PLANNING AND ZONING BOARD
**REGULAR MEETING/PUBLIC HEARING**--JUNE 04, 2015, 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, Vice Chairman, present
Donnie Autry, present
Roger Conley, Chairman, present
Michael Scheipsmeier, present
Drew Schock, excused
Nick Timmerman, present
Ann Wilson, present

**Staff**
Todd Miller, Planning Director, present
BJ Haney, Planning Dept., present
West Palmer, Mining Coordinator, present

News Media; none present

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

Attendees pledged allegiance to the American flag, Board Member Timmerman offered a prayer.

The Board was advised that the Public Notice for the 06/04/15 Regular Meeting/Public Hearing was published in The Herald-Advocate on 05/14/15 with Affidavit of Publication on file; and that advertisements/public notices were properly advertised pursuant to the provisions of the County's Unified Land Development Code (ULDC), and that notices to applicant(s), authorized representative and neighboring property owners for Agenda No. 15-10, Agenda No. 15-11, Agenda No. 15-12 were timely mailed from the Hardee County Planning/Development Office pursuant to the provisions of the County's ULDC.

MOTION by Board Member Autry, second by Timmerman to approve Minutes of 01/08/15 Regular Meeting/Public Hearing as printed and mailed. Motion carried unanimously.

Haney asked . . . has any Planning and Zoning Board member received any oral or written communications regarding the land use item to be discussed? If so, please disclose substance of the communication and identify the person making communication; none received.

Chairman explained Planning and Zoning Board's General Rules of Procedure and Notary Public Haney administered Oath to those wishing to offer testimony.

Agenda No. 15-12

Chairman advised that:

- Mario SanJuan Mateo and Casimera Hernandez Lopez, property owners/applicants request approval of a Special Exception to locate a single-family manufactured home on an F-R-zoned .60+/-acres parcel in the Residential Mixed Use Future Land Use District;
- parcel is situated on the West side of Mott Rd., North of Old Bradenton Rd. Hardee County;
- the purpose of this Public Hearing is to hear the request, receive public input and offer a recommendation to the Board of County Commissioners.

Board and County Staff were provided with a copy of the application, and a copy of the Staff Report prior to the public hearing.

The Applicants were present and Amalia Arista, Hardee County Emergency Management Staff as interpreter was present.

Todd Miller, Hardee County Planning/Development Director being sworn advised:

- the request is for a Special Exception to locate a single-family manufactured home in an F-R-zoning district;
- the applicants are Mario SanJuan Mateo and Casimera Hernandez Lopez;

- the parcel is located on the West side of Mott Rd., North of Old Bradenton Rd.;
- the existing land use is Residential Mixed Use to the North South, East and West; and the existing zoning is F-R to the North, South, East and West;
- Section 2.29.02.04 of the Hardee County Unified Land Development Code (ULDC) allows manufactured homes in F-R-zoning districts upon approval of a Special Exception;
- the parcel is a lot of record and per the sketch attached to the application, the dwelling can meet the required property line setbacks;
- Section 7.16.02(E) of the Hardee County ULDC provides that development on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code;
- the granting of a Special Exception is in compliance with the Hardee County Comprehensive Plan and is not contrary to the standards set forth in the Hardee County ULDC;
- Staff recommends approval of Agenda No. SE 15-12 to the Planning and Zoning Board and recommends the Board recommend approval to the Board of County Commissioners with recommended conditions being:

  --applicants shall comply with all ULDC, County ordinance and other relevant laws and rules and comply with the regulations of any agency with jurisdiction;
  --if a Special Exception permit has not been exercised within the time limits set forth in the permit, or within one year if no time limit has been specified, or if a Special Exception permit is not exercised or is abandoned for a continuous period of one year or more, the permit shall expire automatically. Exercising shall mean securing the required permits for the dwelling.

Miller entered Staff Report and his testimony into the record.

There was discussion about:

- the use of an existing slab; Board was the slab would not be utilized.
- dwelling being able to meet required property line setbacks based on the size of the parcel;
- whether there is an existing septic tank; Board was advised that septic tank/drainfield requirements would be regulated by the State of Florida Environmental Services.

Chairman called for public input; none received.

MOTION by Autry second by Board Member Arce to **RECOMMEND APPROVAL** to the Board of County Commissioners of the request for a Special Exception to locate a single-family manufactured home on an F-R-zoned .60+/-acre parcel in the Residential Mixed Use Future Land Use District based on the Staff Report as presented, based on the recommended conditions, and based on the testimony present, and the evidence received in the public hearing. Motion carried unanimously.

