

Verbatim from November 2, 2023 Zoning meeting, Item G.2.

Pritchett: Item G.2.

Ball: FL and NC Investment Properties, LLC request a change of zoning classification from RR-1 to AU, application number is 23Z00066, tax account number is 2106726, also located in District 1.

Pritchett: Thank you. I don't have a card here from the applicants. Is Mr. Don or Janice Opatha here by any chance? Come on up, I got a question to ask you. You're the applicant, sir?

Opatha: That's correct.

Pritchett: When you're done, if you'd fill out a card for me that would be great for the Clerk.

Opatha: Alright, I will.

Pritchett: Um, I, I think what you're doing is kind of cool. I do struggle with putting an AU in the residential for this...

Opatha: Yep.

Pritchett: ...but I'll be good with it and um, and I asked staff to kind of give you some questions if you'd be willing to work with them on a BDP, just so we protect the neighbors from noise and make sure the right setbacks are there. So, if you're good with that, I'm going to have them work with you on, on how to make your project work but still protect the neighbors.

Opatha: Yes ma'am, but uh, within 500 feet there are multiple agricultural properties already existing.

Pritchett: I, I looked through it. I wouldn't approve it right now...

Opatha: Yeah, yeah...

Pritchett: ...without us putting some way to protect the neighbors, but I think we'll be able to do your project...

Opatha: Yes...

Pritchett: ...if you're willing to just go work with staff for a little while, because...

Opatha: Correct...

Pritchett: ...um, the type of thing you're doing has to be an enclosed structure, and then there's, there's sound and all those things. But I think we can make it work for you.

Opatha: That's correct.

Pritchett: But I, I would just like, if...I want to get this out in the public.

Opatha: Are you referring to the BDP at the moment?

Pritchett: Uh, a Binding Development Plan...

Opatha: That's correct...

Pritchett: ...if you're willing to do it. Work with them and we'll get that set up for you.

Opatha: Correct, but if I agreed to that, I will lose the statute rights. Uh, statute actually allows me to keep birds there. I had the permits for more than two years.

Pritchett: Right, on a RR-1 you could, but you have to keep it in the area you have it now.

Opatha: No ma'am. It does not, uh, matter the zoning, uh, it is Right to Farm Act, for Florida Statute...

Pritchett: Not in an RR-1 right now, correct (looking to Mr. Ball)?

Opatha: It doesn't matter the zoning type or the size of the lot. None of that matters on the statute.

Pritchett: I'm not sure you're correct on that. Mr. Tad?

Calkins: Um, I believe the County Attorney Office has something to say on this.

Pritchett: I'm sorry. Sir?

Richardson: Sure, I can field that. First of all, the Right to Farm Act isn't applicable here because you don't have the agricultural classification from the Property Appraiser and Tax Collector. That's required before the Right to Farm Act would kick in. Also, the County has certain limitations on the raising of exotic birds that predate Right to Farm Act, so the Right to Farm Act did not preempt those regulations. So, you're going to have to be in compliance with those and that's some of the things that the Commissioner was taking about that you'd work out with staff as far as the necessary setbacks and the enclosure you have to keep the birds in. But, no, as of right now on that property, you cannot as a matter of right, do something that's contrary to the zoning pursuant to Right to Farm Act because you don't have that yet.

Opatha: I do have the FWC permits for the last two years.

Richardson: You don't have the agricultural classification from Property Appraiser and Tax Collector, but you can talk to staff about that offline later.

Opatha: Okay

Pritchett: Would you like to go work with them or would you like me to deny it?

Opatha: I would like to but, from what I know, agriculture exception is not what, uh, going to give me the statute right, uh...

Pritchett: I won't...

Opatha: Yeah

Pritchett: ...I won't approve an AU unless we make sure the neighbors are protected. From my district, and I don't know...

Opatha: Okay...

Pritchett: ...what the other Commissioners would do but, but I kind of know the area and...

Opatha: That's right.

Pritchett: You good with that?

