

SEMINOLE COUNTY GOVERNMENT  
BOARD OF COUNTY COMMISSIONERS  
AGENDA MEMORANDUM

**SUBJECT:** Ordinance Amending the Seminole County Land Development Code allowing the Planning and Development Director to approve administrative waivers to lot size and width, under special circumstances, in the RC-1, A-1, A-3, A-5, and A-10 zoning districts (Second of two public hearings).

**DEPARTMENT:** Planning and Development **DIVISION:** Planning

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Dick Boyer **EXT.** 7382

<b>Agenda Date</b> <u>03/25/03</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/>
<b>Public Hearing – 1:30</b> <input checked="" type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>

**MOTION/RECOMMENDATION:**

1. Move to enact an ordinance amending the Seminole County Land Development Code allowing the Planning and Development Director to approve administrative waivers to lot size and width, under special circumstances, in the RC-1, A-1, A-3, A-5, and A-10 zoning districts; or
2. Move to deny enactment of the proposed ordinance; or
3. Move to continue the public hearing to (specified date/time).

(Countywide)

(Dick Boyer, Senior Planner)

**BACKGROUND:**

On August 13, 2002, the Board of County Commissioners (BCC) voted to amend the Vision 2020 Plan by adopting into the Future Land Use Element Policy FLU 5.19 – Administrative Approval of Waivers to Lot Size and Width. The intent of the policy is to allow the Planning and Development Director to authorize minor waivers of lot size and width requirements for certain property owners whose lots or parcels have been rendered unbuildable due to a minimal deviation from current zoning requirements. In order to implement the adopted policy through the County's Land Development Code, staff has prepared the attached ordinance.

**STAFF RECOMMENDATION:**

Staff recommends adoption of the ordinance.

**LPA/P&Z COMMISSION:**

On 09/04/02, 11/06/02 and 01/08/03 the LPA/P&Z voted to continued this item at staff's request to allow additional work. On 02/05/03, the LPA/P&Z voted to recommend the proposed ordinance to the Board of County commissioners for adoption.

Reviewed by:	
Co Atty:	<u>REC</u>
DFS:	
Other:	<u>MMJ</u>
DCM:	<u>135</u>
CM:	<u>KB</u>
File No.	<u>ph130pdp01</u>

**BCC FIRST HEARING:**

This item was presented to the BCC on March 11, 2003, for the first hearing. No one spoke regarding this item.

**BCC SECOND HEARING:**

This is scheduled for March 25, 2003 at 1:30 P.M.

**PUBLIC COMMENT:**

Prior to the LPA/P&Z hearing, the Sustainable Community Advisory Council (SCAC) raised the following questions (followed by staff's reply):

1. SCAC: Requested that information provided as proof be dated prior to the lot of record date so there is no confusion when people apply for this waiver.
  - a. Staff: The purpose of this amendment is to address honest mistakes whenever they might have been made. No change is recommended.
2. SCAC: Inquired as to when the lot buildability form would be revised.
  - a. Staff: This form will be completed prior to final ordinance adoption.
3. SCAC: Expressed a concern about the wording of paragraph 3 at the bottom of page 5 and claimed that it was too broad and open for interpretation. They wanted to know what other documentation we would accept and basically wanted the whole clause removed.
  - a. Staff: The purpose of the list of examples that has been included is to give property owners and future staff some idea of the type of information that may be considered for the waiver. It is not intended to be an exhaustive list. It is also important to maintain the Director's discretionary ability to review any and all documents submitted and make a decision based on his or her overall findings and the intent of the ordinance.

No comments from the Development Advisory Board (DAB) have been received at this time.

**ATTACHED:**

Copy of the adopted Comprehensive Plan policy, the proposed ordinance, Economic Impact Statement and Private Property Rights Analysis and LPA/P&Z minutes of 2/5/2003.

