

PLANNING AND ZONING BOARD  
REGULAR MEETING  
January 09, 2003 – 6:00 P.M.  
Hardee County Public Health Department Conference Room  
115 K.D. Revell Road, Wauchula, FL

*MINUTES*

**Planning and Zoning Board**

James Barncord, present  
Don Chancey, present  
Roger Conley, present  
Dan Graham, Vice Chairman, present  
Charles Huntsman, EXCUSED  
Charles Nicholson, EXCUSED  
Carl Saunders, present  
Fred Small, present  
Vida Tomlinson, Chairman, present

**Staff**

Building & Zoning Director, T. Mike Cassidy, present  
County Manager, Lex Albritton, present  
County Attorney, Ken Evers, present  
County Mining Coordinator Doug Knight, present  
Building/Zoning Office Manager B. J. Haney, present  
Building/Zoning Administrative Assistant  
Tina Huntsman, EXCUSED  
  
No News Media present

Chairman Tomlinson called the Regular Meeting to order at 6:00 P.M., roll taken, quorum present.

Acting Secretary Haney advised the Public Notice for the Regular Meeting was published in The Herald-Advocate on December 19 and December 26, 2002, and Affidavit of Publication is on file.

Building/Zoning Director Cassidy advised courtesy notices were mailed to adjoining property owners, and all advertisements were properly posted.

County Attorney Evers explained Planning and Zoning Board's General Rules of Procedure and administered oath to witnesses who planned to offer testimony.

MOTION by Board Member Chancey, second by Board Member Barncord to approve Minutes of P/Z Board December 05, 2002 Regular Meeting. Motion carried unanimously.

MOTION by Chancey, second by Barncord to approve Minutes of December 12, 2002 Joint Meeting with the Board of County Commissioners to receive the 2002-2003 Annual Reports from CF Industries. Motion carried unanimously.

MOTION by Chancey, second by Board Member Saunders to elect Board Member Tomlinson as the Chairman for the ensuing year. Motion carried unanimously. Tomlinson accepted.

MOTION by Chancey, second by Graham to elect Board Member Conley as Vice Chairman for the ensuing year. Motion carried unanimously. Conley accepted.

**Agenda 03-14**

Tomlinson advised of a request from W. Reynolds Allen as Trustee of W. Reynolds Allen Special Trust for an Exception to Policy L1.15 of the "Comp Plan" to allow transfer of a parcel from the 32.44MOL-ac-parent-parcel to immediate family member (wife) for primary place of residence, zoned F-R (Farm-Residential) on or about Thompson Road, Hardee County.

Each Board Member and County Staff received a copy of Application for an Exception to Policy L1.15 of the "Comp Plan" and Staff Report for review prior to the 01/09/03 meeting.

Neither the Applicant nor a representative was present.

Cassidy highlighted the Staff Report including the conclusion, recommendation for approval, and recommended conditions. Cassidy submitted the Staff Report to record as evidence; no objections were presented.

Tomlinson called for public input; none was received.

Saunders inquired and was advised that the property owner wants to divide the house and some property from the orange grove, and that although the "Exception" specifies "primary place of residence", the wife would probably not live in the house.

MOTION by Chancey, second by Graham to recommend approval to the Board of County Commissioners of the request for an Exception to Policy L1.15 of the "Comp Plan" to allow transfer of a parcel from the 32.44MOL-ac-parent-parcel to immediate family member (wife) for primary place of residence based on staff's findings, conclusion, recommendation, and recommended condition, and based on the testimony received and the evidence presented at the public hearing. Motion carried with Barncord and Saunders voting NO.

Tomlinson advised that BCC will receive a recommendation from the Planning/Zoning Board and will hold a public hearing on 01/23/03; 1:30 P.M. in the Hardee County Public Health Unit Conference Room, 115 K.D. Revell Road, Wauchula, FL.

