



LEVY COUNTY BOARD OF COUNTY COMMISSIONERS

Planning and Zoning Department
320 Mongo Street
Bronson, Florida 32621
Office (352) 486-5203/Planning@levycounty.org

To: Levy County Board of County Commissioners

From: Stacey Hectus, Planning and Zoning Director
Andrew Carswell, County Engineer
Alice Lalonde, Administrative Coordinator, Levy County Road
Department

Date: February 20, 2024

Subject: M & T Subdivision Variance(s) for Final Plat Approval
Staff Report

BACKGROUND:

The proposed M&T Family Homestead subdivision is a three lot subdivision of an approximately 40 acre parcel. Access to the parcel is by a 50-foot wide ingress and egress easement which was established by previous land owner prior to splitting the 40-acre tract out of the larger parcel. The easement provides access to approximately 14 large acreage tracts to an existing paved county roadway (NE 130 AVE). The roadway within the easement is described as a "dirt/lime rock road".

The preliminary plat for M & T Family Homestead was applied for, reviewed by Staff and the Planning Commission and approved by the Board of County Commissioners. The required construction of a roadway interior to the subdivision has been constructed per the preliminary plat approval.

The applicant is now seeking a final plat of the subdivision. The Planning Commission reviewed the final plat. During that review the question of the access to the property was raised by the Commission and the County Attorney. The Planning Commission voted to recommend the final plat to the Board of County Commissioners. Additional review by the County Attorney concluded that some provisions of the code did not appear to be met. Staff recommended that a variance be requested in accordance with Section 50-497(a) (see attached) to waive specific provisions of the code to allow the final plat to be presented to the Board of County Commissioners. As such the variance request and final plat are being resubmitted to the Planning Commission for recommendation on the variance and final plat. The recommendation on the variance and the final plat will then be presented to the Board of County Commissioners for approval/denial.

The requested variance is from three sections of the Levy County Land Development code: Section 50-578(b), Section 50-581 and 50-583(m). The code sections are attached for reference in whole with the part for the variance request highlighted. The following is a summary of each section of the code

SECTION 50-578(b)

Section 50-578(b) for lot sizes 10 acres or more requires the streets within and providing access to the subdivision be constructed to County Road Department's standards. This was interpreted by staff to mean that the roadway within the subdivision and providing direct access for the subdivision lots needed to be constructed to the County Road Department standards. The preliminary plat proposed a private road constructed to County Road Department standards to serve the three lots being created by the subdivision, but did not propose any improvement to the access to the subdivision from the County maintained roadway. The preliminary plat with the access as described was recommended for approval by Staff and the Planning Commission with approval by the Board of County Commissioners.

Based on that approval, the applicant has designed, permitted and constructed the roadway within the subdivision to County Road Department standards for a private road: a 21' wide limerock road within a 60' easement. The plat of the subdivision does propose to dedicate right-of-way along its north boundary where the access easement is located. No improvements were required by the approval or made to the access from the proposed subdivision to the County maintained road.

SECTION 50-581

Section 50-581 relates to privately owned and maintained streets. This section, to paraphrase, requires the roadway to be constructed to County Road Department standards, be gated and be maintained by a homeowners association or other entity acceptable to the County Attorney and must not connect to another private easement or right-of-way.

The applicant was required to construct the roadway within the subdivision and to gate the roadway to meet the private road requirements. A home owner's association was not thought to be necessary as this is essentially a family division that cannot meet the code sections for that process and needed to go through the plat process to occur.

The applicant is requesting a variance from the complete Section 50-581 provisions although they have constructed the required roadway already. The main part of the variance is for provisions requiring direct access and for the establishment of a maintenance entity for the roadway. The applicant has constructed the private road to county standards and has installed a gate at the entrance to the subdivision. A homeowner's association has not been established. The Suwannee River Water Management District has established the applicant as the maintenance entity for the roadway.

SECTION 50-583(m)

Section 50-583(m) is within the section of code for "Street System Layout" which sets for criteria for the development of streets within the County. This particular criteria is that the street system

“connect directly to a street which is maintained by the state, county or other governmental agency.”

The applicant is requesting a variance as the proposed subdivision is not “directly” connected to a street which is maintained by state, county, or other governmental agency”. The proposed subdivision is connected by a private ingress and egress easement to a county road.

STAFF RECOMMENDATION

Staff recommends the variance be allowed and the final plat to be approved as the applicant received approvals for the preliminary plat and proceeded to construct a roadway based on this approval. The applicant has constructed the required roadway within the proposed subdivision and has established the applicant as a maintenance entity for the roadway within the subdivision based on this approval of the preliminary plat.

CODE SECTIONS REFERENCED IN STAFF REPORT

Sec. 50-497. Variances, recordation and error.