## ADOPTED COMPREHENSIVE PLAN POLICY

### **Policy FLU 5.19 – Administrative Approval of Waivers to Lot Size and Width**

By December, 2002, the County shall adopt amendments to the Land Development Code that permit the Planning and Development Director to approve administrative waivers to lot size and width in the RC-1, A-1, A-3, A-5, and A-10 zoning districts. The Land Development Code amendments shall specify certain criteria by which the waivers may be approved or denied. Waivers shall not extend to more than three percent (3%) of the lot size and width required by the applicable zoning district. Administrative waivers shall not apply to properties within the Wekiva River Protection Area.

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY, AS PREVIOUSLY AMENDED; PROVIDING FOR ADMINISTRATIVE APPROVAL OF WAIVERS TO LOT SIZE AND LOT WIDTH ZONING REQUIREMENTS; PROVIDING CONDITIONS FOR ADMINISTRATIVE WAIVERS TO LOT SIZE AND LOT WIDTH ZONING REQUIREMENTS; PROVIDING AN APPEAL PROCESS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has determined that certain property owners may have purchased or unintentionally created lots or parcels which have a minimal deviation from current zoning requirements which render their lots or parcels unbuildable.

WHEREAS, the Economic Impact Statement relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Home Rule Charter; and

WHEREAS, the property rights impact analysis required by the Seminole County Vision 2020 Plan has been accomplished; and

WHEREAS, the provisions of this Ordinance have been found to be consistent with the objectives, goals and policies of the Seminole County Vision 2020 Plan,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Section 2.3, Land Development Code of Seminole County, is hereby amended to read as follows:

**Sec. 2.3 Definitions.** Conforming lot: A parcel, lot, plat, or track of property which is of sufficient dimensions to construct a structure in compliance with all current codes and regulations of Seminole County.

**Section 2.** Section 30.27, Land Development Code of Seminole County, is hereby created to read as follows:

**PART 2. ESTABLISHMENT OF DISTRICTS, DISTRICT BOUNDARIES AND ZONING MAP AND RESTRICTIONS ON LAND, WATER, BUILDING AND STRUCTURE**

**Sec. 30.27 Administrative waiver of lot size and lot width zoning requirements.**

(a) The Planning and Development Director may administratively approve a waiver to the minimum lot size zoning requirements for a lot or parcel of property located within the A-1, A-3, A-5, A-10, or RC-1 zoning classifications (except for lots or parcels located within the Wekiva Protection Area.) Said waiver may not exceed three percent (3%) of the total size of a conforming lot as required by the Land Development Code.

(b) The Planning and Development Director may administratively approve a waiver to the minimum lot width zoning requirements for a lot or parcel of property located within the A-1, A-3, A-5, A-10, or RC-1 zoning classifications (except for lots or parcels located within the Wekiva Protection Area.) Said waiver may not exceed three percent (3%) of the

size of a conforming lot width as required by the Land Development Code.

**Section 3.** Section 30.28, Land Development Code of Seminole County, is hereby created to read as follows:

**PART 3. Administration**

**Sec. 30.28 Requirements for an administrative waiver.**

The Planning and Development Director may only grant a waiver to lot size and/or lot width if the following conditions are satisfied:

(a) The property subject to the waiver request is a lot of record on [date ordinance passes].

(b) Submission to the Planning & Development Director of a certified land survey which verifies that the lot, parcel, or tract of land is currently of a size of at least:

(1) Ninety-seven percent (97%) of the minimum required lot size required by the Land Development Code for a requested lot size waiver; and

(2) Ninety-seven percent (97%) of the minimum required lot width required by the Land Development Code, as measured at the building line, for a requested lot width waiver.

(c) The Planning and Development Director determines that the waiver will not have an adverse effect on said neighborhood.

(d) The request is consistent with all applicable provisions of the Seminole County Vision 2020 Plan.

(e) The parcel, lot or tract of property is not associated with a proposed, anticipated, or active subdivision or lot split.

