

**WORKSHOP OF THE BOARD OF COUNTY COMMISSIONERS
HELD ON MAY 27, 2014
IN THE COUNTY COMMISSIONERS' MEETING ROOM
ROOM 103, ADMINISTRATION BUILDING
ARCADIA, FLORIDA**

The Board of County Commissioners held an LDR Workshop on May 27, 2014 with the following persons present:

Commissioner, Buddy Mansfield, Dist#1	Facilities Director, Richard Metzger
Commissioner, Jim Selph, Dist#2	Sheriff Will Wise
Commissioner, Gabriel Quave, Dist#3	Compliance Director, Jorge Hernandez
Chairman, Elton Langford, Dist#4	Transcribing Secretary, Jill Thompson
Commissioner Bob Miller, Dist#5	Office Manager, Lauri Terry
Interim Administrator, Mandy Hines	
County Attorney, Don Conn	
Planning Consultant/Attorney, Barry Buenaventura	

CALL TO ORDER

REVIEW/DISCUSSION

Don Conn commented that at the previous LDR Public Hearing, there were numerous members of the public with suggestions. It was decided then, rather than proceeding with the second public hearing, the Board would hold another workshop. This would allow the Board to discuss public comments and the Board's opinion in regard to the draft LDRs that were previously provided. This is the only opportunity the Board has to discuss these matters due to the Sunshine Law. Previously, Mr. Conn provided the Board with a copy of the draft but with certain options after those sections of the draft where there was public comment. The options are only suggestions to assist the Board in alternative language for some of the sections in the initial draft. There are copies of the draft available today as well for the public.

SECTION 1:

No comments

SECTION 2: INTERPRETATIONS

This section gives guidance to staff in applying and interpreting the LDRs. It was suggested at the previous meeting that certain additional section be added in item 1410D; certain statutory provisions dealing with agricultural lands and practices, Agricultural Land Acknowledgement Act as well as farm building exemptions. These would be highlighted as statutes that staff should be mindful of as they interpret the code. These were mentioned at the last public session and relate to agriculture.

It was felt that these sections should be highlighted due to they deal with agriculture and provided certain ways in which agricultural properties are to be handled. It was consensus of the Board to include these suggestions. Mr. Conn also commented there are particular ways in which agricultural properties are required to be handled.

Commissioner Quave questioned if this precludes any others? Mr. Conn stated that it simply reminds staff to be mindful of these particular sections.

SECTION 3: NOTICE REQUIREMENTS

The initial draft provided for notice to be given to properties 800 feet rather than 400 feet provided that there are at least 10 surrounding properties owners to receive notice. There were suggestions to increase the number of persons or distance and a requirement that if there is a Home Owner's or Condo Association, they get specific notice. Also suggested is to add a requirement that if a recipient's property is part of a subdivision, the recipient should advise the HOA or Condo Association of receipt of the notice. Mr. Conn feels option 3 would be one that would not burden staff with the responsibility of making contact with the HOA or Condo Association. Commissioner Selph feels this is not the best option due to taking the management from the County. Mr. Conn stated that option 3 would place the burden on the property owner who receives notice. Commissioner Quave likes option 2; however it places a small burden on staff. The list of HOA is not always current. Chairman Langford commented that if an issue is controversial, everyone in that area is going to know about it. The process was changed in order to cut the cost of postage. He feels the County should be notified of all local HOA. Mr. Conn commented that a provision could be included in the application, a provision that requires the applicant to identify if they are a member of an HOA for that property. Commissioner Miller is not in favor of the County notifying the HOA. He is concerned that all necessary notifications will not be made. He would like to increase the distance and give the applicant the responsibility of notifying the HOA. Commissioner Quave feels it will be difficult for County staff to obtain current HOA information. Mr. Conn clarified that if 10 is greater than those within 800 feet, it will go to 10; if there are more people within 800 feet, it will go to all. Commissioners Quave, Mansfield and Miller like options 1 & 3. Commissioner Selph feels that it could be included in the notices that if there is an active HOA in the area, a representative is required to contact the County.

