

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, November 9, 2011 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present

Tom Thornberry, *Chairman*
Michael Brown, *Vice-Chairman*
Bill Truex, *Secretary*
Katherine Ariens
Blair McVety

Staff Present

Derek Rooney, *Assistant County Attorney*
Shaun Cullinan, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Diane Clim, *Recorder*

I. Call to Order

Chairman Thornberry called the November 9, 2011 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chairman Thornberry led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Ms. Ariens and seconded by Mr. McVety to approve the minutes of the October 12, 2011 meeting of the Board of Zoning Appeals, motion passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the November 9, 2011 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chairman Thornberry introduced staff. *Shaun Cullinan, Zoning Official, Attorney Derek Rooney, and Chairman Thornberry* made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on October 25, 2011: VAR-11-008; SE-11-014; and SE-11-016

Petition VAR-11-008 has been continued to next month

Petition #VAR-11-008

Eric Wetherington, agent for Francis and Marcia Shields, is requesting a variance to reduce the required rear yard setback along a waterway from 20' to 18' for a wood deck and from 20' to zero feet for a wooden stairway, in a Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 126 Danforth Drive, Charlotte Harbor, Florida, and is described as all of Lot 42 and the Southerly one-half of Lot 41, of Suncoast No. 1 Subdivision, located in Section 29, Township 40 South, Range 23 East.

Petition #SE-11-016

Frank Hartland is requesting a special exception to allow a 'Home Occupation', consisting of internet sales of wine, in a Residential Single-Family-3.5 (RSF-3.5) zoning district. The property address is 10450 Winnipeg Street, Port Charlotte, Florida, and is described as Lot 14 of Block 4634 of Port Charlotte Sub-section 87, subdivision, located in Section 28, Township 41 South, Range 21 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Frank Hartland, applicant, said he has been sworn in. He said he has been collecting wine for several years. The price has gone up and he doesn't want to drink it, so he wants to sell it on the internet. He said you cannot sell alcohol without a license, so it was worth it to go through this process. No one will come to the house. If someone buys it on the internet, he will mail the wine to them. He said he agrees with the 3 conditions.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Grace Amodeo, 17079 O'Hara Drive, said she has been sworn in. She asked if he was making his own wine. She wondered why people would buy from him and not the store.

The Board explained it was his own private collection and he would sell one bottle at a time.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Ms. Ariens. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Katherine Ariens and seconded by Blair McVety that Petition SE-11-016 be APPROVED based on the Community Development Staff Report dated November 1, 2011, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception with 3 conditions.

Motion was approved with a unanimous vote with the following conditions:

1. This special exception shall allow a home occupation, consisting of computer internet sales of wine only, as an accessory use to the existing single-family residence.
2. This special exception, allowing a home occupation, shall be conducted according to all of the standards and conditions of Section 3-9-79 of the Zoning Ordinance.
3. Any major modifications, or change in the type of home occupation conducted, shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

Petition #SE-11-014

Geri Waksler, agent for Florida Tracks and Trails, Inc., is requesting a special exception to allow a private recreational facility, in an Agriculture General (AG) zoning district. The property address is 39450 and 39550 Bermont Road, Punta Gorda, Florida, and is described as all of Section 27, together with the southeast Quarter of Section 34 and the East half of the West half of Section 34, all located in Township 40 South, Range 25.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Geri Waksler, Esq., BigWLaw, Agent for Florida Tracks and Trails, Inc., said she has been sworn in. **Ms. Waksler** said they are requesting a special exception for a private recreational facility in the agricultural zoning district. This will not be another Red Neck Yacht Club. ATV's and motorbikes will be allowed only on designated trails. Campsites will be designated throughout the property. The project has been designed to integrate with the existing character of the land. Large areas are Open Space. Trails will meander through the forested portions of the site, and will remain in their natural condition. The event area, which will require more development activities, has been located on portions of the site that had been previously cleared for agricultural use. This event area will be for special events. (a concert, a tractor pull, that type of event). Possibly if these events are successful, events may be held every weekend. The events and frequency may vary. However, the data and analysis that we provided for the special exception (site plan, safety conditions) have all been or will all be designed with

