

PLANNING AND ZONING BOARD  
**REGULAR MEETING/PUBLIC HEARING**

May 19, 2011, 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  
Roger Conley, present  
Anita Keene, excused  
Gordon Norris, excused  
Oscar Ortiz, excused  
Charles Parker, excused  
Monica Reas, Vice Chairperson, present  
Mike S. Thompson, Chairperson, present  
Vida Tomlinson, present

**Staff**

Kevin Denny, AICP, Planning/Develop. Director  
present  
BJ Haney, Planner II, present

No News Media identified

Chairman Thompson called the Regular Meeting to order at 6:00 P.M.; a quorum was present.

Those in attendance pledged allegiance to the American Flag followed by a prayer of guidance for the meeting by Board Member Conley.

The Board was advised the Public Notice for the Regular Meeting/Public Hearing was published in The Herald-Advocate on 04/28/11 with Affidavit of Publication on file, and that advertisements/public notices were properly posted.

Chairman read the Planning and Zoning Board's General Rules of Procedure located on Page Three of the Board's Agenda.

As a Notary Public Haney administered Oath to those wishing to offer testimony.

MOTION by Board Member Arce, second by Board Member Reas to approve Minutes of 10/07/10 Regular Meeting/Public Hearing as printed and mailed. Motion carried unanimously.

MOTION by Conley, second by Arce to approve Minutes of 04/21/11 Regular Meeting/Public Hearing as printed and mailed. Motion carried unanimously.

**Agenda No. 11-03**

Board was advised of a request from Lynn Monies Beard by and through the Authorized Representative for a recommendation of approval for a Rezone of 1.0+/-acres of a 4.56+/-acre parcel from A-1 (Agriculture) to F-R (Farm-Residential) in the Residential Mixed Use Future Land Use District.

Board and County Staff were provided with a copy of the application and supporting data, the Staff's Report including the Staff's Findings, Conclusion, Recommendations and Recommended Stipulations prior to the 05/19/11 public hearing.

Planning/Development Director Denny presented the Staff Report including Findings of Fact, Conclusion and Recommended Stipulations.

Denny advised:

- this is an applicant-initiated rezone request;
- typically staff would have a concern this could be interpreted as spot rezoning . . . this request is not really a concern considering there is higher density of R-2 (Two-Family Residential) zoning in the area, 3.56+/-acres of the parcel will remain as agriculture;
- the 1.0+/-acre-parcel with the existing single-family dwelling will be served by private septic tank and private potable water well.

Denny pointed out that Policy L1.4 of the (Hardee County) Comprehensive Plan provides that the primary purpose of Residential Mixed Use Category as designated on the Future Land Use Map shall be to provide a transition between urban and rural land uses where medium density residential development with public water and sewer is encouraged in combination with the maintenance of agriculture and open space.

Denny reminded the Board that the proposed rezoning request is consistent with the 'Comp Plan' in that 1.0+/-acres of the existing 4.56+/-acre lot of record will allow for the transitional zoning from urban to rural and will allow for a smaller parcel similar to the R-2 zoning nearby.

Denny advised the Board that the property lines will request a slight adjustment from what the Board was given (to allow for the structures on the property to comply with minimum property line setbacks).

There was discussion that if the rezoning is approved that the property owner will be required to secure a minor subdivision approved by the Board of County Commissioners.

Denny noted that staff's conclusion is that the granting of a Rezone of 1.0+/-acres from A-1 to F-R of a 4.56+/-acre lot of record in the Residential Mixed Use Future Land Use District is not contrary to the Hardee County 'Comp Plan' and is not contrary to the standards in the Hardee County Unified Land Development Code.

Denny pointed out the Rezoning is contingent on the finalization of the three stipulations contained in the Staff Report and upon the property owner providing a boundary survey or minor subdivision drawing that shows the adjusted property lines.

Denny entered the Staff Report and other reports into the record; no objections were presented.

Chairman called for public input. Applicant Beard, (P.O. Box 1835, Wauchula, FL 33873) was sworn and advised that she really needs an approved rezoning to have a smaller lot to take care of.