SECTION 4: CONSTRUCTION

This provides that for minor special exceptions where there is only a change in use without any new construction; the Development Director may waive some of the requirements relating to the plans that must be submitted. Minor is defined as no change in use without any new construction. Barry Buenaventura confirmed the definition of minor special exception. She also stated this is to allow the Development Director to waive the requirement for plan submittals.

SECTION 5: MINOR VARIATIONS OF SETBACKS

It was suggested at the last meeting to continue to have the Board of Adjustment decide setback variances. Another option is to prohibit any setback variance. The third option would be to keep the discretion for the Development Director but vary the percentages of the number of feet. Does the Board want the Development Director to have any discretion to grant waivers as it relates to setback requirements? This is commonly found in other counties that have provisions to allow for minor setback variances to be granted by the Development Director and not to go before the Board of Adjustment. Commissioner Mansfield does not want to see someone go against the requirements and then a variance is required due to a person not following the rules. All Commissioners agreed with option 1.

SECTION 6: QUASI JUDICIAL HEARING PROCESS

Mr. Conn stated it is suggested that after a witness testifies, members of the public are not permitted to cross examine the witness. The reason for this is there are legal right associated with an applicant and an applicant's request for some type of approval. Option 1 allows cross examination of witnesses by members of the public and we eliminate that section. Option 2 states to allow members of the public to cross examine as long as they can be cross examined by the applicant and County staff. Mr. Conn feels option 2 will allow cross examination and is more in the nature of a judicial proceeding. Commissioner Miller questioned Mr. Conn what the typical procedure is in a courtroom. Mr. Conn

explained that cross examination is between two parties. People attending cannot comment or testify unless called upon. Commissioner Miller feels the Board should allow cross examination to bring justice but the Chairman will need to keep close order. Commissioner Quave feels people should question and make statements and asking a question through the Chairman will keep order. Chairman Langford agreed with Commissioners Miller and Quave. The defendant is the public. The applicant has already agreed to the conditions. He feels the public should have the opportunity to ask questions and make statements in an orderly manner. Commissioner Selph commented the testimony must be of merit and factual. He agrees with option 2. Further discussion ensued.

SECTION 7: INDUSTRIAL HEAVY

Mr. Conn stated there was proposed language to be added under Permitted Principle Use to eliminate travel trailers. Commissioner Mansfield feels that section D referring to animals does not fit in this type of zoning. Commissioner Selph commented that this is occasionally done due to pharmaceuticals that are stored. Chairman Langford stated travel trailers are only temporary for construction offices. Commissioner Miller feels they should also be tied down.

Mr. Conn stated on page 9, there is an addition dealing with special exceptions for agricultural activities in IL provided that properties continue to be assessed IH and no exemption from taxation results from the special exception. Option 3 would clarify the language; not to say that the Property Appraiser can't grant greenbelt but rather to say as a condition of your special exception, you agree that you will apply the greenbelt. Commissioner Selph likes option 1 & 3. Further discussion ensued regarding greenbelt.

SECTIONS 8: INDUSTRIAL LIGHT

Mr. Conn stated Sections 8 & 9 have the same issues and suggested moving on to the next section. Commissioner Mansfield feels there is a problem with the wording. IL zoning is where work takes place and IH does not have anything about working outside. He also feels opaque fencing is a safety issue. He believes in the same stipulations for both IL and IH zoning. Ms. Buenaventura commented that enclosures minimize impact on surrounding areas. Commissioner Mansfield does not agree with enclosures. Jorge Hernandez stated that enclosure is a requirement of IL zoning, which is what the applicant chose to do. Commissioner Miller feels that if the work is not being done inside, we may be creating a requirement that is not necessary. Commissioner Mansfield suggested changing the language to "ability to close in completely". Tom Cookingham stated that an opaque fence is only required for the storage area.

SECTION 9: COMMERCIAL GENERAL

No comments

SECTION 10: AGRICULTURAL 10 DISTRICT (A10)

Mr. Conn stated the main issue in this section is RVs. The Planning Commission recommended option 5, which is to make no changes to existing language. This option would strike the special exception language. Currently RVs are allowed as an accessory use in A10. Options 1 & 2 suggest modification, option 3 suggests preventing RV use in A5 & A10 and option 4 would allow RVs as a permitted use. Mr. Conn recommended option 3 if the Board wants to prohibit RVs.

