

PLANNING AND ZONING BOARD
ULDC WORKSHOP

Alcoholic Beverages—Ordinance No. 2010-04

March 30, 2010, 6:00 P.M.

Hardee County Board of County Commissioners Board Room
412 W. Orange Street, Courthouse Annex, Room 102, Wauchula, FL 33873

MINUTES

Planning and Zoning Board

Ralph Arce, present
Don Chancey, excused
Roger Conley, Vice Chairman, present
Gene Davis, present
Gordon Norris, present
Oscar Ortiz, present
Charles Parker, present
Mike S. Thompson, Chairman, present
Vida Tomlinson, present

Staff

Doug Knight, Interim Planning/Develop. Director,
present
BJ Haney, Planner II, present

No News Media identified

Chairman Thompson called the **Workshop** to order at 6:00 P.M.; a quorum was in attendance.

Board Member Conley offered a prayer of guidance for the **Workshop**; those in attendance pledged allegiance to the American Flag.

Board was advised the Public Notice for the **Workshop** was published in The Herald-Advocate on March 18, 2010 with Affidavit of Publication on file.

(NOTE: On 03/04/10 **Agenda No. 10-06** was presented to the Planning/Zoning Board public hearing as a request from the Hardee County Board of County Commissioners requesting an Amendment to the Hardee County Unified Land Development Code under **Ordinance No. 2010-04** amending Section 2.28.00—General Regulations for Commercial/Industrial Zoning Districts reorganizing same; providing for regulation for restaurants; providing for amendment to open container provisions; providing for definition and procedure for determination of premise.

(The Board reviewed and discussed the proposed ordinance changes, and upon MOTION by Conley, second by Chancey the Board determined to send a letter to the BCC stating the P/Z Board took no action of **Ordinance No. 2010-04** pending a P/Z Workshop scheduled for Tuesday, March 30, 2010. Motion carried unanimously).

(Board's directed at that regular meeting/public hearing that it wanted the County Attorney and County Manager present at the **Workshop**, and requested to invite Sheriff Arnold Lanier. Upon conferring with the schedules of the County staff, it was learned that neither could be in attendance at the 03/30/10 Workshop. Sheriff Lanier could not be in attendance at the Workshop).

As the only general public present, Charlotte Draganov and Nick Draganov, 3315 St Rd 64 W, Hardee County contributed to the discussion.

Attached hereto and made a part hereof is a copy of Section 2.28.00 of the Hardee County Unified Land Development Code with the P/Z Board's direction for strikeouts and added language. The language to be stricken is shown struck-through, and the language to be added is shown as underlined.

Board determined for staff to draft a document with the struck-through language and underlined language for the Board's individual review. Upon MOTION by Board Member Conley, second by Board Member Norris Staff is directed to advertise Ordinance No. 2010-04 for a public hearing by the P/Z Board for Thursday, May 06, 2010, 6:00 P.M. or as soon thereafter. Motion carried unanimously.

Board was advised of the following schedule:

- 04/01/10 **6:00 P.M.** P/Z Regular Meeting/Public Hearing
(BCC Board Room);
- 04/01/10 **following**
P/Z Reg Mtg Joint P/Z and BCC Public Hearing
Mosaic, VCH Citrus, Hoopingarner
and Hollingsworth
Large-Scale "Comp Plan" FLU Map amendment
to Generalized Mining Overlay Map
to include several parcels of land totaling
3,601.43+/-acres, zoned A-1
(BCC Board Room);
- 04/01/10 **following**
Jt Pub Hrg P/Z EAR Workshop
(BCC Board Room);
- 04/08/10 **6:00 P.M.** Community EAR Workshop
(Civic Center);
- 04/29/10 **6:00 P.M.** Joint P/Z and BCC Public Hearing for transmittal of
EAR Amendments to the Comprehensive Plan
to State of Florida, DCA
(BCC Board Room)

Board adjourned the **Workshop** at 9:10 P.M.

B.J. Haney, Acting Recording Secretary

:-:Attachment to March 3/30/10 Planning/Zoning Board Workshop
and made a part hereof:-:

PAGE ONE

~~Strikethrough~~ is stricken language
Underlined is added language

P/Z's 03/30/10 WORKSHOP CHANGES

2.28.00. General Regulations for Commercial/Industrial Zoning Districts.

~~(13)~~

(01)

No person shall possess an open container of alcoholic beverages or consume any alcoholic beverages including wine and/or beer, upon the public streets, roads, public parking lots or rights-of-way within the unincorporated areas of Hardee County, Florida, ~~or upon the premises or parking lot or parking area of any club or business that operates a business other than the sale or consumption of alcoholic beverages.~~

~~(14)~~

(02)

Open container is defined as any container whose contents are immediately capable of being consumed from, or the seal of which has been broken or tampered with.