(f) Submission of documentation to the Planning and Development Director demonstrating that neither the current nor former owner(s) of the property knowingly or intentionally rendered the property non-conforming by their own actions. The sufficiency of this documentation shall be adjudged by the Planning and Development Director subject to the appeal procedures described in this section. The Director shall not delegate this authority. Types of evidence which may be considered by the Director include the following:

(1) Evidence that the present or previous owner created a stock pond or other artificially created flood-prone area on the property which reduced the lot size below the minimum required; or

(2) A document verifying that a lot split creating the lot, parcel or tract of land was approved or that the subject lot is a buildable parcel. Such documentation must be signed by a Seminole County official and the contents verified.

Examples of such documentation include:

(i) A letter, or

(ii) A map or survey, or

(iii) A lot split application or buildability form; or

(iv) A survey drafted by a certified surveyor, relied upon by the owner of the property at the time of their purchase of the property, which contained erroneous information regarding the subject lot size or related information; or

(vi) A tax bill relied upon by the owner of the property at the time of their purchase of the property which contained erroneous information indicating that the lot or parcel constituted a conforming lot; or

(vii) A deed relied upon by the owner of the property at the time of their purchase of the property which contained erroneous information which led the owner to believe that the property constituted a conforming lot; or

(viii) Evidence that at one time the subject lot conformed to then-existing minimum Land Development Code requirements but that through dedication of a public right-of-way, the lot or parcel was rendered non-conforming.

(3) Documentation of a similar form, nature and content to that described above. The Director shall have the discretion to determine whether submitted documentation satisfies the requirements of this subsection.



(g) Administrative waivers to lot size and/or width shall not be approved for any lot, parcel, or tract of land within the Wekiva River Protection Area.

(h) If an administrative waiver to lot size and/or lot width is approved, the Planning and Development Director shall issue an Administrative Order pursuant to Chapter 20 of this Code which shall be duly recorded.

(i) An applicant may appeal a decision rendered by the Planning and Development Director pursuant to sections 30.27 and 30.28 of this Code by submitting a written request for an appeal to Seminole County Board of Adjustment within thirty (30) days of issuance of the Planning and Development Director's decision.

**Section 4. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Land Development Code of Seminole County, Florida and that the word "ordinance" may be changed to "section", "article", or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention; providing, however, that Sections 4, 5 and 6 shall not be codified.

**Section 5. Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other

provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

**Section 6. Effective date.** This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

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Daryl G. McLain, Chairman

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**ECONOMIC IMPACT STATEMENT  
FOR THE  
ADMINISTRATIVE APPROVAL OF WAIVERS TO  
LOT SIZE AND WIDTH ORDINANCE  
AMENDMENT TO THE SEMINOLE COUNTY  
LAND DEVELOPMENT CODE  
JULY, 2002**

**Describe Project/Proposal**

The County is proposing to amend the Seminole County Land Development Code by adopting the Administrative Approval of Waivers to Lot Size and Width Ordinance. The proposed ordinance would, if enacted, permit the Planning and Development Director to approve administrative waivers, meeting certain criteria, to lot size and width for properties in the RC-1, A-1, A-3, A-5 and A-10 zoning districts. The ordinance would not apply to properties within the Wekiva River Protection Area.

The primary reason for proposing this ordinance is to permit structures to be permitted on parcels of land which are slightly under the required lot size and width standards of the applicable zoning district, where the substandard size or width were not knowingly caused by the property owner. Waivers may not extend to more than three percent (3%) of the lot size and width required by the zoning district.

**Describe the Direct Economic Impact of the Project/Proposal upon the Operation of the County**

The Planning and Development Director, or designated County staff, must research each waiver application for compliance with applicable County codes and/or to confirm historical issues concerning the affected property. Denials of waivers may involve the Planning and Development Department, County Attorney's Office, and the Board of Adjustment and Board of County Commissioners.

**Describe the Direct Economic Impact of the Project/Proposal upon the Property Owners/Tax Payers/Citizens who are Expected to be Affected**

The proposal will permit owners of affected properties to build homes or other structures on parcels where permits would have previously been denied, thus providing an economic benefit to the property owners.

**Identify and Potential Indirect Economic Impacts, Positive or Negative, Which Might Occur as a Result of the Adoption of the Ordinance**

The proposed ordinance may result in and contribute to enhancement of property values related to affected parcels and thus increase property tax revenues.