#### **Agenda 03-15**

Tomlinson advised of a request from Ramiro A./Yolanda P. Rodriguez and Reynaldo/Rachel R. Olvera for an Exception to Policy L1.15 of the "Comp Plan" to allow transfer of a parcel from the 40MOL-a-parent-parcel zoned A-1 (Agriculture) to an immediate family member (brother) for primary place of residence, on or about CR634 (Sweetwater Road), Hardee County.

Each Board Member and County Staff received a copy of Applications for an Exception to Policy L1.15 of the "Comp Plan" and Staff Report for review prior to the 01/09/03 meeting.

Neither Applicants nor a representative was present.

Cassidy highlighted the Staff Report including the conclusion, recommendation for approval, and recommended conditions. Cassidy submitted the Staff Report to record as evidence, no objections were presented.

Tomlinson called for public input and Board questions; none were received.

MOTION by Chancey, second by Saunders to recommend approval to the Board of County Commissioners for an Exception to Policy L1.15 of the "Comp Plan" to allow transfer of a no-less-than-2.5-ac-parcel from the 40MOL-ac-parent-parcel to immediate family member (brother) for primary place of residence based on staff's findings, conclusion, recommendation, and recommended condition, and based on the testimony received and the evidence presented at the public hearing. Motion carried unanimously.

Tomlinson advised that BCC will receive a recommendation from the Planning/Zoning Board and will hold a public hearing on 01/23/03; 1:30 P.M. in the Hardee County Public Health Unit Conference Room, 115 K.D. Revell Road, Wauchula, FL.

Tomlinson advised that a recommendation to the BCC from the P/Z Board relative to CF Industries' 2002-2003 Annual Report was continued from 12/12/02 stating that the BCC and P/Z held a joint meeting on that date to receive the 2002-2003 Annual Report from CF Industries, Inc., and at that time the P/Z determined to continue the discussion to its regular meeting on 01/09/03 to receive additional information.

Hardee County Mining Coordinator Doug Knight, 110 South Ninth Avenue, Wauchula, FL 33873 addressed the Board and presented to evidence copy of:

- Hardee County Mining Staff Report dated 12/06/02;
- Operator's (CF's) Response dated 01/07/03 from Kenneth A. Miller, Mgr. Technical Services; Letter addressed to A.L. Holmes, CF Industries, Inc. from "then" County Manager Oden dated 01/02/02;
- Hardee County Resolution No. 02-14 dated 01/28/02;
- Letter addressed to Nick Katzaras, CF Industries, Inc. from BCC Chairman Lambert dated 12/20/02.

(The P/Z Board and County Staff has these items. The items are on file in the Building/Zoning Office files and are not attached to these Minutes).

Nick Katzaras, General Manager, CF Industries, Hardee Phosphate Complex, 6656 Royal Forest, Lakeland, FL addressed the Board and apologized that through a glitch in mail delivery he did not receive BCC Chairman Lambert's letter dated 12/20/02 letter until 01/08/03. Katzaras advised that CF will work with County Staff on the issue addressed in that communication.

Katzaras gave a verbal presentation a copy of which was entered into the record as evidence and same is on file with the original P/Z 01.09.03 Minutes.

Katzaras' comments centered on two main issues that were the focus of the 12/12/02 Joint BCC and P/Z meeting . . . financial responsibility and whether CF is reclaiming at a rate to meet the mandatory reclamation requirements put on the company.

Regarding financial responsibility Katzaras pointed out that:

- the 2002-2003 Annual Report, for the first time included a certificate of insurance in the amount of \$50 million in the unlikely event of a dam failure;
- Hardee County's Mining Ordinance requires coverage in the amount of \$28.2 million;
- the pollution liability coverage CF has acquired contains no exclusions as was explained to Hardee County Mining Coordinator Knight in a communication dated 01/07/03;
- CF can perform its reclamation requirements based on its financial statement and CF clearly has the financial ability to fulfill the reclamation responsibilities now and in the future.