MOTION by Conley, second by Reas to recommend approval to the Board of County Commissioners of the request for a Rezone of 1.0+/-acres of a 4.56+/-acre parcel from A-1 (Agriculture) to F-R (Farm-Residential) in the Residential Mixed Use Future Land Use District based on staff's findings, recommendation for approval, recommended stipulations to include the submission of a boundary survey or minor subdivision drawing showing the adjusted property lines and based on the testimony presented and the evidence received in the public hearing. Motion carried unanimously.

Board was advised the BoCC will hold a public hearing and receive a recommendation from the Planning/Zoning Board on Thursday, May 26, 2011, 6:05 P.M. or as soon thereafter.

(As information to the Board, before the 05/19/11 P/Z Board Minutes were mailed, the BoCC held its public hearing and granted the Beard request for rezoning of 1.0+/-acre from A-1 to F-R.

#### **Agenda No. 11-04**

Board was advised of a request from the Board of County Commissioners by and through the Authorized Representative for a recommendation of approval of **Ordinance No. 2011-03** (An Ordinance amending Table 2.29.02(C)—**Development Standards** of the Hardee COUNTY UNIFIED LAND DEVELOPMENT CODE (Ordinance No. 2007-11), as amended, amending the maximum lot coverage percentage from 50% to 75% for Commercial/Industrial Business Center-zoned districts based on the staff's findings, recommendation for approval and based on the testimony presented and the evidence received in the public hearing.

Denny advised this is a proposed ordinance to fix some inconsistencies in the land development code in that presently the maximum lot coverage allowed in C/IBC-zoned districts is 50%. This conflicts with Policy L1.4 of the Future Land Use Element of the Comprehensive Plan that sets maximum lot coverage of 75%.

As dictated by the Florida Statutes, the Comprehensive Plan is the supreme rule. Also the ULDC-maximum of 50% lot coverage is not appropriate for the uses allowed in the C/IBC zoning district. This standard creates an unusual problem in the Hardee county Commerce Park. Denny pointed out that the FLU amendment that created the Commerce Park contained a State-approved maximum Floor Area Ratio (FAR) of 0.5. Imposing the 0.5 FAR and the existing ULDC standard of 50% maximum lot coverage creates an unusual building footprint. A developer would be required to locate all parking, building and driveways on only 50% of the property. This is just not economically feasible.

Denny stated that this inconsistency needs to be corrected and staff is recommending the Board recommend to the Board of County Commissioners approval of the proposed ordinance.

Chairman called for public input; none received.

MOTION by Reas, second by Conley to recommend to the Board of County Commissioners approval of **Ordinance No. 2011-03**(An Ordinance amending Table 2.29.02(C)—**Development Standards** of the Hardee COUNTY UNIFIED LAND DEVELOPMENT CODE (Ordinance No. 2007-11), as amended, amending the maximum lot coverage percentage from 50% to 75% for Commercial/Industrial Business Center-zoned districts based on the staff's findings, recommendation for approval and based on the testimony presented and the evidence received in the public hearing.

Board was advised the BoCC will hold a public hearing and receive a recommendation from the Planning/Zoning Board on Thursday, May 26, 2011, 6:05 P.M. or as soon thereafter.

Board was advised Sustainable Hardee: Visioning for the Future has two meetings scheduled:

Economic Development Tuesday, May 24, 2011, 6:00-7:30 P.M.

Land Use Tuesday, June 07, 2011, 6:00-7:30 P.M.

in the BoCC Board Room. Denny advised this will be the third round of hearings.

Denny advised there are some changes to the Land Development Code forthcoming, e.g.:

- RV Resort Campground permitted by Special Exception;
- Boy Scout camp with cabins.

Denny gave a quick summary of the provision of HB 7202—'Growth Management changes' that would make sweeping changes to the state's 25-year-old management system, substantially reducing state oversight of local land use decisions. Denny noted that the bill shifts the burden of proof to citizens who file legal challenges and lifts requirements that developers pay for needed roads and schools.