Commissioner Mansfield commented that people are building pole barns, closing them in and making homes illegally. They are receiving Ag Class permits and they are not agricultural property. He feels Ag Classification is for larger pieces of property. Chairman Langford feels there needs to be something put in place that will alert Code Enforcement and the Building Department. Commissioner Miller suggested identifying the real reason why people are breaking the rules and then correct it. He also feels there should be consequences or it will continue. Jorge Hernandez stated once a violation is found, CE does a site visit, the owner is contacted to obtain proper permits and the fee is doubled.

Commissioner Mansfield feels there are certain areas not permitted for RVs and is a safety issue to live in them on property that does not allow it. Commissioner Selph has no issue with someone staying in an RV on hunting property. Commissioner Quave feels that recently is the first known issue. He doesn't feel a person with 30-40 acres will get reported. He believes it should be constrained by acreage. Commissioner Miller believes in property rights; people need to be protected without infringing on others. Chairman Langford commented that the majority of the LDRs are to protect property rights and there has to be a compromise. Jorge Hernandez commented that RVs are an issue due to the fact that they are permitted as a temporary use. The problem is how CE determines if someone is living in the RV. He suggested defining "staying" opposed to "living" in the RV. He needs something that is enforceable.

Steve and Tim Cook spoke regarding their property in River Acres that they use along with RVs on the weekends. They would like to continue this use of their property.

Chairman Langford feels there needs to be an option that does not restrict someone from using their property. Mr. Conn stated that option 1 would incorporate a time limit, thus not allowing someone to live in the RV.

Maureen Stacey owns property in a very residential area and feels that RVs do not belong there; they would interfere with the property value.

Phillip Sherwin suggested leaving the language the same for now and set up a committee of stakeholders. He feels a compromise can be reached. Further discussion ensued.

Tom Pafford stated that he owns property in River Acres and there are several homes built in a floodway. He believes there is no restricted use if it was previously determined before the property was purchased.

Maurice Brown commented there are similar uses throughout the state. Special Exceptions are limited due to harmony. Look at why zoning was created; it is a necessity. RVs are not dwellings. Give people things while maintaining harmony.

Commissioner Mansfield would like to stay with option 5 until a committee is formed. If a decision is made, it can be changed. Mr. Conn commented that he and CE are not comfortable with leaving it the same. He is in favor of option 1 and requested direction from the Board on moving forward.

Bill Spiegel suggested staying with option 5 and followed with reasons why.

Recessed at 12:10 pm

Reconvened at 1:12 pm

Mr. Conn stated he cannot negotiate a compromise. Option 3 would be chosen for temporary use only. He also commented that with a SE, CE Officers can access the property.

Jorge Hernandez stated that a SE is simple to enforce if this is allowed. Currently it does not allow for recreational use.

Commissioner Quave is in favor of constraining by acreage.

Ed Johnson read from the current LDRs why RVs should not be allowed. He feels the County should get people on the tax roll and stop giving free passes.

Mr. Conn commented that A10 property allows non-agriculture uses such as airstrip, raceway, etc...

Commissioner Miller likes the idea of an Advisory Committee.

Mr. Conn feels the citizens can compose a committee and that the Board should not appoint one. Further discussion ensued. Ms. Hines commented that forming a committee will take time but as an alternative, the Board can give Mr. Conn a recommendation so that he is able to move forward.

Mr. Conn commented that he will review options 1 & 2 and will also bring back a recommendation at the first BOCC meeting in June for establishment of the Citizen Advisory Committee.

SECTION 11: Agricultural 5 District (A5)

No comments

SECTION 12: E Zoning Districts

No comments

SECTION 13: Use and location of Buffers

No comments

SECTION 14: Fences and Walls

Mr. Conn stated there has been a suggestion to eliminate the prohibition on use of corrugated or sheet metal fencing or used with restrictions.

Commissioner Langford commented that the Board is always approached about beautifying the county and he has no problem with metal fencing, only the color.