- (a) *Variances.* If the enforcement of any of the provisions of this article would be impracticable or would work an undue hardship upon any person, following an application for variance from the provisions of this article by the applicant, and following recommendation by the planning commission on the application for variance, the board of county commissioners may waive any of the provisions of this article and grant such variance. Any such waiver shall not be deemed a continuing waiver of such provisions, nor shall such waiver abrogate or impair the effectiveness of such provisions.
- (b) *Recordation.* The county clerk shall record in the public land records of the county any map prepared and adopted by the department of transportation or any other governmental agency as its official right-of-way map after the map has been approved. The county clerk shall use special plat books provided by the appropriate governmental authority for such maps, and which shall be kept with the plat books. The county clerk shall make available to the public a full size copy of the right-of-way maps at a reasonable fee.
- (c) *Error.* If an appreciable error or omission in the data shown on any plat duly recorded under the provisions of this article is detected by subsequent examination or revealed by a retracement of the lines run during the original survey of the lands shown on such recorded plat, the land surveyor who was responsible for the survey and the preparation of the plat as recorded may file an affidavit confirming that such error or omission was made. However, the person making the affidavit must state that he made a resurvey of the subject property in the recorded subdivision within the last ten days and that there is no evidence that would conflict with corrections as stated in the affidavit. The affidavit shall describe the nature and extent of such error or omission and the appropriate correction that, in his opinion, should be substituted for the erroneous data shown on such plat or added to the data on such plat. Where such an affidavit is filed, it is the duty of the county clerk to record such affidavit and he may place in the margin of such recorded plat a notation that the affidavit has been filed, the date of filing, and the book and page where it is recorded. The affidavit shall have no effect upon the validity of the plat or on the information shown thereon.

(1991 LDR ch. 71, art. 7; Ord. No. 2007-03, § 10, 7-17-2007)

Sec. 50-578. Road requirements for specific kinds of subdivisions.

- (a) *Lot sizes less than ten acres.* In any subdivision where one or more lots are less than ten acres in size, all streets within or providing access to the subdivision shall be paved and shall be constructed to the county road department standards.
- (b) *Lot sizes ten acres or more.* In any subdivision where all lots are ten acres or more, the streets within and providing access to the subdivision shall meet the standards set forth below.
- (1) Local streets are not required to be paved; but shall be constructed to the county road department standards.
 - (2) All collector streets shall be paved.
 - (3) All section line streets may be required to be paved regardless of classification based on review and recommendations made by the county road department and/or the county engineer.
- (c) *Tie-ins to existing roads.*
- (1) Any new unpaved street connecting to an existing paved road must be paved from the point of curvature of the radius of the new road to the edge of the pavement of the existing paved road.
 - (2) Any new unpaved street connecting to a state-maintained road, arterial road, major collector road or any other road deemed necessary by the county road department may require paved acceleration and deceleration lanes based on review and recommendations made by the county road department and/or the county engineer and/or the state department of transportation. These lanes shall be built according to the specifications required by the county road department or the state department of transportation.

- a. Thresholds and design standards will be dependent upon the functional classifications of the new road and the existing road, and upon projections of trip generation from or through the subdivision being served.
- b. Turn lanes may also be required depending upon functional classifications and trip generation.

Sec. 50-581. Privately owned and maintained streets.

- (a) All streets to be constructed and not proposed for dedication and acceptance into the Levy County maintained street system shall be designed, constructed and perpetually maintained in accordance with this section.
- (b) Privately owned and maintained streets shall not be allowed except in a "planned unit development" and "gated" communities to such an extent as to not interrupt or adversely affect the existing or anticipated Levy County maintained street system necessary to promote, protect and improve the public health, safety, good order, convenience and general welfare. The board of county commissioners may waive the requirements for the dedication of public streets upon finding that by reason of its location and anticipated use, the street will not serve a public interest. However, all streets must be designed and constructed in accordance with the provisions of this ordinance. All streets to be privately owned shall be dedicated to a Property Owner's Association in compliance with Chapters 617 and 689, F.S. or other private maintenance entity acceptable to the county attorney for the ownership and maintenance.

The proposed property owners association documents must be submitted to the development department at the time of filing the preliminary plat. Said proposed documents will be forwarded to the county attorney for review and comment. A letter from the developers legal counsel shall accompany the property owner's association documents at the time of filing the final plat stating that the documents have been approved and are in accordance with Florida law. The property owner's association documents shall be recorded simultaneously with the recording of the final plat.