Chairman advised the Board of County Commissioners will hold a public hearing and receive a recommendation from the Planning/Zoning Board on Thursday, July 02, 2015 at 8:35 A.M. or as soon thereafter in this room.

Chairman advised that:

- Grady Johnson Sr. and Patricia M. Johnson property owners/applicants by and through the Authorized Representative request approval of a Site Development Plan to operate a
- rescue center for cats and dogs on 5.0+/-acres of a 10.0+/-acre-A-1-zoned parcel in the Agriculture Future Land Use District;
- parcel is situated on the West side of Merle Langford Rd., South of Steve Roberts Special, Hardee County;
- the purpose of this Public Hearing is to hear the request, and receive public input.

Agenda No. 15-11

Board and County Staff were provided with a copy of the application including the Site Development Plan, and a copy of the Staff Report prior to the public hearing.

The Applicants/Property Owners were present and Grady Johnson, Sr., (2696) Merle Langford Rd., (Zolfo Springs, FL) was sworn.

The Authorized Representative, Barry Edgley, 2646 Merle Langford Rd., (Zolfo Springs, FL) was sworn.

Miller advised that:

- the Authorized Representatives Barry and Jill Edgley are requesting approval of a Site Development Plan to operate a not-for-profit "No Kill" animal adoption shelter (Trust Again Pet Shelter) on a 5.0-acre portion of a 10-acre tract of land located at 2646 Merle Langford Rd.;
- the surrounding land use is agriculture and residential and the zoning is A-1 (Agriculture).

The Staff Report advised:

> In order to accommodate the proposed use, the applicant is planning to install nine portable shed, 10'x16' in size for cats, and seven portable shed, 10'x20' in size for dogs. This includes one of each type for isolation and one 10'x20' shed for adoption viewing. The 16 sheds will be brought onto the property as funding becomes available for purchase and installation. Upon installation of all sheds, there will be a maximum potential cat population of 100 and a maximum potential dog population of 40. All animals will be housed in a shed and will have access to an approximately three-acre portion of the site that is fully fenced and enclosed.
> The manufactured home structure on the property will be removed concurrent with the installation of the portable sheds.

Miller advised that:

- Staff finds the proposed use and development consistent with Policy L1.13 and the intent and purposes of the Hardee County Comprehensive Plan and the Unified Land Development Code;
- Staff recommends approval to the Hardee County Planning and Zoning Board of a Major Site Development Plan (Agenda No. 15-11) for the Applicant to develop and operate a not-for-profit "No Kill" animal shelter and adoption facility on 5.0+/-acres portion of a 10-acre tract of land located at 2646 Merle Langford Rd. subject to the condition that no more than four permits shall be issued for the portable sheds prior to the removal of the existing manufactured home.

Miller entered Staff Report and his testimony into the record.

Chairman called for public input.

Grady Johnson, Merle Langford Rd. was sworn and stated:

- the area is the old HARC (Hardee Association for Retarded Citizens) school;
- the project is so good; the animals are sent all over the country.

Barry Edgley, 2646 Merle Langford Rd., Zolfo Springs, FL 33890 was sworn and advised that:

- the modular/mobile home is ready to be removed . . . just waiting for the new buildings;
- the new buildings are customized for the TAPS program . . . . they are not just sheds;
- site is looked after 24/7;
- site is open from 11:00 A.M.-sunset on the weekends; and weekdays by appointment;

The question was raised and Edgley advised that TAPS uses a local veterinarian and a veterinarian from Highlands County.

Edgley gave an overview of the project and noted:

- that the cats will continue to be contained within the buildings that have inside and outside areas;
- only sick animals or nursing kittens are caged;
- all animals are inside the buildings at night;
- TAPS adopted 75 cats and 14 dogs in 2014;
- when TAPS gets up to speed we can help the County's animal control.
- TAPS is unofficially policed by the visitors and the vets;
- TAPS has received no negative comments from neighbors.

There was discussion regarding sanitation and Edgley advised that:

- presently we burn and plan to install an incinerator when the funding becomes available;
- we regularly spray for insects and fleas.

There was discussion regarding who monitors or regulates this type of facility and it was surmised that Hardee County Code Enforcement Office and Hardee County Health Dept. would be the monitoring agencies.