Ed Johnson commented that “neutral colors” is a broad spectrum. Fences are controlled by the Building Code. He feels that 8 foot fences that meet the wind code will be very expensive.

Maurice Brown feels the Board should look at the purpose and intent of any buffer; let planners work out the details and to just make it appealing.

Commissioner Mansfield stated that some of these decisions are made during the planning process. Further discussion ensued regarding fencing.

Tom Cookingham stated there are no design standards and what is in the surrounding area is considered.

SECTION 15: Off-Street Parking Areas

No comments. C was stricken.

SECTION 16: Parking or Storage of Commercial Vehicles in Residential

Don Conn stated if there is an absolute prohibition throughout this for dump trucks, tractors, trailer rigs, vehicles having more than two axles, etc... We are dealing with RSF, RM, RMF and RMFM. In Section B states that certain commercial vehicles will be allowed if the lot meets minimum size. Section C is special exception for lots that don't meet minimum lot size. Section D is special exception for larger commercial vehicles. In Section D, if you have a larger commercial vehicle, there are certain allowances.

Maurice Brown commented that he would like to see dual wheeled trucks excluded from the exemption. He feels they are an everyday vehicle. Mr. Brown is against commercial vehicles in a residential area due to one reason being that the roads are not made for these heavy vehicles.

SECTION 17: Parking and Storage of Vehicles on Vacant Property

Mr. Conn commented that this section states that motor vehicles of any kind cannot be parked on vacant property in certain residential districts; RSF, RM, RMF, RMFM and ROI. The Planning Commission suggested applying this to all classifications and zoning districts. Chairman Langford commented that would not work due to vacant property having tractors or trailers until the next season. It was consensus of the Board to leave this as it is.

SECTION 18: Stormwater Management

Barry Buenaventura commented the County Engineer requested to delete Section F. Doing so would allow the County Engineer to review plans as they are submitted with development applications for impact that development may have on surrounding properties. This will be only for the ones that require permits. Mandy Hines commented that while we are not trying to cut anyone out, it could potentially create a conflict.

Ed Johnson commented the engineering process is long and expensive. Why would this be deleted? He believes the County is wrong for adding more layers to a developer.

Tom Cookingham commented this does not necessarily require more permits. This states that the County has the ability to take a look at what is going on at the site and if it has not been addressed, it

should be.

SECTION 19: Submerged Land

Barry Buenaventura stated the proposed language is to allow the Development Director some discretion when determining how the regulations apply to property that has some submerged land.

Ed Johnson suggested leaving the setbacks at the property lines. Further discussion ensued. Mr. Johnson feels these are not realistic for a rural county. Mr. Conn clarified the language regarding setbacks.

SECTION 20: Floodplain Regulations

Ms. Buenaventura stated the purpose of this section is to eliminate an existing variance application process that is different in the Ordinance just passed. Making the proposed revision will bring the variance application procedures for development within a floodplain in conformance with the Floodplain Ordinance the Board recently adopted.

SECTION 21: Nonconforming Structures and Uses of Structures

Mr. Conn stated that currently if a nonconforming use which is discontinued for a period of 6 consecutive months must reapply. This option would extend for 12 months.

SECTION 22: Nonconformities Resulting from Government Action

Ms. Buenaventura stated this is a new provision for the LDRs and addresses how the County would apply the LDRs to property that had been impacted by Government takings. This section will deal with things such as open space requirements and setbacks would be applied. It does not make any changes to uses that would be allowed on those properties. It does allow for some discretion for the Development Director to waive certain aspects of the LDRs that would otherwise have an overbearing effect on the properties that have been reduced through no action of the property owner.


Ed Johnson commented that this language is under the building code. He feels the Board should recognize the nonconforming use due to the fact that there is no recourse.

It was consensus of the Board to hold a Workshop on June 24th, 2014 at 9am in place of a Public Meeting.


ADJOURNMENT

There being no further business, Chairman Langford adjourned the workshop at 2:47pm.

ATTEST:



MANDY HINES
INTERIM ADMINISTRATOR

BOARD OF COUNTY COMMISSION
DESOTO COUNTY, FLORIDA


ELTON A. LANGFORD
CHAIRMAN