~~(15)~~

(03)

Upon receipt of written request, the Board of County Commissioners in writing may waive paragraph (01) and paragraph (02).

~~(16)~~

(04)

Hardee County adopts by reference the definitions set out in Section 561.01, Florida Statutes, as they may, from time to time be amended.

~~(17)~~

(05)

These provisions of ~~Paragraphs (B)(04) through (B)(16)~~ **Section 2.28.00** inclusive shall apply to and be in full force and effect in all unincorporated areas of Hardee County, Florida.

(06)

Any expansion of the premises to include outside areas will not be considered an expansion of a non-conforming use so long as additional impervious area is not added. The perimeter of all approved outside areas shall be delineated by an approved sketch and signage erected as required by state law.

(07)

The Planning and Zoning Board shall review each sketch submitted to identify the premises and shall either approve, approve with conditions, or deny based upon compliance with provisions contained herein and other applicable provisions of the Unified Land Development Code.

(08)

The sketch no smaller than 8 ½"x11" in size shall be visibly posted along side other required licenses.

2.28.01 Sale of Alcoholic Beverages

The sale of alcoholic beverages for consumption on-the-premises where such beverages are sold is prohibited, except as provided in this subsection. "Bottle clubs" or other establishments where alcoholic beverages are consumed, but not sold, on-the-premises, shall be prohibited, except as provided below:

(A) *Private Clubs.*

Private clubs, clubs, bottle clubs including country clubs and civic or fraternal organizations, may serve alcoholic beverages upon obtaining the necessary licenses and permits from the State of Florida, when such service is incidental to the main use of the property and is limited to the exclusive use of members and guests of the club.

(B) *Established Business: Restaurants.*

The sale of alcoholic beverages in ~~an established business~~ a restaurant ~~shall~~ may be permitted in C-2, I-1, and I-2-zoned districts and permitted with a Site Development Plan in C-1-zoned districts. "~~Established business~~" Restaurant is defined in Article 9 of this Code. Review of an application for approval of a Site Development Plan is governed by Article 7. In these districts the sale of alcoholic beverages is subject to the following standards:

~~(01) More than 50% of the established business' revenues are derived from the sale of food;~~

~~(02)~~

(01) All public entrances of the ~~established business~~ restaurant ~~serving alcoholic beverages~~ are shall be located at least 500 feet from an established church, an established day care center or an established school which distance shall be measured by following ~~the shortest route of ordinary pedestrian travel along the public thoroughfare~~ a straight line from the main public entrance of said ~~established business~~ the restaurant serving alcoholic beverages to the ~~nearest~~ main public entrance of the established church, established day care center or established school;

~~(03)~~

(02) All public entrances of the ~~established business~~ restaurant ~~serving alcoholic beverages~~ are shall be located at least 500 feet from any residentially-zoned property, specifically R-1, R-2 or R-3-zoning districts which distance shall be measured by following a straight line from the main public entrance of the restaurant serving alcoholic beverages to the property line of any residentially-zoned property specifically R-1-, R-2, or R-3-zoning districts.

~~(04) Points of ingress/egress to the property connect to a road having a functional classification of Collector or higher.~~

~~(05)~~

(03) Hours of Sale;

- a. It shall be unlawful for any alcoholic beverages, including wines and/or beers, to be sold, served, dispensed, consumed or permitted to be served or consumed on the premises of any licensee operating under a valid license issued by the Division of Alcoholic Beverages and Tobacco of the State Department of Business Regulation between the hours:

Sunday	1:00 a.m. and 1:00 p.m.
Monday	1:00 a.m. and 1:00 p.m.
Tuesday	1:00 a.m. and 1:00 p.m.
Wednesday	1:00 a.m. and 1:00 p.m.
Thursday	1:00 a.m. and 1:00 p.m.
Friday	1:00 a.m. and 1:00 p.m.
Saturday	1:00 a.m. and 1:00 p.m.

Division of Alcoholic Beverages and Tobacco of the State Department of Business Regulation is defined in Article 9 of this Code.

- (b) In addition to the hours of sale provided in Paragraph ~~(05)(a)~~ (03)(a), the sale of alcoholic beverages shall be allowed for an additional hour from 1:00 a.m. and 2:00 a.m. on January 1st.