the special events considered a regular and normal part of this business. For example, our transportation analysis utilize the number for the largest event (assuming 8,000 – 10,000 people attending). As a result, FL. Tracks and Trails will be constructing an almost 700 foot turn lane east bound on Bermont Road, as well as a turn lane west bound. They will construct a 5 lane entrance road with a relocatable gate that will allow for almost a mile of on-site stacking. Parking will be designed to accommodate these events. A public safety plan will require a matrix that will establish attendance brackets and require sanitary facilities, parking, emergency personnel, supplemental public safety personnel, and traffic management that will increase as the number of attendees increase. She discussed more areas of concern previously discussed with staff. FL. tracks and trails accepts all the conditions proposed by staff with a few amendments during the conclusion of the analysis. There are two exceptions – 1) proposed condition #3 prohibits the sale of alcohol on the property. We want to prohibit alcohol being brought into the site. We will provide the alcohol and will place a band on each person when purchasing a drink to monitor the drinking. They request condition #3 be deleted and replaced with a condition that requires any alcohol be served on site by licensed vendors only. 2) Condition #9, we wish to modify. The last sentence will be deleted and replaced with language that indicates that the application for temporary use permit will be for notification purposes only. She discussed condition K – which suggest in 3 years this request come back for review. They are against this request.

Chairman Thornberry opened the meeting to Public Hearing.

Public Input

Charles Heekins, Esq., who lives at 43990 Bermont Road, which is 3 miles from this site, said he has been sworn in. He said the Red Neck Yacht Club surrounds him. He said they are limited to about 9 events a year, they do about 6. There is wildlife in the area. The Red Neck events are controlled. If this request is for 24/7/365 they are fundamentally changing the use of this land and the wildlife patterns that exist there. Red Neck Yacht Club does not straddle Shell Creek, this site does. He recommended in his letter they post a bond so you can reclaim this if there are any major issues. He agrees with the county staff and conditions/requirements.

James Williams, Williams Farm, said he owns a lot of property in this area. He is not objecting to this as long as the wildlife is taken care of.

Tammy Cash, said she worked with Hall Ranch for 2 years. She heard Mrs. Waksler say she thought it was ironic the County was cause problems for this project, when we need jobs right now. She said it would be criminal to allow this project to go forward without adding one more new condition. That would be that Hall Ranch needs to come into compliance with operations they already have out there. She went on to say Hall Ranch is dangerous. She described some items and conditions the ranch has done which she believes is not in compliance with the excavation pit. She gave a history of some of the danger she believes existed out there.

Captain Earl Goodwyne III, said he is the east patrol commander for the Charlotte County Sheriff's office. He has been sworn. The Sheriff's office does not take a position on this request, we simply wanted to insure we sent Mr. Quillen a letter for review. There

are recommendations we would like to make stipulations for this request. This is for the safety of the staff, patrons and first responders.

Ms. Ariens asked about the alcohol used at the Red Neck Yacht Club. She asked if people have been arrested for being drunk at that site?

Capt. Goodwyne said yes, but he's only been in this position 7 days, so he asked his colleague to come forward to answer that question.

Captain Bill Prummell, Patrol Commander, Charlotte County Sheriff's office said yes, they have had several calls to that area over time. They have had medical calls, accident calls, sexual battery calls, fights – a number of calls. The management out there has been working with us to try and get more order for these events.

There being no further requests to speak for or against the petition, Mr. Truex moved to close the public hearing, seconded by Mr. Brown. The public hearing was closed with a unanimous vote.

Rebuttal

Geri Waksler said she would like to clear up a misperception. While this proposed facility will be located on the Hall Ranch, it is not affiliated with the Hall Ranch. She represents Florida Tracks and Trails. Her clients have the background to develop this site/facility. There is a 500 foot wide preserve area along Shell Creek. They are very sensitive to the wildlife on this site. Her clients have the financing to do this facility. The land is owned by the Hall Ranch. Florida Tracks and Trails have a lease for this property.

