



Development Services

Planning and Development Division

MEMORANDUM

DATE: November 17, 2015

TO: Steve Fussell, Division Manager, Community Services

FROM: Sheryl Stolzenberg, Principal Planner

CC: Rebecca Hammock, AICP, Planning & Development Division Manager
Bill Wharton, Principal Planner

RE: Affordable Housing Committee - Planning & Zoning Issues

The following information related to Planning and Zoning issues is offered for the consideration of the Affordable Housing Advisory Committee during its November 20, 2015 public hearing. The following issues were raised at the last Affordable Housing staff meeting.

Issue 1:

Designating or Platting Specific Parcels for Affordable Housing Use Only

Planning & Zoning Division staff response:

1. Consultation with the County Attorney's office is probably needed on this matter, but it is our understanding that:
 - a. A change that restricts the allowable uses of land requires an amendment to the comprehensive plan, in accordance with the requirements of Chapter 163, Part II of Florida Statutes. That change would need to be supported by 'data and analysis' showing that the change is consistent with State law and does not create internal inconsistency within the comprehensive plan.
 - b. The process of amending the comprehensive plan requires public hearings. Members of the public who are concerned about the proposed change would have the same ability to comment as in the case of an actual site plan proposal.
 - c. Unless the land is owned by the County, restricting the allowable uses needs to be related to conditions that have a bearing on public health and safety. For example, if a property contains critical wetlands that replenish groundwater for drinking water purposes, a restriction on allowable uses can be supported. Similarly, if the land is located in a place that can't be served by central water and sewer, is prone to sinkholes, cannot be adequately served with drainage, or

is isolated from adequate transportation facilities, restrictions on allowable uses can be supportable. Otherwise, the possibility of a 'taking' might result from imposing a restriction on allowable land uses that puts an 'inordinate burden' on a property owner.

2. In addition to the above legal issues, we suggest, again, that the County Attorney might need to be consulted with respect to the issue of seemingly creating an area to which low income people are restricted. The direction we receive more and more from the Federal level is to encourage affordable housing to be included with market rate housing.

Issue 2:

Consideration of how a change to the minimum acreage requirement for the R-AH zoning district might affect the East Rural Area

Planning & Zoning Division staff response:

1. State Law (Chapter 163, Part II, Florida Statutes) requires that a zoning district must be consistent with the underlying future land use designation.
2. The underlying future land use designations within the East Rural Area are designed to support agriculture as a primary use (since this is the historic agricultural area of Seminole County), and, as such, a more dense zoning district such as R-AH had never been contemplated for use in that area. The three future land use designations in the rural area, (Rural-10, Rural-5 and Rural-3) allow one housing unit per ten acres, one housing unit per five acres and one housing unit per three acres, respectively. This works at cross purposes to the idea behind the R-AH zoning, which is to allow a greater number of residential units per acre in order to balance the affordability of the units with the ability of a developer to recover his or her costs.
3. In addition, the greater density of the R-AH zoning means that it must have access to urban potable water and sanitary sewer services. The policies of the County's comprehensive plan specifically state that the level of service for the Rural Area for these services is onsite potable water well and septic tank. Those services can be safely provided for a residence on a three, five or ten acre lot, but not for seven homes on a one acre lot (which is allowable for R-AH in the Low Density Residential Future Land Use (LDR)).
4. In addition, the County Plan policies set rural levels of service for other services in the Rural Area, such as transportation and drainage. Public transit is not anticipated to be operated in that area, and rural 'cross-sections' are planned for roads (meaning no curb and gutter drainage, no sidewalk, no marked crosswalks.) The rural levels of service for these services would not be adequate to support the urban density of the R-AH.
5. Therefore, even if the County Commission did consider moving the Rural Boundary to allow a parcel of land to be taken out of the Rural Area and rezoned to R-AH, the absence of urban services in the Rural Area would remove the 'affordability' from the affordable housing. As water and sewer are 'enterprise funded' operations in unincorporated Seminole County, the cost of installation of any extended lines is to be the responsibility of a developer. The impacts of new transportation demands are to be the responsibility of a developer. To ignore the impact on services would be to create an internal inconsistency in the comprehensive plan.

6. The staff could not, therefore, support the idea of the use of the R-AH zoning district in the Rural Area, but still supports the idea of the R-AH zoning district to be allowed on urban infill parcels, urban properties and urban redevelopment properties of less than five acres, where the future land use designation is LDR, MDR, HDR or Mixed Development.