~~(06)~~

(04)

All vendors licensed by the Division of Alcoholic Beverages and Tobacco of the State Department of Business Regulation, shall comply with all laws of the State of Florida and all rules and regulations promulgated by the Division in the conduct and operation of all businesses authorized to sell, serve and dispense alcoholic beverages, and reference is hereby made to Chapters 561 through 568 of the Florida Statutes, and the same are hereby incorporated herein by reference and adopted as part hereof, except as portions thereof may be modified hereinafter.

~~(07)~~

~~No license shall be granted to a vendor to sell, serve or dispense alcoholic beverages, including wine and/or beer for consumption on the vendor's property by the Division, whose place of business for selling, serving or dispensing alcoholic beverages, including wine and/or beer, is or shall be within 500 feet of an established church, school or day care which distance shall be measured by following the shortest route of ordinance pedestrian travel along the public thoroughfare from the main entrance of said alcoholic beverage business to the nearest entrance of the established church, school or day care.~~

~~(a) No vendor licensed by the Division to sell, serve or dispense alcoholic beverages, including wine and/or beer, shall conduct his/her place of business within 500 feet of an established church, which distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of the established church.~~

~~(b) No vendor licensed by the Division to sell, serve or dispense alcoholic beverages, including wine and/or beer, shall conduct his/her place of business within 500 feet of an established school, which distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of~~

~~said place of business to the nearest point of the school grounds in use as part of the school facilities.~~

~~(c) No vendor licensed by the Division to sell, serve or dispense alcoholic beverages, including wine and/or beer, shall conduct his/her place of business within 500 feet of an established day care, which distance shall be measured by following the shortest route of ordinary pedestrian travel along the public thoroughfare from the main entrance of said place of business to the nearest point of the day care grounds in use as part of the day care facilities.~~

~~(08) No certificate of use or occupancy, building, plumbing, electrical or other permit, including, but not limited to, health permits, shall be issued to any person, firm, association or corporation conducting and/or operating a sale of alcoholic beverages, including wine and/or beer at a location prohibited, pursuant to Paragraph (07)(a), (07)(b) and (07)(c) above.~~

~~(09)~~

(05) The provision of Paragraphs ~~(07)(a)~~ (B)(01) and ~~(07)(b)~~ (B)(02) shall not apply to licensed vendors:

- (a) holding valid licenses on January 01, 2001 for the sale of beer; but, the license of any such vendor shall not be transferred to another location prohibited herein;
- (b) of beer and/or wines for consumption off-the-premises only;
- (c) of an "established business" restaurant as defined in Article 9 of this Code.

To: P/Z Board, Planning/Development Dept. did not understand the Board's intention for paragraph (09) that is now paragraph (05). Please provide direction.

~~(10)~~

(06) No manufacturer, distributor, exporter or vendor of alcoholic beverages, including wine and/or beer shall engage in the business and/or operation of selling alcoholic beverages, including wine and/or beer, without first having secured and/or obtained a license from the Division of Alcoholic Beverages and Tobacco of the State Department of Business Regulation.

~~(11) It shall be unlawful to any person, firm, association or corporation, or the officers, agents or employees, to sell, give, serve or permit to be served, any alcoholic beverages, including wine and/or beer, to any of the following enumerated persons or to permit any of the following enumerated persons to consume any of said beverages on licensed premises, to wit:~~

- (a) ~~any person under 21 years of age;~~
- (b) ~~any person who is intoxicated;~~
- (c) ~~any person who is mentally incompetent and known to be so by the seller or any person whom the seller has good reason to believe might be mentally incompetent; or~~
- (d) ~~any person who is a habitual drunkard and known to be so by the seller or any person whom the seller has good reason to believe might be a habitual drunkard.~~

(C) Convenience Stores/Grocery Stores.

~~(12)~~

- (01) No person shall possess any open container of an alcoholic beverage while in the parking lots or other outside areas of the premises for which a valid license for the sale of alcoholic beverages has been issued by the ~~Division of Alcoholic Beverages and Tobacco of the State Department of Business Regulation.~~

~~(C)~~

(D) Drinking Alcoholic Beverage Establishments/Bars/Nightclubs.