**PRIVATE PROPERTY RIGHTS ANALYSIS  
FOR THE ADMINISTRATIVE APPROVAL OF WAIVERS  
TO LOT SIZE AND WIDTH ORDINANCE AMENDMENT  
TO THE SEMINOLE COUNTY LAND DEVELOPMENT CODE  
JULY, 2002**

**Amendment to Land Development Code of Seminole County**

The County is proposing to amend the Seminole County Land Development Code by adopting the Administrative Approval of Waivers to Lot Size and Width Ordinance. The proposed ordinance would, if enacted, permit the Planning and Development Director to approve administrative waivers, meeting certain criteria, to lot size and width for properties in the RC-1, A-1, A-3, A-5 and A-10 zoning districts. The ordinance would not apply to properties within the Wekiva River Protection Area.

The primary reason for proposing this ordinance is to permit structures to be permitted on parcels of land which are slightly under the required lot size and width standards of the applicable zoning district, where the substandard size or width were not knowingly caused by the property owner. Waivers may not extend to more than three percent (3%) of the lot size and width required by the zoning district.

**Zoning Standards**

The Ordinance does not change or alter the actual permitted, conditional, or prohibited uses within any zoning categories or change the actual zoning map designation of a lot, parcel or parcels of land.

The Ordinance provides for very limited relief to property owners who find themselves, through no purposeful action of their own, with undersized lots on which a building permit cannot now be issued. The Ordinance does not provide for any rights or privileges not otherwise enjoyed by property owners in the same zoning district, except that the Ordinance does not apply to properties within the Wekiva River Protection Area.

**Estimated Economic Impact on Individuals, Businesses, or Government**

Property owners may experience increased property values if a proposed waiver is approved and renders their parcel buildable.

Seminole County government may experience increased revenues through increased property values.

**Anticipated New, Increased or Decreased Revenues**

Property tax revenues may increase due to higher assessed values for parcels developed subsequent to receiving an administrative waiver.

**Date and Method Used in Determining Analysis**

Land Development Code, Vision 2020 Plan, and professional expertise.

**Citation**

All land development regulations shall be evaluated prior to their enactment to determine the extent and scope of their impact upon private property rights (Policy FLU 12.3 Evaluation of New Land Development Regulations, Seminole County Vision 2020 Plan, May 2001).

Minutes for the Seminole County  
LPA/P&Z Board  
February 5, 2003  
7:00 P.M.

**Members present:** Alan Peltz, Dick Harris, Thomas Mahoney, Dudley Bates, Ben Tucker, Beth Hattaway

**Also present:** Jeff Hopper, Senior Planner, Kent Cichon, Financial Manager, Matthew West, Planning Manager, Karen Consalo, Deputy County Attorney, Rob Walsh, Principal Coordinator, Candace Lindlaw-Hudson, Senior Staff Assistant

A. Ordinance allowing P&D Director to grant lot size / width variance if within 3% of required size or width. This ordinance will implement Policy FLU 5.19 of the Future Land Use Element of the County's Comprehensive Plan as amended on 08/13/02.

Countywide

Dick Boyer, Senior Planner

Matt West stated that the lot size and width ordinance had been requested by the BCC. In rural areas there are some lots with less than required size, such as 9.98 acres, and are therefore unbuildable.

The Planning Director will have some leverage within 3 percent. The Sustainable Communities Advisory Counsel want to make it the 8 conditions listed herein only. The Counsel wanted to restrict things to the already created lots. The lot buildability form will be revised. If Don Fisher declines a De Minimis lot application, the decision can be appealed to the Board of Adjustment. Staff recommends approval.

Commissioner Bates asked why 3 percent was chosen.

Mr. West answered that it represented a small amount.

Mr. Sam Kendall of Altamonte Springs asked if 4 percent could be appealed.

Commissioner Tucker said that it could be.

**Commissioner Harris made the motion to approve the request.**

**Commissioner Peltz seconded the motion.**

**The motion passed by a vote of 6 – 0.**