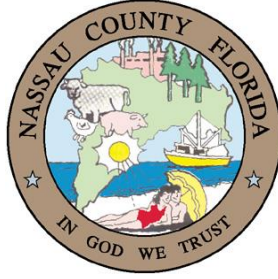


Nassau County
Planning and Economic Opportunity
Department
96161 Nassau Place
Yulee, FL 32097
(904) 530-6300



BOARD MEMBERS
Jeff Gray (Chairman)
Gene Bennett
John Stack
Thomas Ford
Bruce Jasinsky
Patricia C. Quaile
Charles Rogers
Jimmy L. Higginbotham
Scott Murray
Wayne Arnold

Date of Hearing: September 5, 2017

Public Hearing Number: R17-005

A. General Information

Applicant: Mollie M. Garrett

Owner: G & H Land and Timber Investments, LLC

Request: Rezoning of approximately 4.06 acres from Commercial General (CG) to Open Rural (OR)

Applicable Regulations: Articles 5, 16 and 22 of the *Land Development Code (LDC)* (Ord.99-17, as amended); Policies, and of the *2030 Nassau County Comprehensive Plan*

Related Application: CPA17-004 (Small-Scale Future Land Use Map amendment from COM to AGR)

B. Site Information

Lot Size: 4.06 acres

Location: On the west side of Highway US1 between Mickler Street and Pickett Street, tax parcel # 49-2N-25-4100-0011-0100

Directions: Head south on US1 from Callahan to the intersection of Pickett Street. Property is in the northwest quadrant of the intersection.

C. Existing Land Uses

Subject Site: Vacant Land (commercial)

Surrounding: North: Vacant Land
South: Residential (Single Family)
East: Residential (Single Family)
West: Residential (Mobile Home)

D. Existing Zoning

Subject Site: Commercial General (CG)

Surrounding: North: Open Rural (OR)
South: Open Rural (OR)
East: Open Rural (OR)
Commercial General (CG)
West: Open Rural (OR)

E. FLUM Designation

Subject Site: Commercial (COM)

Surrounding: North: Commercial (COM)
South: Commercial (COM)
East: Medium Density Residential (MDR)
West: Medium Density Residential (MDR)

F. Background

The proposed rezoning comprises a portion of one parcel of 4.06 acres. The 6.0+ acre parcel has approximately 600 feet of frontage on US 1. It is currently zoned Commercial General (CG). The site is bisected north to south by a creek that effectively isolates the rear 4.0+ acres of the property, making it unsuitable for commercial development.

The purpose of the proposed rezoning from Commercial General (CG) to Open Rural (OR) is to rezone this portion of the property to match the existing OR zoning districts surrounding the property and allow for the development of the site with two large lots (2.0+ acres) compatible with surrounding residential development.

G. Analysis

1. *Is the proposed change contrary to the established land use pattern?*

No. Most of the property surrounding this site is occupied by single-family homes on large lots with rural and agricultural uses common in the Open Rural (OR) zoning district. The Land Development Code has provisions for buffering of residential properties from commercial properties. New commercial development

on the portion of this that remains zoned CG on the subject property will be required to meet these buffers.

2. *Would the proposed change create an isolated district unrelated to adjacent and nearby districts?*

No. No. there is a substantial amount of property zoned Open Rural (OR) immediately adjacent to the north, south, east and west of the subject property.

3. *Would the proposed change materially alter the population density pattern and thereby overload public facilities such as schools, utilities, streets, etc.?*

No. The requested OR zoning district would allow single family residential uses on lots at least one (1) acre in area with a minimum lot width of 100 feet. No more than two dwelling units could be constructed on this property. This represents a minimal increase in density. It would not alter the population density pattern and would have minimal impact on public facilities.

4. *Are existing district boundaries illogically drawn in relation to existing conditions on the property proposed for change?*

No. However, a majority of properties in the surrounding area are currently zoned Open Rural (OR).

5. *Is the proposed change contrary to the long-range land use plans?*

No. The proposed rezoning would be compliance with the underlying Future Land Use Map if the companion FLUM amendment, CPA17-004, is approved, changing the designation of this property from Commercial (COM) to Agriculture (AGR) (see staff report for CPA17-004).