The bulleted information below is planned for discussion with the BoCC at its next meeting: and is provided from 'The Future of Growth Management in Florida', Greenberg Traurig, May, 2011:

- Comprehensive Plan amendments are not subject to consistency with the State 'Comp Plan' and State priorities will instead be directed toward identifying and protecting 'important' State resources and facilities in formulating agency review comments.;
- Rule 9J-5, Florida Administrative Code (the former Department of Community Affairs administrative rules) has been repealed and Chapter 163, Florida Statutes amended to incorporate less prescriptive provisions;
- State-mandated concurrency is no longer required for transportation, schools and parks, and local governments have been delegated the discretion to implement as optional elements, or delete existing elements by way of a plan amendment;

- For local governments opting to implement transportation concurrency, they are not bound development orders including Developments of Regional Impact (DRIs), rezoning, and land use development permits;
- Financial Feasibility has been replaced by another standards requiring that level of Service (LOS) standards be 'reasonably met' through capital improvement planning that may extend beyond five years;
- Land use 'need' will not function as a minimum (floor) for determining land use allocations rather than as a maximum or cap on allocations and may be utilized in conjunction with longer range planning periods;
- Urban sprawl evaluation methodology has been simplified and is less prescriptive; however, the standards for compliance may now be construed as more stringent;
- Local governments now have up to 180 days (rather than 60 days) to respond to agency comments/objections;
- Development agreements were extended from 20 to 25 years and may be extended by mutual agreement of the local government and the applicant.

#### MAJOR DRI PROGRAM CHANGES

- Commencement, phasing, build-out and expiration dates may be extended by four years by filing a notice with the local government by 12/31/2011 regardless of previous extensions, and will not be a substantial deviation nor considered in evaluating future extensions;
- The four-year extension will also apply to mitigation requirements, unless a governmental entity notifies the developer by 12/01/2011 that construction has commenced within the phase for which the mitigation is required per a local government contract for construction of a facility;
- Industrial uses, Hotel uses and Multiple screen cinemas are now exempt from DRI review;
- Any proposed solid mineral mine and addition thereto, expansion of or change to an existing solid mineral mine is exempt from DRI review;
- Notwithstanding any agreement with a local government, regional agency, or the Agency or in a local government's 'Comp Plan' to the contrary, a project no longer subject to DRI review under revised thresholds is not required to undergo such review.
- The so-called DRI aggregation criteria was modified to relax the standards thereby making it more difficult for the State and local governments to force two or more developments to be subject tot DRI review as a single project;
- Certain substantial deviation criteria were modified and relaxed;
- As a proposed change to a DRI development order, the newly adopted FS163.3180(5)h proportionate share methodology can be used to recalculate transportation mitigation, shall be presumed not to be a substantial deviation, and shall not be considered as an additional regional transportation impact.

#### DEVELOPMENT AUTHORIZATION/PERMIT EXTENSION OPPORTUNITIES

- Under specific conditions, any permit or authorization previously extended pursuant to Section 14, Chapter 2009-96 (i.e. SB 360) as reauthorized by Section 47, Chapter 2010-47, Laws of Florida, is extended and renewed for an additional two years after its previously-scheduled expiration date;
- Under specific conditions, any building permit (including certificates of service), development order, and permit issued by the Department of Environmental Protection or by a water management district pursuant to Part IV, Chapter 373, FS that has an expiration date between 01/01/2012 and 01/01/2014 is extended for a period of two years.

Board was advised the BoCC has a Workshop scheduled for Thursday, June 17, 2011, 8:30 A.M. to discuss code enforcement.

Board was advised the P/Z's next Regular Meeting/Public Hearing is scheduled for Thursday, June 02, 2011, 6:00 P.M. (Before the minutes were mailed, the Planning/Development Dept. determined there are no items for a June 02, 2011 regular meeting).

With no further business, Board was adjourned at 6:55 P.M.

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B.J. Haney, Acting Recording Secretary