Katzaras briefly highlighted CF's financial statement as contained in the 2002-2003 Annual Report, and requested a favorable recommendation of the 2002-2003 Annual Report to the BCC.

Regarding whether CF is reclaiming at a rate to meet the mandatory reclamation requirements put on the company, Katzaras advised that:

- CF has reclaimed at a rate exceeding those requirements as summarized in CF's written information to Knight dated 01/07/03;
- once CF has reclaimed through initial reclamation the bulk of the money needed is spent; and
- the economic incentive to reclaim property is a priority.

Mike Vickers, CF Industries, 6610 Hayter Drive, Lakeland, FL addressed the Board explaining depreciation and some of the items contained in the Consolidated Balance Sheet and Consolidated Statement of Operations, noting that as of 12/01, CF's net assets totaled \$1.2 billion.

Vickers advised that CF:

- has a conservative financial structure and maintains a very low debt-to-equity ratio;
- companies that get bonds would be allowed to get credit;
- CF has been rated BBB by Fitch and could get bonds if they were available.

There was extensive discussion regarding the definition of reclaimed land, reclamation, released lands and initial revegetation. Definitions for all words were offered from Hardee County Ordinance No. 1999-02 with the exception of initial revegetation. Knight stated there was no definition for initial revegetation contained in 1999-02.

PLANNING AND ZONING  
MINUTES

-4-

January 09, 2003

Saunders expressed concern that from the data presented was there sufficient funds to cover reclamation efforts if CF's organization fails.

Scott Wychek, 1936 Vista View, Lakeland, CF Industries addressed the Board and stated that CF is up-to-date on its reclamation. Wychek presented a visual computer-generated powerpoint of the items contained in Miller's 01/07/03 letter addressed to Knight pertaining to reclamation.

There were comments regarding FDEP's (State of Florida, Department of Environmental Protection) regulation for releasing reclaimed lands and comments regarding the contents of Hardee County's Resolution No. 02-14.

County Manager Albritton reported that the BCC had directed County Staff to re-write the "Mining Ordinance", and noted that the County can impose regulations in addition to what is imposed by DEP.

Gary Sams, (Hopping Green and Sams, Attorneys and Counselors), P.O. Box 6526, Tallahassee, FL 32314 addressed the Board identifying himself as an attorney for CF. Sams pointed out that a resolution is simply a statement by the Board . . . it is not law, and its provisions can be re-visited.

MOTION by Chancey, second by Graham to recommend approval to the Board of County Commissioners of the 2002-2003 Annual Report from CF Industries, Inc. as verbally presented and as contained in the written Annual Report based on staff's findings and based on the testimony received and the evidence presented. ROLL CALL VOTE: Barncord, yes; Chancey, yes; Conley, no; Graham, yes; Saunders, no; Small, yes. Tally: Motion carried 4-2 to recommend approval.

MOTION by Saunders, second by Conley that the P/Z Board add to its recommendation for approval that CF Industries be required to establish an escrow fund to cover the costs of reclamation of the mined lands. ROLL CALL VOTE: Barncord, no; Chancey, no; Conerly, yes; Graham, no; Saunders, yes; Small, no. Tally: 4-2 against the motion.

Tomlinson advised that BCC will receive a recommendation from the Planning/Zoning Board and will hold a public hearing on 01/23/03; 1:30 P.M. in the Hardee County Public Health Unit Conference Room, 115 K.D. Revell Road, Wauchula, FL.

Haney reminded the Board the February, 2003 P/Z Regular Meeting is scheduled for Thursday, February 13, 2003, 6:00 P.M. in this room, and one of the items on the Agenda is the requests from IMC Phosphates for its Ona Mine.

With no other business to come before the Board, MOTON by Chancey second by Conley to adjourn the Regular Meeting at 8:03 P.M. Motion carried unanimously.

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