

# 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 of Request for Variance V08-29  
(Michael & Jaime Baze, owners)

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### **Statement of Issue:**

This item requests review of a Request for Variance which is related to Change of Zoning application R08-18. The Subject Property is part of 5.41 +/- acres comprised of two separately deeded tracts.

### **Background:**

This application requests a variance to allow a 1.73 +/- acre tract in conjunction with the requested change of zoning from the existing AG zoning district to an RR-2 zoning district, which allows a minimum of 2 acres. The Subject Property contains 5.41 +/- acres with separate owners. Michael and Jaime Baze own 1.73 +/- acres of the Subject Property which requires the variance, and Frank and Carolyn Dewese own the remaining 3.68 +/- acres of the Subject Property. The Subject Property is located on Aaron Strickland Road.

The parent-tract of 5.41 +/- acres has been divided into two non-conforming lots by the previous owner and has been sold by Warranty Deed to the applicants. The pair of non-conforming lots both lack the necessary acreage required by the Comprehensive Plan and the Land Development Code. This application is for a variance to the 2 acre minimum requirement that would be allowed by the requested rezoning (R08-18) (Attachment #1).

**Technical Review Committee:** On December 18, 2008 the application was reviewed by the Technical Review Committee. Following the meeting, the applicant provided the necessary information to complete the application, and allow review by the respective boards.

**Planning Commission:** During the January 12, 2009 Planning Commission meeting, the Planning Commission reviewed application V08-29 which ran in conjunction with application R08-18. Following an introduction of the application, public comment, and Commission discussion, the Commission held a vote to recommend approval. 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 central water. 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 Deweese (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 variance to the size requirements of the RR-2 zoning district. Section 5-34 of the Land Development Code describes the RR-2 (rural residential) district. The RR-2 zoning district 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 Deweese. 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:** 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. The Subject Property is not

connected to central water. This application is requesting approval for a variance to a zoning district that allows a higher density than allowed by the Future Land Use designation of the Subject Property. If the Request for Variance V08-29 is approved, the Subject Property will still not meet the density requirements required by the Comprehensive Plan, since it is less than the minimum 2 acre parcel size, even if this parcel were to hook up to a central water system.

**Public Notification:**

This request has been noticed and advertised in accordance with the provisions of the Wakulla County Land Development Code. The Planning Department has not received any written responses regarding this application. However, there has been verbal inquiry and concerns relayed to staff from neighboring property owners in regards to this application, and the limited amount of time available to respond to the matter. The advertisement for this public hearing was posted in the December 24, 2008 edition of the Wakulla News (Attachment #5).

**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 owner, by deed, into lots smaller than allowed by the Comprehensive Plan and the Land Development Code (Attachment #6).

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 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 of Request for Variance V08-29 to the Board 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 of Request for Variance V08-29 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 the Board of County Commissioners deny the Request for Variance application V08-29. This recommendation is based on the inconsistency the approval of this application would have with the density allowed by the proposed RR-2 zoning district related application (R08-18), and the density allowed by the Comprehensive Plan.

**Note:**

Should the Board desire to offer the Applicants relief, it could recommend approval of 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 approves the 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
8. Application