

MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
November 28, 2018

The Lake County Planning and Zoning Board met on Wednesday, November 28, 2018, in County Commission Chambers on the second floor of the Lake County Administration Building to consider petitions for rezoning requests.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, December 18, 2018 at 9:00 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Laura Jones Smith, Chairman	District 2
Lawrence "Larry" King	District 3
Rick Gonzalez	District 4
Sandy Gamble, Vice-Chairman	School Board Representative
Kasey Kesselring	At-Large Representative

Members Not Present:

Kathryn McKeeby, Secretary	District 1
Jeff Myers	District 5
Donald Heaton	Ex-Officio Non-Voting Military

Staff Present:

Tim McClendon, Director of the Office of Planning & Zoning
Steve Greene, AICP, Chief Planner, Office of Planning & Zoning
Michele Janiszewski, Chief Planner, Office of Planning & Zoning
Shelby Eldridge, Planner, Office of Planning & Zoning
Donna Bohrer, Office Associate, Office of Planning & Zoning
Debi Dyer, Office Associate III, Office of Planning & Zoning
Matthew Moats, Assistant County Attorney
Kathleen Bregel, Deputy Clerk, Board Support

Chairman Laura Jones Smith called the meeting to order at 9:00 a.m., noted that a quorum was present, and led the Pledge of Allegiance.

AGENDA UPDATES

Mr. Steve Greene, Chief Planner, Office of Planning and Zoning, stated that there were no changes to the agenda; however, he had received a late request from the applicant to postpone Tab 2.

MOTION by Sandy Gamble, SECONDED by Kasey Kesselring to POSTPONE Tab 2 to the January 8, 2019 Lake County Planning and Zoning Board Meeting.

REGULAR AGENDA

Tab 5 - 2018-XX - Bulk Standard Revisions for Nonconforming Lots

Mr. Greene stated that Tab 5 pertained to a Land Development Regulations (LDRs) revision regarding bulk standard revisions for nonconforming lots.

Ms. Michele Janiszewski, Chief Planner, Office of Planning & Zoning, stated that Tab 5 was in regards to amending some provisions regarding impervious surface ratio (ISR) for conforming and nonconforming lots. She relayed that in the year 2013, an ordinance was adopted stating that nonconforming lots have to adhere to the ISR of their zoning district or future land use (FLU) category, whichever is more stringent. She remarked that this ordinance made many properties nonconforming and unable to build additions even though they had been previously approved for a higher ISR. She conveyed that the language being suggested for chapter one of the nonconforming uses in the Lake County Code LDR was being changed back to how it read previously. She indicated that language would also be carried over to the nonconforming lots in regards to setbacks. She mentioned that currently in the Lake County Code, if an agriculture lot had two acres, then it only had a five foot setback whereas an agriculture residential zoning district would have a ten foot setback. She noted that this change would make it more conforming with the other lots.

Mr. King asked if a resident wanted to use porous concrete on their property, would that affect the ISR.

Ms. Janiszewski replied that the definition of impervious surface included semi-pervious surfaces so it would still count as an impervious surface.

Dr. Kesselring asked for clarification on this.

Ms. Janiszewski added that pervious concrete is considered a semi-pervious surface since it is not 100% pervious; therefore, it would still be credited towards ISR calculations as an impervious surface since the definition of impervious surface includes semi-pervious surfaces.

Dr. Kesselring asked if owners would get credit for putting in pervious concrete and Ms. Janiszewski replied they would not with the current regulations.

Ms. Jones Smith stated that if it was a commercial property that was going to pave the entire parking lot with pervious concrete, it may help with stormwater but not with impervious coverage.

MOTION by Rick Gonzalez, SECONDED by Sandy Gamble to APPROVE Tab 5, Bulk Standard Revisions for Nonconforming Lots.

FOR: Jones Smith, Gamble, King, Gonzalez, and Kesselring

AGAINST: None

MOTION CARRIED: 5-0

Tab 6 - RZ-18-18-4 - Windy Ridge Subdivision Rezoning

Mr. Greene stated that Tab 6, rezoning case RZ-18-18-4, Windy Ridge Subdivision Rezoning, was located east of the City of Eustis along Apiary Road, was about 65 acres, and was platted in the early 2000s. He said that this subdivision was currently zoned Medium Residential (R-3) and that the applicant wanted to rezone it to a Planned Unit Development (PUD) since the current R-3 zoning limited the amount of impervious surface area to 35% on the particular lots within the platted subdivision. He mentioned that the developer, builder and individual lot owners wanted to increase the ISR so they could be allowed to expand their homes and facilitate the installation of pools and other accessory structures, noting that the current R-3 ISR of 35% limited the ability to do that. He relayed that staff made an attempt to rectify this situation with the previous amendment regarding nonconforming lots which was just adopted by the Planning and Zoning Board. He summarized that this PUD sought to rezone the R-3 Windy Ridge Subdivision to a PUD, with the exception to not include the following lots: two, three, four, five, six, seven, nine, ten, eleven, fifty-five, seventy-two, seventy-five, seventy-six, seventy-seven, eighty-one, eighty-four, ninety, one hundred thirteen, and one hundred sixteen. He indicated that the property owners of those lots chose not to support the request. He stated that staff did an evaluation of this request and found the rezoning request to change from R-3 to PUD mostly consistent with the LDRs and the Comprehensive Plan (Comp Plan), with the exception in regard to the justification being put forth for the request. He relayed that when the property was platted in 2004, the property owner did not envision a development that would have conflicting ISRs within the subdivision. He remarked that this rezoning request was somewhat in conflict with the public interest and was not in harmony with the general intent and purpose of Comp Plan Policy I-1.1.1 which covers planning and land development utilizing innovative planning techniques that foster the development of quality and compatible communities. He said that the establishment of this PUD zoning over certain lots within the subdivision would result in inconsistent and incompatible development within the platted subdivision since some lots would develop with 60% ISR and others with 35% ISR. He mentioned that this imbalanced and incompatible development would likely and adversely affect the residential quality of the subdivision as it was envisioned when it was platted. He indicated that based on this finding, staff recommended denial of the PUD rezoning request.

Mr. Gonzalez remarked that in section D of the standards for review for this case within the Board's packet that it said that the proposed PUD was consistent with all elements of the

Comp Plan; however, Mr. Greene just added the word “mostly” in his presentation. He then asked if the staff analysis was performed by one staff person or multiple staff.

Mr. Greene replied that it was done by Lake County Planning and Zoning staff and was not one person.

Mr. Gonzalez inquired how the proposed PUD rezoning could be consistent with all elements of the Comp Plan and yet conflict with the public interest and not be in harmony with the purpose and general intent of the Comp Plan.

Mr. Greene remarked that was a good point and said that staff made a slight oversight there as it was not in harmony with the general intent of the innovative planning practices as he had indicated. He commented that in regard to the Urban Low FLU category where the property was located, the platted subdivision was consistent with the densities of that land use category. He said that the change in ISR, with the exclusion of the specified lots, would then cause an incompatible development within an existing platted subdivision and that was what staff sought to identify. He summarized that the first sentence in section D was a misstatement because if this request was approved, it would result in an incompatible subdivision that conflicts from lot to lot.

Ms. Jones Smith asked if all of the lots had agreed to the PUD zoning, would staff have a different recommendation and Mr. Greene replied yes.

Mr. Gonzalez asked if there was opposition expressed by any of the lot owners.

Mr. Greene replied the lots he identified in his presentation did not want to be included and noted that this PUD did not include those lots.

Mr. Gonzalez remarked that those lots chose not to be involved but inquired if they actually showed opposition.

Mr. Greene responded that staff requested that the Homeowners Association (HOA) conduct a community meeting to obtain buy-in by those residents and these particular lots did not convey that buy-in. He relayed that staff assumed they did express opposition otherwise they would have supported the change.

Mr. Gonzalez asked how this was harmful to the public.

Mr. Greene replied that in a general sense, it would force the residents who were building within the HOA to create buffers since the LDRs in the landscape code require landscape buffers between conflicting zoning districts. He commented that one of the items staff identified was that PUD to R-3 zoning would require a 15 foot landscape buffer, which would be harmful to the public interest of those that reside within the subdivision.

Mr. Sandy Gamble asked why that information was not included in the presentation and why

the owners were not asking for that to be eliminated.

Mr. Greene relayed that it was mentioned to the owners but was not something that was offered and he noted that the applicant was present in the meeting to possibly answer that question.

Mr. Gonzalez asked for clarification that if this was approved, there would need to be a 15 foot buffer between each of these lots and the rest of the lots.

Mr. Greene replied that within the land development code, there were landscape requirements for developing PUDs and one of those would require a buffer. He added that this was a unique circumstance and that staff would probably have to apply it and then see how applicable and appropriate it would be. He relayed that the LDRs did not have an option to forgo this requirement except for a possible waiver for every individual lot.

Ms. Jones Smith added that they then would be creating their own hardship and Mr. Greene remarked that was correct and that staff would probably not support that.

Mr. Gonzalez opined that he did not agree that this would cause harm since it was a finished subdivision with streets and platted lots.

Ms. Jones Smith indicated that she would not want this if she was one of the lot owners wanting to be excluded, noting that changing the ISR from 35% to 60% was a large difference and would allow owners to build larger driveways, pool decks, etc. She opined this would be harmful to neighbors. She added that typically PUDs are zoned this way prior to being built and not after they have been built; additionally, she remarked that items such as open space, green space, and playgrounds are normally added to compensate for the larger impervious surface coverage. She opined that this request would allow individuals to build more on their lots than what the lots were originally designed to accommodate.

Mr. Gonzalez remarked that the Board had just voted for an ordinance that allows this and Ms. Jones Smith commented that the ordinance just approved was for lots that were nonconforming and that the lots in this subdivision conformed to their current zoning, which Mr. Greene confirmed was correct.

Mr. Charles Hiott, Professional Engineer with BESH, Inc. and representing the applicant, commented that he was against the denial; however, since Tab 5 was approved, he would support whatever recommendation the Planning and Zoning Board submitted to the Board of County Commissioners. He stated that the FLU for this area for low density was 60% ISR and that the zoning was 35% ISR which represented a conflict between zoning and the FLU. He implied that in the private sector, it had been conveyed that the Comp Plan superseded the zoning. He relayed that when this request first began, the choice was to either have about 170 variances or to change to a PUD. He summarized that their goal was to attempt to be consistent with the product that the homebuilder was wanting to build.

Ms. Jones Smith asked how many homes were already built in this subdivision.

Mr. Hiott replied approximately 25 with most of them being the lots that did not want to participate with the PUD.

Ms. Jones Smith clarified that the homes already built did not want to participate and that the applicant was seeking to change the lots not built.

Mr. Hiott confirmed this was correct and shared that one of the supporting arguments to the residents was that if they desired to build a pool or shed, they would not be able to because they were maxed out at the current ISR. He reiterated that he disagreed with the denial; however, he would support whatever decision the Board made, especially since Tab 5 was approved.

Mr. Gamble asked what the average age of the homeowners in this subdivision was and Mr. Hiott replied they were probably in their early 40's.

Mr. Gonzalez reiterated his disagreement with the staff's recommendation for denial.

Ms. Jones Smith relayed that she did support staff's recommendation for denial. She explained that subdivisions are laid out based on a zoning standard which does not just address individual lots and how much they can build, but also everything associated with the subdivision, including stormwater, recreation, etc. She said that subdivisions are designed so that all of those factors are taken care of in the design process. She said that the PUD zoning is typically requested prior to that in order to obtain higher ISRs by clustering lots and achieving greater open space and by building smaller, more clustered lots so that it all balances out. She opined that it was a more complex issue to apply it after a subdivision had already been platted and designed. She relayed that based on this, she would not be supporting this rezoning.

MOTION by Rick Gonzalez, SECONDED by Larry King to APPROVE Tab 6, rezoning case RZ-18-18-4, Windy Ridge Subdivision Rezoning.

FOR: Gamble, King, Gonzalez, and Kesselring

AGAINST: Jones Smith

MOTION CARRIED: 4-1

OTHER BUSINESS

Ms. Jones Smith presented the 2019 Planning and Zoning Board meeting calendar and asked if any Board members had conflicts with any of the dates. She asked if the Board needed to vote to approve the calendar and Mr. Matthew Moats, Assistant County Attorney, reported that they voted for approval last year but that a vote was not necessary.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:30 a.m.

Respectfully submitted,



Kathleen Bregel
Deputy Clerk, Board Support



Laura Jones Smith
Chairman