

Board of County Commissioners

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
Greg Kostis, Planner I

Subject: Application to Change Zoning R08-18
(Frank & Carolyn Deweese/Michael & Jaime Baze, owners)

Statement of Issue:

This item requests review of an application to the Planning and Community Development Department for Change of Zoning Application R08-18. The Subject Property consists of 5.41 +/- acres comprised of two separately deeded tracts.

Background:

This application requests a zoning change from the existing AG zoning district to an RR-2 zoning district. The Subject Property contains a total of 5.41 +/- acres with separate owners. Michael and Jaime Baze own 1.73 +/- acres of the Subject Property, and Frank and Carolyn Deweese own the remaining 3.68 +/- acres of the Subject Property. The Subject Property is located on Aaron Strickland Road (Attachment #1).

The parent-tract of 5.41 acres +/- has been divided into two non-conforming lots which do not meet the size requirements of the Land Development Code or the Comprehensive Plan, and has been sold by Warranty Deed to both sets of applicants. One of the applicants, Mr. Frank Deweese, has requested to place an accessory structure on the Subject Property. However, the applicant was denied a Development Permit Application due to the status of the lot. The lots, which have been separated by deed, both lack the necessary acreage required by the Comprehensive Plan and the existing Land Development Code (zoning) designations.

Technical Review Committee:

On December 18, 2008, the application was reviewed by the Technical Review Committee. Following the meeting, the applicant provided a list of adjacent land owners within 500 feet obtained from the Property Appraiser's office, copies of the certified mail receipts to adjacent property owners, and payment for the rezoning application. These items were submitted by the required deadline, including certified mail receipts to 16 adjacent property owners. The certified mail-outs were sent on January 5, 2009.

Planning Commission: During the January 12, 2009 Planning Commission Meeting, the Planning Commission reviewed application R08-18. Following an introduction of the application, public comment, and Commission discussion, the Commission held a vote to recommend approval of the application. The vote to recommend approval failed to pass, with 3 in favor and 5 opposed.

Analysis:

Comprehensive Plan: The current Future Land-Use designation for the Subject Property is Rural-2. The Rural-2 land-use is described in Section 1.2.4 of the Comprehensive Plan. Section 1.2.4 of the Comprehensive Plan states that residential development may be permitted at densities up to one (1) unit per two (2) acres with central water service or one (1) dwelling unit per five (5) acres without. The Subject Property is not connected to a central water system, and currently is sharing a private well which is located on the neighboring parcel owned by Frank Dewese (Attachment #2).

Land Development Code: As determined by the Wakulla County zoning map, the Subject Property possesses a zoning designation of AG (Agriculture). As set forth in the Wakulla County Land Development Code Section 5-25, the AG zoning district allows for the construction of single family, site-built homes and mobile homes. For residential purposes, the AG zoning district allows for a density of (1) dwelling unit per five acres. Additionally, the AG zoning district allows for hunting, fishing, livestock, forestry, and horticulture services.

The Subject Property is requesting a rezoning to the RR-2 zoning district. Section 5-34 of the Land Development Code describes the RR-2 (rural residential district). The RR-2 allows a density of 1 unit per 2 acres as stated in the Land Development Code (Attachment #3).

Site Conditions: The FEMA flood zone designation for the property is zone "C". Zone "C" is considered as an area located outside of the 100 year floodplain.

Currently, there are two dwellings located on the Subject Property. Both of the dwellings are currently sharing a common private well located on the property owned by Frank & Carolyn Dewese. Both home sites also utilize private septic systems.