Victoria Edgley, 2646 Merle Langford Rd., (Zolfo springs, FL) was sworn and read some emails from Linda O'Conner, Randy Dixon and Amanda Helton praising and supporting the TAPS program.

MOTION by Autry, second by Arce to **APPROVE** the request for a Site Development Plan to operate a rescue center for cats and dogs on 5.0+/-acres of a 10.0+/-acre-A-1-zoned parcel in the Agriculture Future Land Use District based on the Staff Report as presented, based on the recommended condition, and based on the testimony presented, and the evidence received in the public hearing. Motion carried unanimously.

Agenda No. 15-10

Chairman advised that:

- Lawrence J. Martell and Mary K. Martell, property owners/applicants by and through the Authorized Representative request a Variance to the setbacks of the Peace River for development of a singe-family dwelling on a 5.0+/-acres A-1-zoned parcel in the Residential Mixed Use Future Land Use District;
- parcel is situated on the West side of Cross Creek Ln., West of Popash Rd. and South of Griffin Rd. Hardee County;
- the purpose of this Public Hearing is to hear the request, receive public input and offer a recommendation to the Board of County Commissioners.

Board and County Staff were provided with a copy of the application and a copy of the Staff Report prior to the public hearing.

Miller stated this is an applicant-initiated Variance to reduce the required setbacks of the Peace River from 500 ft as required by Policy L1.19 and C2.5 of the "Comp Plan to 65 ft for the development of a single-family dwelling on a lot of record.

Miller identified the property owners/applicants, authorized representative, location and size of parcel, existing land use and zoning and surrounding land uses and zoning.

Board was advised:

- that Variances may not be considered for regulations relating to the permitted use of land, concurrency and consistency with the Comprehensive Plan except that the Board of County Commissioners approved Ordinance No. 2008-14 granting a variance procedure to consider exceptions to density and setbacks requires in the plan policies along the Peace River, Horse Creek, Charlie Creek and Payne Creek.
- the lot of record is 473 ft deep with a single-family dwelling developed in 1986 that has not been occupied since Hurricane Charley (2004);
- the dwelling which sits approximately 65 ft from the River does not meet the required 500 ft setback from the River, nor could a newly-located structure meet the requirement given the size and dimensions of the lot;
- the applicant is proposing to utilize the foundation and framework of the existing structure to build a new single-family dwelling in compliance with all current building and development regulations
- that considering the existing structure is located in the floodway of the River as designated by FEMA's 2013 FIRM (Federal Insurance Rate Map); a Hydrological Engineering Center II (HEC II) modeling shall be performed by a licensed engineer showing there will be no rise in the flood elevation due to the development.

Miller advised that Staff recommends approval to the Planning and Zoning Board with recommended condition, and recommends the Board recommend approval to the Board of County Commissioners with recommended condition that:

> The property owner/applicant shall have prepared and submitted to the Hardee County Building Department, the Hydrologic Engineering Center II (HEC II) modeling by a licensed engineer to prove that the structure will not raise the expected flood level by more than one inch.

Miller entered Staff Report and his testimony into the record.

Board discussed that safety issues would have to be met, foundation is probably ok; the elevation where the house is located is high and Staff Report said the floor elevation exceeds today's code; other homes have been granted a variance from the setbacks.

Chairman called for public input; none received.

MOTION by Arce, second by Autry to **RECOMMEND APPROVAL** to the Board of County Commissioners of the request for a Variance to the setbacks of the Peace River for development of a single-family dwelling on a 5.0+/-acres A-1-zoned parcel in the Residential Mixed Use Future Land Use District based on the Staff Report as presented, based on the recommended condition, and based on the testimony presented, and the evidence received in the public hearing. Motion carried unanimously.

Chairman advised the Board of County Commissioners will hold a public hearing and receive a recommendation from the Planning/Zoning Board on Thursday, July 02, 2015 at 8:35 A.M. or as soon thereafter in this room.

RECESSED 6:55 P.M.; RECONVENED 7:00 P.M.

Agenda No. 15-07

Chairman advised that:

- the Hardee County Board of County Commissioners by and through the Authorized Representative requests an Amendment to Section 3.14.00, ***Mining Regulations*** of the Hardee County Unified Land Development Code to revise the Performance Standards

- for specific development types and to modify the regulations of Section 3.14.02 as **ORDINANCE NO. 2015-03**;
- the purpose of this Public Hearing is to hear the request, receive public input and offer a recommendation to the Board of County Commissioners.

