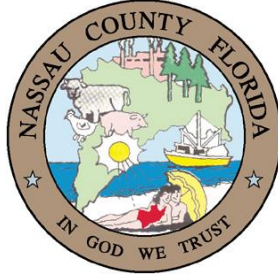


Nassau County
Planning and Economic Opportunity
Department
96161 Nassau Place
Yulee, FL 32097
(904) 530-6300



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Date of Hearing: December 5, 2017

Public Hearing Number: R17-010

A. General Information

Applicant: Gillette & Associates, Agent

Owner: Equipment Options Direct, LLC

Request: Rezoning from Open Rural (OR) to Commercial General (CG)

Applicable Regulations: Sec. 163.3177(9)(a), Florida Statutes; Policies FL.01.02(A&C), FL.08.04 and FL.08.06 of the 2030 Nassau County Comprehensive Plan; Articles 5, 16, and 22 of the *Land Development Code (LDC)*

Related Application: CPA17-009 (FLUM amendment from Agriculture to Commercial)

B. Site Information

Lot Size: 11.90 acres

Location: On the east side of US 1 between Roy Booth Road and Casa Wood Lane, Callahan; tax parcel # 37-1N-25-2940-0007-0010

Directions: Head west on SR200. Turn left at US 1 in Callahan. Head south on US 1 1 mi. Property is on the east side of US1 in the NE quadrant of its intersection with Roy Booth Road.

C. Existing Land Uses

Subject Site: Vacant Land

Surrounding: North: Vacant Land
South: Vacant Land
SF Residential
East: SF Residential
West: Commercial (conv. store)

D. Existing Zoning

Subject Site: Open Rural (OR)

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

E. FLUM Designation

Subject Site: Agriculture (AGR)

Surrounding: North: Agriculture (AGR)
South: Commercial (COM)
East: Agriculture (AGR)
West: Commercial (COM)

F. Background

The proposed rezoning comprised of one parcel totaling 11.90 acres. The rezoning request is Open Rural (OR) to Commercial General (CG). The proposed rezoning will make the zoning consistent with its companion Future Land Use amendment (Application CPA17-009), if approved, which is requesting a change from Agriculture (AGR) to Commercial (COM).

The Commercial General (CG) zoning district proposed for this site is a medium-intensity commercial district intended to provide for the retail sales and service needs of County residents. It may also include the development of, professional, medical, financial and business or a variety of public or civic uses.

G. Analysis

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

Yes. Surrounding districts are primarily rural. At present most of the surrounding properties are designated Open Rural and are vacant or in residential use. The property is located within an area that JEA has the right to water and sewer service according to its interlocal agreement with the County. However, this area is not currently served by any central water and sewer system. Municipal water and sewer service provided by the Town of Callahan is approximately 3.5 miles north of this site.

Although Commercial land use designations and various commercial zoning districts can be found along US 1 south of the Town of Callahan. Development in this area has taken place in the past occurred in rural areas at substantial distances from existing urban areas without central water and sewer infrastructure and shows evidence of scattered, "leapfrog" development that fails maximize use of existing and planned public facilities and services and does not encourage the use of undeveloped lands that are available and suitable for development closer to existing urban areas.

While there are with some commercial districts in close proximity to the west of site, it is Staff's position that, in the absence of planned expansion of central water and sewer service to this site, the proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns and would encourage leapfrog or scattered development along this corridor that would disproportionately increase the cost in time, money, and energy of providing and maintaining these facilities and services.

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

No. However, while there are with some commercial districts in close proximity to the west of site, it is Staff's position that, in the absence of planned expansion of central water and sewer service to this site, the proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns as described above.

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

The proposed CG district allows only non-residential uses. It will not alter population density. It should have no impacts to schools or parks and recreation facilities. However, the proposed CG district could result in significant increases in transportation impacts and to water and sewer demand. (See staff report for CPA17-009). There is currently no planned expansion of central water and sewer service to this area by any municipal or regional provider.

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

No. At present most of the surrounding properties are designated Open Rural and are vacant or in residential use.

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

Yes. The proposed rezoning will only be in compliance with the underlying Future Land Use Map if the companion FLUM amendment, CPA17-009, is approved. Staff review of this proposed FLUM amendment has identified several indicators of urban sprawl apparent with this proposal as defined by Sec. 163.3177(9)(a), Florida Statutes It has also been found inconsistent with the Goals, Objectives and Policies of the 2030 Comprehensive Plan(See staff report for CPA17-009).

