their zoning district. She spoke of Misty Meadows, a horse farm in the area; there are also other horse farms in the area.

Mr. Emery commented that it is unusual to downzone a property to make it more saleable. Ms. Ducharme said she feels this requested zoning will make the property easier to sell.

Chairman Bryan said he is looking at this request as a land use issue, not a horse issue or a market issue. He said he may not agree that this rezoning will make the property more saleable, but he can support the rezoning as a land use issue.

Mr. Emery said he lives on a parcel similar to the subject property, and he is a fan of a nice buffer. He could understand someone wanting to put one house on this property with no animals. He could not see a reason to object to allowing fewer houses on a piece of property in Lake County.

Larry Metz felt there was a compatibility issue with this request because the surrounding area is comprised of single-family residences. He questioned the practice of rezoning a property so someone could sell it, allowing animals on a piece of property that has never had animals before, and creating a situation which would be to the detriment of the neighbors who are already living there. Chairman Bryan said it is not uncommon for someone to request a rezoning change to enhance the value of their property and make it more marketable. However, it is usually to a higher density, professional, or commercial.

CASE NO.: PH#02-09-5

AGENDA NO.: 2

OWNERS: Paul & Sandra Baker

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APPLICANT: Kim Ducharme

MOTION by Egor Emery, SECONDED by Mark Wells to recommend approval of a request to rezone 5.8 acres from Urban Residential District (R-6) to Rural Residential (R-1) due to the owners' desire to allow non-intensive agricultural uses in PH#02-09-5.

FOR: Blankenship, Emery, Bryan, Wells

AGAINST: Morris, Gardner, Metz

MOTION CARRIED: 4-3

Chairman Bryan stated that this is a recommending body only, and the Board of County Commissioners will be hearing these cases on May 26, 2009 when a final determination will be made.

Discussion

Brian Sheahan, AICP, Planning Director, explained that County has a staff position (commercial landscape inspector) whose sole responsibility is to ensure compliance with Conditional Use Permits and site plans. That position has been filled and has been very successful in ensuring compliance.

Mr. Sheahan said he has had two requests for stand-alone e-mail addresses to receive correspondence relating to zoning cases. To accomplish that and to ensure compliance with the Sunshine law, the County can set up an e-mail address for each of the Zoning Board members by seat number. Those e-mail addresses would be public record. All e-mails to those addresses would go to the Public Hearing Coordinator. The Public Hearing Coordinator would then put each e-mail into the appropriate case file folder, forward the e-mail to each member's personal e-mail, and make a hard copy to be provided the day of the public hearing if it is not in the Zoning Board booklet sent to the members. It was the consensus of the Board that this would be an acceptable option.

Mr. Sheahan added that there will be a workshop on the proposed comprehensive plan before the Board of County Commissioners (BCC) on May 7, 2009. Departmental staff, under the direction of the BCC, has provided comment on the proposed plan, as recommended by the Land Planning Agency (LPA).

Egor Emery stated that he will not be in attendance at the June Zoning Board public hearing.

Adjournment

There being no further business, the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman