

Board of County Commission

Agenda Request

Date of Meeting: February 3, 2009

Date Submitted: January 16, 2009

To: Honorable Chairman and Members of the Board

From: Benjamin H. Pingree, County Administrator
Lindsay Stevens, Assistant County Administrator
Somerset Strickland, Assistant Planner

Subject: Application for Variance V08-04
Jerome & Carina Todd, Owners

Statement of Issue:

This agenda item provides the Board with an Application for Wetland Setback Variance on a residential lot located within the River Plantation Estates Subdivision.

Background:

This application requests a wetland setback variance to construct a 2,882 square foot single family homesite within the required 75' wetland setback. This property is a 2.19+/- acre parcel located on the west side of River Plantation Road (Attachment #1).

Technical Review Committee (TRC):

On February 21, 2008, the application was reviewed and the owner was notified that they would be required to submit an Application for Conditional Use for the proposed dock and boardwalk along with the applicable permits from the Army Corp of Engineers and the Florida Department of Environmental Protection. These items were submitted by the Applicants. On January 15, 2009, the request was reviewed a second time by the Technical Review Committee. No additional items were required.

Analysis:

Comprehensive Plan:

The Future Land Use Map (FLUM) designation for the property is Rural 2. Rural 2 allows for residential density of 1 dwelling unit per 2 acres of land, with connection to central water service. In areas where central water service is not available, the allowable residential density is 1 dwelling unit per 5 acres of land (Attachment #2).

Land Development Code:

The current zoning district for the property is RR-1. This zoning district allows for the construction of single family site built homes and mobile homes. The RR-1 zoning district allows for a density of 1 dwelling unit per acre of land (Attachment #3).

It should also be noted, pursuant to Chapter 32 of the *Wakulla County Code* (a.k.a. the Wetlands Ordinance) "*The Board of County Commissioners can grant a variance for the reasonable use of the property in extraordinary circumstances by means of a supermajority (four (4) out of five (5)) vote.*"

Site Conditions: The FEMA flood zone designation for the property is zone "A". Zone "A" is an area of the 100-year flood area, in which the property owner has a one percent chance of experiencing a flood in any given year. Currently, the site is vacant (Attachment #4). Jurisdictional wetlands exist on the Subject Property and a wetland delineation has been provided.

Water and sanitary sewer service is provided by a private utility.

Adjacent Parcels: Abutting parcels are also zoned RR-1, which allow for the same density and permissible uses as discussed above (Attachment #5).

Compatibility: This property's current RR-1 zoning is inconsistent with the Rural 2 FLUM land use requirements. This is likely due to the subdivision being platted in 1985, which was prior to the Comprehensive Plan's adoption by the Board in 1995.

Public Notification: This request has been noticed and advertised in accordance with the provisions of the Wakulla County Land Development Code. The Planning Department also posted appropriate signage on the property indicating the variance request. The Wakulla County Code does not require written notice to adjacent property owners for requests of this type. To date, the Planning Department has not received any written responses to the notice.

The advertisement for this public hearing appeared in the Wakulla News on January 1, 2009 (Attachment #6).

Additional Issues: It should be noted that the River Plantation Estates Homeowners Association's Covenant Restrictions are very stringent regarding setback requirements within the Subdivision. Although these restrictions do not address a buffer requirement from the wetlands, they do contain a setback requirement of 60' from the front property line, 30' from the side property lines and 10' from the rear property line.

Pursuant to *Section 5-27* of the *Wakulla County Code*, the required setbacks for the Subject Property are 25' from the front property line, 15' from the rear property line and 8' from the side property line. Additionally, the County Comprehensive Plan requires that all construction meet the 75' setback from all wetland areas.

The proposal meets the setback requirements of the Wakulla County Code with the exception of the wetland setback. Due to the location of wetlands on the Subject Property, the owner will not be able to meet the setbacks required by the Homeowners Association in addition to the 75' wetland setback.

The proposed plan also provides for a 35' setback from the wetlands to the proposed single-family dwelling, with a 12' encroachment for a back deck, thus providing a 23' setback from the proposed deck to the wetland boundary (Attachment #7). Other similar variances, recently approved by the Board have depicted wetland setbacks as minimal as 15' from the delineated wetland line.

It should be noted that the Property Owners are also applying for an Application for Conditional Use to construct a dock and boardwalk to access the Wakulla River, pursuant to Chapter 32 of the *Wakulla County Code*. This request is scheduled to be heard at a Public Hearing by the Planning Commission on February 9, 2009.

Options:

1. Conduct the final public hearing and approve the Application for Variance V08-04, based upon the findings of fact and conclusions of law made by the Board and any evidence submitted at the Hearing hereon.
2. Conduct the final public hearing and approve with conditions, the Application for Variance V08-04, based upon the recommendation by the Planning Department and the findings of fact and conclusions of law made by the Board and any evidence submitted at the Hearing hereon.
3. Conduct the final public hearing and deny the Application for Variance V08-04, based on the findings of fact and conclusions of law made by the Board and any evidence submitted at the Hearing hereon.
4. Board Direction.

Recommendation:

- Option #2. Staff recommends approval of the Application for Variance V08-04, with conditions. The proposed site plan meets the standard setbacks for the RR-1 zoning district. The proposal meets the requirements of the Wakulla County Code and the Comprehensive

Plan, with the exception of meeting the buffer requirements for wetlands. Staff recommends the following conditions be placed upon approval:

- The variance will expire two (2) years from the date of approval.
- A plan for protecting the wetlands during construction activities must be submitted and approved during the Development Permit Application (DPA) process. For example, silt fencing and hay bales.
- Utilizing the Best Management Practices for protection of wetlands on the Subject Property.

Attachment(s):

1. Location Map
2. FLUE Policy 1.2.4
3. Section 5-27, LDC
4. Site Photos
5. Tax and Zoning Maps
6. Advertisement
7. Site Plan
8. Application

[LS/ss]