6. *Do changed or changing conditions make the approval of the proposed zoning desirable?*

Yes. The larger parcel is bisected north to south by a creek that effectively isolates the rear 4.0+ acres of the property. This would make unified commercial development of the whole parcel very difficult. Re-zoning the subject property (i.e. the rear of the property) to conform with the residential character of surrounding property is desirable.

7. *Will the proposed change adversely influence living conditions in the neighborhood?*

No. The proposed rezoning of the property to OR is appropriate considering the preponderance of OR zoning districts surrounding the property. And its ability to

be developed for residential uses at a density compatible with the surrounding area. However, the OR district does permit a variety of agricultural, horticultural and forestry uses and can allow for many conditional uses that may prove incompatible with residential development (see LDC Sec. 22.01-03) Such uses should only be considered pursuant to the County's site planning and review standards (see LDC Sec. 5.07) and, if necessary, review by the Conditional Use and Variance Board (CUVB) to ensure that proposed uses are compatible with nearby residential uses (see LDC Sec. 5.03-04).

8. *Will the proposed change create or excessively increase traffic congestion or otherwise affect public safety?*

No. It is unlikely that the proposed Open Rural (OR) district will allow uses that will increase traffic impacts beyond that of the intensive commercial uses permitted in the current CG zoning district.

Future development on the site will be subject to fees assessed as part of the County's adopted Mobility Plan (see Ord. 2014-16). Funds collected through the mobility fee will be applied to prioritized transportation improvement projects in an area that has a rational relationship to the location of the development. Traffic operational issues that may be created by the new development will also need to be resolved at the developer's expense if required by Engineering Services.

9. *Will the proposed change create drainage problems?*

No. All future development will be required to meet all drainage standards as imposed by the Nassau County Roadway and Drainage Standards and the SJRWMD criteria.

10. *Will the proposed change be a deterrent to the improvement or development of adjacent property in accordance with existing regulations?*

No. However, the OR district does permit a variety of agricultural, horticultural and forestry uses and can allow for many conditional uses that may prove incompatible with residential development (see LDC Sec. 22.01-03) Such uses should only be considered pursuant to the County's site planning and review standards (see LDC Sec. 5.07) and, if necessary, review by the Conditional Use and Variance Board (CUVB) to ensure that proposed uses are compatible with nearby residential uses (see LDC Sec. 5.03-04). If found to be compatible, the change would not be a deterrent to the improvement or development of adjacent property.

11. *Will the proposed change affect property values in the adjacent area?*

The value of adjacent properties should not be adversely affected. As stated above, pursuant to adequate site planning and review by the County and review of any conditional uses by the CUVB, the uses allowed on this property should be compatible with nearby rural and residential uses.

12. *Will the proposed change constitute a grant of special privilege to an individual owner as contrasted with the public welfare?*

No. The proposed OR district will be in keeping with the character of this area. The change does not grant a special privilege as contrasted with the public welfare.

13. *Are there substantial reasons why the property cannot be used in accord with existing zoning?*

Yes. The larger parcel is bisected north to south by a creek that effectively isolates the rear 4.0+ acres of the property. This would make unified commercial development of the whole parcel very difficult.

14. *Are there other sites in this general location already zoned to permit the proposed use?*

Yes. Open Rural (OR) districts can be found in close proximity and adjacent to the site to the north, south, east and west.

15. *Is the width and area of the parcel sought to be rezoned adequate to accommodate the proposed use?*

Yes. The subject property's dimensions exceed the minimum lot requirements for residential uses permitted in the OR zoning district.

H. Staff Findings

1. The proposed rezoning would be compliance with Policy FL.01.02(A) and the underlying Future Land Use Map (FLUM) if the companion FLUM amendment, CPA17-004, is approved, changing the designation of this property from Commercial (COM) to Agriculture (AGR) (see staff report for CPA17-004)
2. The proposed rezoning application is compliant with the requirements of Sec. 5.02 of the County's Land Development Code, and meets the analysis criteria described in Part F. (1-15) of this report above.
3. The proposed rezoning application is compliant with the intent, locational and dimensional standards for the Open Rural (OR) zoning district found in Article 22 of the County's Land Development Code.
4. Future uses on the subject property and on the portion of this parcel that remains zoned CG will be required to provide adequate screening and buffering from any surrounding incompatible uses as a part of the site plan review process per Sec. 5.07 of the County's Land Development Code.