There was discussion about alcohol use at this site and at the Red Neck Yacht Club and the environmental issues for wildlife, the mine, and Shell Creek.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition. Mr. Quillen handed out a supplemental page – Exhibit P – which shows the changes Ms. Waksler requested.

Board Member Comments and Questions

Discussion was above

ACTION: A motion was presented by Bill Truex and seconded by Blair McVety that Petition SE-11-014 be APPROVED based on the Community Development Staff Report dated November 1, 2011, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception with 24 conditions.

Motion was approved with a unanimous vote with the following conditions:

1. The special exception, as approved by the Board of Zoning Appeals, is for a Recreational Facility generally as shown on the **Concept Plan** (Exhibit C) and may include: campgrounds; motorsports tracks; motorsports trails; special events area; and office space. Adequate potable water; restrooms, lavatories, and showers in sufficient numbers and locations for employees, and visitors must be shown on the final site plan to be approved through the Site Plan Review process.

2. The **Concept Plan** (Exhibit C) presented by the applicant as part of the petition is for illustrative purposes only. Site Plan Review and approval is required prior to the issuance of any permits or commencement of any work for the proposed improvements on subject property. All required improvements must be installed and required conditions complied with prior to operation of any of the uses specified in this special exception.
3. Deleted (this condition, relating to the sale of alcohol, was deleted by the BZA).
4. Hours of operation for all motorcycles and ATVs shall be daily from dawn to dusk.
5. A left-turn lane shall be provided on Bermont Road for eastbound traffic entering subject property and a right-turn lane shall be provided on Bermont Road for westbound traffic entering subject property. These improvements shall be constructed prior to commencement of any of the uses permitted by this special exception.
6. Sufficient off-street stacking space shall be provided for vehicles with trailers waiting to enter the site as determined during the Site Plan Review process. During peak season and special events the entrance gate shall be located at a point where on-site stacking is maximized.
7. A layout for all camp sites must be approved through the Site Plan Review process. All campsites must be individually marked and easily identifiable for way-finding and emergency response.
8. Camping shall only be permitted on weekends and holidays with portable and temporary facilities. Camping shall be permitted full time once adequate permanent facilities are constructed on site.
9. A "Temporary Use Permit" must be obtained for each special event. The first 24 special events held each calendar year shall not be required to pay the Temporary Use Permit fee. The Temporary Use Permit fee shall be paid for each additional special event held during any calendar year. The Temporary Use Permit shall be for notification purposes only and must adhere to the approved Public Safety Plan requirements as determined in condition number 24 below.
10. The entire site must be kept clear of litter and maintained in a clean and sanitary condition at all times.
11. Access with a minimum width of 20 feet will be provided to Areas 1 – 7, as enumerated on the **Concept Plan** (Exhibit C), to allow for emergency vehicle ingress and egress. Area 8 shall be accessed via an off-site road system.
12. A bypass lane for emergency vehicle ingress and egress will be provided. Design and location of such bypass lane shall be approved during Final Site Plan Review.
13. A first aid station and 100' by 100' helipad shall be provided within Area 5. Final design and location shall be approved during Final Site Plan Review, but must be clearly delineated and physically separated in some way.
14. Any open burning must comply with Florida Statutes Chapter 62-256.
15. The applicant shall provide either a 50-foot wide type "E" landscape buffer at the locations indicated on the **Concept Plan** (Exhibit C) or the applicant shall provide a type "C" buffer around the entire site. As an alternative the Zoning Official may permit a 100', 150', or 200' wide type "E" landscape buffer with a corresponding reduction (25%, 50% or 75% respectively) in the required landscape plant materials.