- (c) To qualify as a "gated" community or subdivision, an approved level of security must be provided at all points of ingress and egress as well as providing adequate fencing or decorative barriers along the entire project perimeter.
- (d) All proposed private streets shall be completely contained within the limits of the P.U.D. or gated subdivision except for that portion necessary to link to outside public streets serving the development's street network. A minimum of two connections to the public street system will be encouraged. Any proposed street system designed with less than two connections to the public street system may be denied solely on that basis if the proposed design is determined to be adverse to the public's safety and interests.
- (e) Appropriate design speed(s) shall be proposed by the developer's engineer and agreed to by the county engineer in conjunction with the street and lot layout of the subdivision. The selection of an appropriate design speed should be based upon a rational prediction of the probable maximum operating speed on the street. Topography, general roadway geometry, surrounding land use, degree of access, use of traffic calming techniques, and desired posted speed limits should be considered.
- (f) The developer and/or home owner's association shall maintain the ability; be it mechanical, electronically or attendant operated, to permit emergency vehicles immediate access to the project area at all points of ingress and egress at all times. The applicant shall provide, at a minimum, written approval or letters of no objection regarding the method proposed to accomplish this requirement from the Levy County sheriff's office, emergency medical service office, and local fire-rescue department at the time application is made for the project. There shall be a note on the plat to indicate that the streets shall be accessible to public service vehicles.
- (g) The following statement shall be placed on the plat in a prominent place: **"Notice: There may be additional restrictions that are not recorded on this plat that may be found in the Public Records of this County."**
- (h) No private street may, by either right-of-way or easement, connect to another private street or easement outside a proposed P.U.D. or gated subdivision.

(1991 LDR ch. 71, § 4.05; Ord. No. 01-01, § 1, 1-16-2001)

Sec. 50-583. Street system layout.

- (a) The proposed street layout shall provide for the continuation of projection of existing streets in the surrounding areas unless the board of county commissioners deems such extension undesirable for specific reasons of topography or design.
- (b) Streets shall be logically related to the topography to produce usable lots and acceptable grades.
- (c) Minor streets shall be designed to discourage through traffic. However, provision for street connection and access to or from adjacent areas will generally be required.
- (d) Where a subdivision abuts or contains an existing or proposed collector or other high-service road, frontage roads, rear service alleys, reverse frontage lots or other such treatment, as required, will be provided for protection of abutting properties, to reduce the number of intersections with major streets and separate local and through traffic.
- (e) Streets shall intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60 degrees.
- (f) Multiple intersections, involving junction of more than two streets, shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.
- (g) Streets entering opposite sides of another street shall either be directly opposite one another or with a minimum offset of 125 feet between centerlines.
- (h) Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way may be required.
- (i) Cul-de-sac streets with no provision for extension shall not exceed 1,200 feet in length and shall provide access to no more than 20 lots.
- (j) Cul-de-sac rights-of-way shall have a minimum diameter of 100 feet.
- (k) Unless future extension is clearly impractical or undesirable beyond a turnaround, rights-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining street.
- (l) To facilitate procurement of right-of-way for the future needs of the county collector roadway system, 50 feet on each side of all section lines shall be dedicated for roadway purposes.
 - (1) When a development lies along one side of a section line and no road or dedicated right-of-way exists along the opposite side of the section line, the developer may, with approval of the board of county commissioners, upon recommendation of the planning commission:
 - a. Dedicate the required right-of-way and install no improvements. However, no lots, tracts or parcels shall require access from such and unimproved right-of-way; or
 - b. Construct a full road section on 50 feet (minimum) right-of-way and incorporate such road into street system of the development.
 - (2) When a development lies along one side of a section line and there exists a previously dedicated unimproved right-of-way, the developer may, with approval of the board of county commissioners, upon recommendation of the planning commission:
 - a. Dedicate the required right-of-way and install no improvements. However, no lots, tracts or parcels shall require access from such unimproved right-of-way; or
 - b. Construct a full road section centered on the right-of-way centerline or as right-of-way configuration requires and incorporates such road into street system for the development.
 - (3) When a development lies along a section line and there exists a roadway constructed along the opposite side of the section line, the developer may, with approval of the board of county commissioners, upon recommendation of the planning commission:
 - a. Dedicate the required right-of-way and not utilize the existing roadway to serve the development; or
 - b. Dedicate the required right-of-way and utilize the existing roadway or further improve such roadway to serve the development.

- (m) The street system shall connect directly to a street which is maintained by the state, county or other governmental agency.
- (n) Any new public rock road tying into an existing paved road must be paved from the point of curvature of the radius of the new road to the edge of the pavement of the existing paved road.
- (o) Any new road tying into a state-maintained road, arterial road, major collector road or any other road as deemed necessary by the county road department must have paved acceleration and deceleration lanes along the road being accessed to. These lanes shall be built according to the specifications required by the state department of transportation.
- (p) Subdivision contiguous to designated arterial roads must conform to those standards for controlled access and frontage roads as contained in the county comprehensive plan and article XII of this chapter.
- (q) If multiple-access driveways are permitted as an interim measure, the subdivision plat will clearly denote them as "temporary," and will provide for dual access by adjoining lots.

(1991 LDR ch. 71, § 4.07)