Opatha: I went through the same process on North Carolina. So, Right to Farm Act does not give the exemption...is not what they count. They count the actual permits, the right to breed, sell exotic animals...

Pritchett: Not, not in an RR-1, sir. I would have to go ahead and let you have the AU because you don't have that exemption at all right now. Correct County Attorney?

Richardson: That's correct. Yeah, in Florida, the Right to Farm Act is tied to having the agricultural classification and you haven't received that yet.

Opatha: Okay.

Richardson: And I'm not talking about the zoning, I'm talking about the classification that you've applied for through Property Appraiser.

Opatha: I have received it actually. I went from my personal name to LLC. They have sent me a card saying they had, uh, canceled the uh, permit. I have the card with me actually. I can show it to you right now.

Richardson: It's not a permit. We can talk about that offline, but you understand...

Opatha: Yeah. Alright, okay.

Pritchett: So, would you like me to...

Opatha: Yeah.

Pritchett: ...table this and work...

Opatha: Okay...

Pritchett: ...with the County staff?

Opatha: Yeah, we can do that. Yeah.

Pritchett: Okay. Can I have a motion if ya'll are...

Goodson: Motion madam Chair

Pritchett: Yes, sir...

Tobia: I got a question.

Pritchett: Oh, I am so sorry, Commissioner Tobia, Sir...

Tobia: Thank you, and I actually went back and read the minutes here. Um, I'm a little bit confused because you indicated at the previous, uh, meeting that you had an agricultural exemption. Do you believe you have an agri...

Opatha: Yes sir. I have it and they had canceled it because I went from my personal name, the property I put it on LLC. So, they sent me like a little yellow colored card saying they cancel the exemption.

Tobia: Okay, so you don't have...so I was confused...

Opatha: Yeah, yeah, I do have...

Tobia: ...cause you mentioned you had one...

Opatha: ...but right now, I do not have it because they cancel it. Actually, I got the post card like two days...

Tobia: I got it. I'm with you, you know, uh, so you don't have one now. So, I was...

Opatha: That's right.

Tobia: And, can you, also in there, um, can you speak to primates? Because I think that was...

Opatha: Primates are not in North Carolina, I mean, in Florida. They're in North Carolina. I had to meet certain hours, amount of hours, to bring them to uh, Florida, under Florida law. So, I cannot bring primates to, uh, Florida till I have thousand hours completed from Brevard County Zoo or any uh, facility like that.

Tobia: Okay, cause that was mentioned in there and that opens another...

Opatha: That's right. I don't have any primates.

Tobia: can of worms. So that's not going to be dealt with. Okay. Thank you Madam Chair.

Pritchett: Thank you, Sir. So, I have a motion to table, for them to come back with a uh, uh, kind of um, boundaries and parameters that will protect the neighbors from noise and setbacks.

Calkins: Yes, ma'am. Just a question on the motion...

Pritchett: I can tell you're wanting to ask me something.

Calkins: ...that's to the next meeting which would be December 7th, I believe.

Pritchett: Yes, sir.

Calkins: Is that what you all are...

Pritchett: December 7th? We'll come see if we can't get something worked out and approve it.

Opatha: Alright.

Pritchett: Okay?

Opatha: So this is my last, uh, public hearing, correct?

Pritchett: No, you'll come back with the BDP and then we'll make a vote to approve it...

Opatha: Okay.

Pritchett: ...if it is approved, if you're willing, if we get to a place, okay?

Opatha: Okay. Alright. Okay, thank you.

Pritchett: Thank you, Sir.

Opatha: Okay, thank you.

Pritchett: Okay, do I have a motion to table?

Tobia: A motion to continue G.2. until December 7th meeting.

Pritchett: Okay, a motion to continue December 7th. Do I have a second?

Feltner: Second.

Pritchett: Second by Commissioner Feltner. All in favor, say aye.

Tobia: Aye.

Goodson: Aye.

Feltner: Aye.

Pritchett: Aye. Opposed? Passes 4-0.