Board and County Staff were provided with a copy of the application, and a copy of the Staff Report prior to the public hearing.

West Palmer, Hardee County Mining Coordinator being sworn advised that the Board has the Staff Report and the draft ordinance and this is a staff-initiated request to amend Section 3.14.02--***Mining Regulations*** of the Hardee Unified Land Development Code; which section contains **Ordinance 1999-02** which is referred to as the Phosphate Mining Ordinance.

The Board reviewed the Staff Report that highlighted the proposed amendments and was advised that:

- Section 3.14.02, page 02, paragraph 03--states that this section of the ULDC is specific to phosphate mining and by adding the comment shown, this section will override standards elsewhere in the ULDC;
- Section 3.14.05.B03.a(01), page 12, paragraph 01--states that the Financial Responsibility portion of this section currently requires $5,000 for each acre disturbed by mining; the proposed amendment is to raise that to $15,000;
- Section 3.14.02.06.C.05, page 22, paragraph 5--states the proposed amendment will expedite reclamation in described areas;
- Section 3.14.02.06.C.06, page 22, paragraph 6--states the proposed amendment will expedite reclamation in described areas;
- Section 3.14.02.06.C.08, page 23--states an entire section has been added to the Reclamation Standards; the proposed addition will require a more detailed reclamation plan and more stringent approval requirements.

Palmer's conclusion noted that with the removal of phosphate mining projects from the DRI (Development of Regional Impact) process and the recently added Mining Major Special Exception (process of Hardee County), the proposed amendments to Section 3.14.00 and Section 3.14.02 of the ULDC will provide a more uniform approach to the County's regulation of phosphate mining operations.

Palmer's recommendation noted that based on the information provided the Mining Department finds the proposed amendments are consistent with the Hardee County ULDC, and recommends the Planning and Zoning Board recommend approval of Agenda ULDC-15-07 as **ORDINANCE NO. 2015-03** to the Board of County Commissioners.

Palmer entered the Staff Report and his testimony into the record.

A question was raised about the increase in the per-acre-financial-responsibility and Palmer explained the amendment is to expedite reclamation.

Palmer advised that after the Staff Report and draft ordinance were submitted it was noticed that on Pg. 14 paragraph 08. of the draft ordinance the language stated three years; and on Pg. 31, Section 3.14.02.10B. of the draft ordinance the language stated two years; Palmer advised the two years should be three years to be consistent.

Chairman called for public input; none received.

MOTION by Autry, second by Arce to **RECOMMEND APPROVAL** to the Board of County Commissioners of Agenda No. 15-07 being an Amendment to Section 3.14.00, **Mining Regulations** of the Hardee County Unified Land Development Code to revise the Performance

Standards for specific development types and to modify the regulations of Section 3.14.02 as **ORDINANCE NO. 2015-03** based on the Staff Report as presented with the changes identified, and based on the testimony presented, and the evidence received in the public hearing. Motion carried unanimously.

Chairman advised the Board of County Commissioners will hold a FIRST READING public hearing and receive a recommendation from the Planning/Zoning Board for **ORDINANCE NO. 2015-03** on Thursday, July 02, 2015 at 8:35 A.M. or as soon thereafter in this room.

Chairman advised the Board of County Commissioners will hold a SECOND READING public hearing and receive a recommendation from the Planning/Zoning Board for **ORDINANCE NO. 2015-03** on Thursday, July 16, 2015, 6:05 P.M. or as soon thereafter in this room.

Board was advised that next Regular Meeting is scheduled for **Thursday, June 18, 2015, 6:00 P.M.** to consider amendments to the Hardee County Unified Land Development Code (ULDC) being:

Sections 2.10.00, 2.29.02(B), 2.30.00(G), 3.02.03, 4.04.02, 7.13.07, 7.15.02, 8.03.00(B)(03), 7.12.06 and Article 09 as **ORDINANCE NO. 2015-06**.

Timmerman requested to be excused from the 06/18/15 meeting.

Board was advised that July Regular Meeting is scheduled for **Thursday, July 09, 2015, 6:00 P.M.**

With no further business the Board's Regular Meeting/Public Hearing adjourned upon MOTION by Arce and second by Timmerman at 7:20 P.M. Motion carried unanimously.

B.J. Haney, Acting Recording Secretary