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

No. Although the proposed rezoning is compliant with the locational and dimensional standards for the Commercial General (CG) zoning district, there is currently no planned expansion of central water and sewer service to this area by any municipal or regional provider. It is staff's position that this rezoning and companion land use amendment CPA17-009 do not support a development pattern that is a logical extension of existing urban development patterns; nor does it support eliminating or reducing strip-style development along arterial and collector roads, nor does it support enhancing the potential for the extension and maximization of central (regional) water and sewer systems.

The proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns and would encourage continued "leapfrog" or scattered development along this corridor that would disproportionately increase the cost in time, money, and energy of providing and maintaining these facilities and services.

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

Yes. As mentioned previously, the proposed rezoning is compliant with the locational and dimensional standards for the Commercial General (CG) zoning district. However, there is currently no planned expansion of central water and sewer service to this area by any municipal or regional provider. It is staff's position that this rezoning and companion land use amendment CPA17-009 do not support a development pattern that is a logical extension of existing urban development patterns; nor does it support eliminating or reducing strip-style development along arterial and collector roads, nor does it support enhancing the potential for the extension and maximization of central (regional) water and sewer systems. The

establishment of a costly and undesirable development pattern is could be a potential detriment to future living conditions in the surrounding area.

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

The proposed Commercial General (CG) district may allow uses that will increase traffic impacts could result in significant increases in transportation impacts beyond that of the current OR zoning district (See staff report for CPA17-009). Future development on the site may be subject to fees assessed as part of the County's adopted Mobility Plan. 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?*

National Wetlands Inventory (NWI) maps indicate a significant portion of the site may be wetlands, but an official determination of jurisdictional wetlands on the property has not been submitted at this time. All 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?*

Yes. As mentioned previously, the proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns and would encourage leapfrog or scattered development along this corridor that would disproportionately increase the cost in time, money, and energy of providing and maintaining these facilities and services. This could potentially serve as a deterrent to desirable improvements and development on surrounding properties in the future.

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

Although the rezoning of this property may, in the short term make this property and the properties surrounding the intersection more attractive for development, The proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns and would encourage continued "leapfrog" or scattered development along this corridor that would disproportionately increase the cost in time, money, and energy of providing and maintaining these facilities and services. There is a strong possibility that this undesirable and potentially costly development pattern would, in the long term, create a negative effect on property values in the adjacent area.

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

Yes. As mentioned previously, commercial land use designations and various commercial zoning districts can be found along US 1 south of the Town of Callahan. However, development in this area has taken place in the past occurred in rural areas at substantial distances from existing urban areas without central water and sewer infrastructure and shows evidence of scattered, “leapfrog” development that fails maximize use of existing and planned public facilities and services and does not encourage the use of undeveloped lands that are available and suitable for development closer to existing urban areas.

The proposed rezoning would encourage a development pattern that is not a logical extension of existing urban development patterns and would encourage development along this corridor that would disproportionately increase the cost in time, money, and energy of providing and maintaining these facilities and services. It is not in the public welfare to encourage development patterns which will potentially increase the cost to citizen's to provide needed public facilities and services.

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

No. At present most of the surrounding properties are designated Open Rural and are vacant or in residential use.

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

The subject property is capable of meeting the minimum lot size and frontage standards of the zoning code for the Commercial General (CG) zoning district per Article 16 of the Zoning Code.

H. Staff Findings

1. The proposed rezoning will only be in compliance with the underlying Future Land Use Map if the companion FLUM amendment, CPA12-009, is approved. Staff review of this proposed FLUM amendment has identified several indicators of urban sprawl apparent with this proposal as defined by Sec. 163.3177(9)(a), Florida Statutes, in particular Sec. 163.3177(9)(a) II, VI, VII, and VIII. It has also been found inconsistent with the Goals, Objectives and Policies of the 2030 Comprehensive Plan. In particular, Policies FL.08.04 and FL.08.06. See staff report for CPA17-009).
2. The proposed rezoning application is not 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. In particular 1, 5, 6,7, and 12.

I. Recommendation

Based on the findings above, the proposed rezoning:

- 1) Does not support a development pattern that is a logical extension of existing urban development patterns; nor does it support eliminating or reducing strip-style development along arterial and collector roads, nor does it support enhancing the potential for the extension and maximization of central (regional) water and sewer systems; and
- 2) Shows evidence of several indicators of urban sprawl as defined by Sec. 163.3177(9)(a), Florida Statutes; and
- 3) Is inconsistent with the Goals, Objectives and Policies of the 2030 Comprehensive Plan. In particular, Policies FL.08.04 and FL.08.06;

It is Staff's recommendation that competent, substantial evidence exists for the DENIAL of rezoning application R17-010.

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.