

SEMINOLE COUNTY GOVERNMENT
Land Planning Agency/Planning and Zoning Commission
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 (Continued from the August 7, 2002 meeting).

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

AUTHORIZED BY: Matthew West **CONTACT:** Dick Boyer **EXT.** 7382

Agenda Date <u>09/04/02</u> Regular <input type="checkbox"/> Consent <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input checked="" type="checkbox"/>

MOTION/RECOMMENDATION:

1. Adopt the proposed ordinance to allow 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. Deny the proposed ordinance to allow 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
 3. Continue the public hearing for the amendment to a time and date certain.
- (Countywide) (Dick Boyer, Senior Planner)

BACKGROUND:

On April 9, 2002, the Board of County Commissioners (BCC) voted to transmit a text amendment regarding Administrative Approval of Waivers to Lot Size and Width to the Department of Community Affairs for review. The amendment would add a new Vision 2020 Plan policy to the Future Land Use Element. On June 28, 2002, the Department of Community Affairs issued its Objections Recommendations and Comments (ORC) Report regarding amendments transmitted as part of the Spring, 2002, large-scale amendment cycle, and had no objections or comments related to the policy. The BCC adopted the policy on August 13, 2002.

To implement the policy through the County's Land Development Code, staff has prepared the attached ordinance for review.

STAFF RECOMMENDATION:

Recommend ordinance to Board of County Commissioners.

ATTACHED:

Copy of the ordinance, adopted policy, Economic Impact Statement and Private Property Rights Analysis.

Reviewed by:
Co Atty: <u>KZC</u>
DFS: _____
Other: <u>MW</u>
DCM: _____
CM: _____
File No. _____

PLEASE NOTE:

Planning staff is continuing to review the following ordinance and may propose additional language at the hearing on September 4th.

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 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. 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. 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 evidence to the Planning and Development Director indicating that the owner did not knowingly or intentionally render the property non-conforming by their own actions.

(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 _____, 2002.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

Daryl G. McLain, Chairman

KC/gn
8/29/02
P:\Users\CAGN01\ORD\LotsizedeminimisRevised.doc

ADOPTED 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.

**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).