The on-premises consumption of alcoholic beverages in ~~drinking alcoholic beverage establishments/bars/nightclubs~~ shall may be permitted in C-2, I-1 and I-2 zoned districts and permitted with a Site Development Plan in C-1-zoned districts. Review of an application for approval of a Site Development Plan is governed by Article 7. In these zoning districts the sale of alcoholic beverages are subject to the following standards:

- (01) All public entrances of the alcoholic beverages establishments/bars/nightclubs ~~are~~ shall be located at least 500 feet from an established church, day care center or an established school; which distance shall be measured by following a straight line from the main public entrance of said alcoholic beverage establishments /bars/nightclubs to the nearest main public entrance of the established church, established day care center or established school;
- (02) All public entrances of the alcoholic beverage establishments/bars/nightclubs ~~are~~ shall be located at least 1,500 feet from any residentially-zoned property specifically R-1-, R-2, or R-3-zoning districts;
- (03) Points of ingress/egress to the property on which the alcoholic beverages establishments/bars/nightclubs is located shall connect to a road having a functional classification of Collector or higher.

~~(D)~~
(E) *Prohibited Acts in Licensed Alcoholic Beverage Establishments.*

- (01) It shall be unlawful for any person to appear in a licensed alcoholic beverage establishments or licensed premises, as defined in Section 561.01, Florida Statutes in such a manner or attire as to expose to public or private view, or to employ any device or covering that is intended to give the appearance of any portion of the public area, anus, vulva or genitals, or, if such person is female, the area of the breast directly or laterally below the top of the areola.
- (02) It shall be unlawful for any person owning, maintaining, operating or leasing a licensed alcoholic beverage establishments/bars/nightclubs as defined in Section 561.01, Florida Statutes, or any other person, to permit any violation of subsection ~~D(01)~~ E(01) of this Code.
- (03) It shall be unlawful for any person to engage in any activity commonly referred to as a "lap dance" or "private table-side dancing" whereby the lap dancer or private table-side dancer intentionally sits upon or rubs against the clothed or unclothed genitals, vulva, anus or buttock of any patron, customer or spectator therein in exchange for receiving a tip, donation, gratuity or anything of value, including, but not limited to, money, or for no consideration at all. It shall be unlawful as well for the patron, customer, or spectator upon whose body the lap dancer or private table-side dancer is committing the above-proscribed activity to permit the activity to occur.
- (04) It shall be unlawful for any person owning, maintaining, operating or leasing a licensed alcoholic beverage establishment to licensed premises as defined in section 561.01, Florida Statutes, to permit the construction, maintenance or use of areas completely or partially partitioned, curtained or screened from public view that are permitted to be used for the activities prescribed in subsections ~~(D)(01)~~ (E)(01) and ~~(D)(02)~~ (E)(02) of this Code.

2.28.02 *Temporary Tents*

Tents over 200 square feet in area or larger may be erected temporarily one property in a commercial district where a commercial structure is already established, and on property occupied by a church, regardless of its zoning district, upon issuance of a permit from the Hardee County Building Department and subject to the following requirements;

- (01) Temporary tents may not be erected more than two times per year per parcel, for periods not exceeding two weeks. The Planning and Development Director may approve an additional two-week extension;
- (02) No more than 10% of the existing parking area is used, and the temporary tent does not block any point of ingress or egress to the site;

- (03) All electrical connections must be permitted, and receive a “passed inspection” by the Building Department;
- (04) The temporary tent must be inspected and approved by the Hardee County Fire Department as being in compliance with all relevant Fire Code regulations;
- (05) Sanitary facilities for the public, customers or patrons shall be provided on-site through the use of portable toilets, and sanitary requirements will be regulated by the State of Florida, Department of Health.

Add to Definitions (Article 9):

Alcoholic Beverage Establishments/Bars/Nightclubs: any premises devoted during any time of operation predominantly or totally to serving alcoholic beverages for consumption on-the-licensed-premises, in which the serving of food, if any, is merely incidental to the consumption of any such beverage. A place of business constitutes an alcoholic beverage establishment/bar/nightclub in which the service of food is merely incidental in accordance with this definition if the licensed premise derives no more than 10% of its gross revenue from the sale of food consumed on the licensed premises. This definition shall be construed consistent with any judicial construction given to the term “stand-alone bar” found in F.S. 386.203(11). This definition does not include sporting facilities where events sanctioned by nationally-recognized regulatory athletic or sports associations are held; nor hotels, motels, and bona fide restaurant whose primary business is the service of full course meals, where such businesses are licensed by the State’s Division of Hotels and Restaurants or bona fide indoor entertainment facilities such as billiard halls, arcades, bowling alleys or movie theaters in which the serving of alcoholic beverages, if any, is ancillary to the indoor entertainment and the premises derives no more than 40% of its gross revenues from the sale of alcoholic beverages on the premises. This definition does not include any airport vendor holding a special airport license as defined by F.S. 561.01(13).

Board please give direction as to where to add Golf Courses in the ordinance and what language.