QUASI-JUDICIAL HEARING PROCEDURES

Florida Statutes and the Courts of Florida require that your rezoning application be heard as a Quasi-Judicial Hearing.

A Quasi-Judicial Hearing, by state and case law, is different than a regular hearing conducted by this Board. A Quasi-Judicial Hearing is less formal than a court hearing but similar in procedures and evidence issues.

In a Quasi-Judicial Hearing, the applicant has the burden of demonstrating by competent substantial evidence that his/her rezoning request meets requirements of the County Zoning Code, Comprehensive Plan and other applicable regulations.

The applicant is entitled to be represented by counsel.

The only material or relevant evidence is that which addresses the applicable codes and/or Comprehensive Plan. The hearing procedures will be:

1. Staff will be sworn and shall describe the applicant's request, provide staff's recommendation and present any witnesses in support of staff's recommendation. Staff shall have fifteen (15) minutes.
2. The applicant and others presenting evidence will be sworn and shall state their name, address and subject to which they will testify. The applicant or its agent/attorney may elect to waive their presentation and to rely on the application, recommendation, and staff comments, reserving the right to address the Board if any evidence is presented against the application. Evidence presented must specifically address the criteria in the Zoning Ordinance and or Comprehensive Plan. The applicant, or his/her attorney/representative, will have an opportunity to present evidence for the application and will have fifteen (15) minutes for its presentation. If the applicant has witnesses, the applicant will indicate the name of each witness and the subject to be addressed. The applicant's witnesses will each have five (5) minutes. The applicant may also call the Zoning Official or other staff member who are present as a witness and ask them questions. Again, the time limit for questions is five (5) minutes.
3. Those who present evidence against the application will be sworn in and will be provided five (5) minutes each to present evidence and witnesses that address the criteria. If a group opposes the application, they may also be represented by counsel and shall state that now. They may also call the applicant, Zoning Official or other staff members that are present as witnesses and ask them questions, subject to the five minute time limit. Anyone presenting repetitious evidence or evidence that does not address the criteria will be directed to stop and address the criteria.
4. The applicant or its attorney may then cross examine those presenting evidence against, subject to control by the chair and county attorney. Cross-examination shall be five (5) minutes for each witness.
5. Sharing or transferring time is not allowed. Persons presenting evidence will address the Board, at the podium, and if there are documents or photos they must be presented when the particular individual is testifying. No documents will be returned, as they become a part of the record. Cross examination, if any, will be to the point and controlled by the chairman with the assistance of the county attorney. As a Quasi-Judicial Hearing, numbers of individuals for or against a particular item will not be considered. The meeting is being taped; therefore there can be no applause or outbursts.

6. The Office of the County Attorney represents the Board and provides advice to the Board including advice as to the procedures and the admissibility of evidence.
7. The Board will afford members of the audience who have not presented evidence for or against three (3) minutes each to address any information provided. The members of the public will not be sworn in.
8. The applicant will be permitted to provide rebuttal if any (a maximum of ten (10) minutes).
9. Staff may have five (5) minutes to provide final comments to the Board.
10. The Board will then close the public hearing and will discuss the application and may ask questions of the applicant, staff or those presenting evidence against or witnesses for the application.
11. The strict rules of evidence applicable to a court proceeding will not be utilized; however, the Board, with the assistance of the attorney, may exclude evidence that is not relevant or material or is repetitious or defamatory. Again, the Quasi-Judicial procedures are required by law and all those participating need to be aware of the procedures. Anyone who fails to follow the procedures may be required to stop his/her presentation or relinquish their time.

To be fair to everyone and in order to follow the procedures, if you have any questions please call the County Attorney's Office at (904) 530-6100 or the County's Planning and Economic Opportunity Office at (904) 530-6300.