16. All exotic plant species must be removed during initial development of the site and on an annual basis thereafter. When exotic species are to be removed in jurisdictional wetland areas all County, State and Federal agencies must be contacted prior to initiating work.
17. A Storm-water Management Plan, and Traffic Management Plan (CCSO), must be submitted and approved by the appropriate agency along with Site Plan Review prior to establishment of any uses allowed by this special exception.
18. Final Site Plan approval shall include Wetland and Wildlife Preservation Areas for all existing wetlands. These areas shall be protected by a County-approved fence or other type of barrier in order to prevent human and vehicular access while maintaining hydrologic flow and wildlife access and shall be posted with signs reading "No Admittance" every 150'.
19. Final Site Plan approval shall include the Shell Creek Preservation Area as indicated on **Concept Plan** (Exhibit C). The Shell Creek Preservation Area shall have a width of no less than 500 feet with at least a 150 foot buffer along Shell Creek. These areas shall be protected by a County-approved fence or other type of barrier in order to prevent human and vehicular access while maintaining hydrologic flow and wildlife access and shall be posted with signs reading "No Admittance" every 150'.
20. A Protected Species Assessment shall be provided at Site Plan Review for use by staff in determining required preservation areas.
21. No tracks or trails for motorized vehicles shall be located closer than 250 feet to Shell Creek.
22. Use of Area 8 shall be limited to primitive camping only, provided such use is detailed in a 'management plan' to be submitted to and approved by Charlotte County Community Development prior to Site Plan Review for Area 8.
23. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as permitted accessory uses or structures may be approved by the Zoning Official.
24. A Public Safety Plan shall be submitted to the Charlotte County for review and approval prior to Final Site Plan approval. The Public Safety Plan shall address the following items:
 - a. Permitting and inspection of temporary lighting; no permanent or temporary lighting may be installed without an electrical permit and inspection. Temporary lighting used to illuminate the outdoor event after dusk shall be designed and arranged to reflect away from adjacent properties.
 - b. Number, location and permitting of temporary structures or exhibits; any temporary structures or exhibits to be constructed must be permitted and are subject to all other permit and inspection requirements of applicable county codes and state law.
 - c. Number and location of sanitary facilities.
 - d. Temporary signage; one (1) temporary sign advertising the event may be erected on the property in compliance with section 3-9-95 of the Code.
 - e. Vehicular parking and circulation; a site plan for the special events, drawn to scale, indicating the following:
 1. Vehicular access onto the property; and
 2. Location and use of any existing structures on the property; and
 3. Location and amount of current and anticipated parking areas, including overflow.

- f. Traffic control; A letter from the applicable Charlotte County transportation planner indicating that the proposed temporary use will not adversely affect the existing level of service on affected roadways and is not anticipated to pose any risk to existing public infrastructure or rights-of-way.
- g. Fire rescue and emergency services mitigation measures; a letter from the Charlotte County Fire/EMS setting forth a determination on whether any additional fire or rescue service is necessary and what arrangements have been made to accommodate that need.
- h. Police; A letter from the Charlotte County Sheriff setting forth the sheriff's determination whether any additional security or police service is necessary and the arrangement that has been made to accommodate that need.
- i. Hours of operation of the special events shall be limited to 8:00 a.m. to 9:00 p.m., Sunday through Thursday, and 8:00 a.m. to 12:00 p.m. on Friday, Saturday, and holidays.
- j. No activity, temporary tent, mechanical device, temporary sanitary facility, or animal associated with any outdoor temporary use shall be closer than one hundred (100) feet from any residentially zoned structure.
- k. In three years (1095 days) the County will re-evaluate the Public Safety Plan to ensure that it is maintained in compliance with Conditions c, f, g and h, and these may be modified as needed based on the unique needs and problems as may be realized from the project as it evolves.

IX. Public Comments - None

X. Staff Comments - None

XI. Member Comments - None

XII. Next Meeting

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, December 14, 2011, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:25 a.m.

Respectfully submitted,

Diane Clim, Recorder

/dlc



Tom Thornberry, Chairman/Board of Zoning Appeals

Approval Date: 12/14/11