- Adjacent Parcels:** Generally, the majority of surrounding/abutting properties lay in the AG zoning district. There is property within close vicinity to the Subject Property zoned RR-1 and RR-2. All of these properties lay within the Rural-2 land-use district (Attachment #4).
- Compatibility:** This application is requesting a rezoning that would allow a residential density of 1 unit per 2 acres. Currently, the Subject Property's zoning district allows 1 unit per 5 acres. The Subject Property's Future Land Use designation is Rural-2. The Rural-2 Land use requires 5 acres per unit in areas that are not connected to central water. However, the Rural-2 Land Use designation does allow a higher density of 1 unit per 2 acres, if a parcel is connected to central water service. The Subject Property is not currently connected to central water. This application is requesting approval for a zoning district that allows a higher density than allowed by the Future Land Use designation of the Subject Property. If the Application for Rezoning (R08-18) is approved, the Subject Property will still not meet the density requirements required by the Comprehensive Plan.
- Public Notification:** This request has been noticed and advertised in accordance with the provisions of the Wakulla County Land Development Code, including Certified Mail notifications to adjacent property owners. Currently, the Planning Department has not received any written responses regarding this application. However, the Planning Department has received verbal concern regarding the application from neighboring property owners. The advertisement for this public hearing was posted in the December 24, 2008 edition of the Wakulla News (Attachment #5). The Planning Department has also received concerns from adjacent property owners regarding the amount of time the certified mail notices have given them to prepare for the hearings.
- Additional Issues:** The original owners of the Subject Property entered into a Family Enclave Agreement with Wakulla County in December of 2003. The agreement allowed a mobile home to be placed on the site without the division of said land for the time-span of one year. The mobile home was never removed after the termination of the Family Enclave Agreement, and the property has been divided by the previous owners, by deed, into lots smaller than allowed by the Comprehensive Plan and the Land Development Code (Attachment #6).

This application is being submitted in conjunction with an application for a variance. Since the smaller of the two tracts only contains 1.73 +/- acres, the approval of the rezoning will also require the approval of a variance for the smaller of the two tracts. The variance, if granted, would allow a 1.73 +/- acre tract within a zoning district requiring a 2 acre minimum.

Lastly, the Future Land Use Map (FLUM) designation of Rural-2 requires at least 5 acres without connection to central water. Currently, the Subject Property is not connected to central water. If the Subject Property was to connect to central water then the density would increase to 1 unit per 2 acres. However, the smaller of the two tracts of the Subject Property would still fall slightly short of the minimum 2 acre size allowed by the Comprehensive Plan.

NOTE: The applicant Jaime Baze has submitted a letter from Donnie Sparkman, which states that during his time as Director of Planning and Zoning he did sign a Subdivision Determination Letter approving the division of the Subject Property into two tracts (Attachment #7). Staff was unable to locate evidence of this Subdivision Determination Letter in any of the Planning Department's files, records, or data entries.

Options:

1. Conduct the second of two public hearings and approve the Application for Change of Zoning R08-18 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 second of two public hearings and deny the Application for Change of Zoning R08-18 based upon the Planning Department's recommendation, the Planning Commission's recommendation, and the findings of fact and conclusions of law made by the Board and any evidence submitted at the hearing hereon.
3. Board Direction

Recommendation:

Option #2. Staff recommends denial of Change of Zoning application R08-18. This recommendation is based upon the applications inconsistency with the density allowed by the Rural-2 Future Land Use designation contained in the Comprehensive Plan. The 1.73 acre lot does not meet the minimum 2 acre requirement by the Rural-2 Future Land Use designation.

Note: Should the Board desire to offer the Applicants relief, it could approve V08-29, based upon the fact that the County had previously taken action by approving the family enclave, and additional density on the Subject Property. The structures already exist on the properties, and no additional densities would be created by this approval. The 1.73 acre non-conforming lot size could be considered a de minimus deviation from the Comprehensive Plan density requirement. However, if the Board does approve Application R08-18, it should condition this approval upon connection to central water service to ensure compliance with the Comprehensive Plan to the maximum extent possible.

Attachments:

1. Boundary Surveys and Deeds
2. Section 1.2.4 of the Comprehensive Plan
3. Section 5-25 of the Land Development Code
4. Zoning Map
5. Public Notice
6. Copy of Family Enclave Agreement
7. Letter from Donnie Sparkman