

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, April 8, 2015 – 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

Katherine Ariens, Chair
Joe Tiseo, Vice-Chair
Steve Vieira, Secretary
Blair McVety
Larry Fix

Staff Present

Shaun Cullinan, Zoning Official
Joshua Moye, Assistant Co. Attorney
Ken Quillen, AICP, Planner
Diane Clim, Recorder

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- I. **Call to Order**
Chair Ariens called the April 8, 2015 meeting of the Board of Zoning Appeals to order at 9:00 a.m.
- II. **Pledge of Allegiance**
Chair Ariens 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 Mr. Tiseo and seconded by Mr. McVety to approve the minutes of the January 14, 2015 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 April 8, 2015 Board of Zoning Appeals meeting were submitted.
- VII. **Introduction of Staff/Comments**
Chair Ariens introduced staff. Shaun Cullinan, Zoning Official (was attending another meeting) Ken Quillen, Planner III, read the Zoning rules, Attorney Josh Moye, and Chair Ariens 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 March 24, 2015: SE-15-002

SE-15-002

Lynn Brewer, agent for Exotica Compound, Inc., is requesting a special exception to allow exotic animal boarding for Class I and Class II animals, consisting of Tigers, Panthers and Wolves, in the Agriculture (AG) zoning district. The property address is **41420 Horseshoe Road, Punta Gorda**, and is described as Lots 17 and 19 of Horseshoe Acres Subdivision, located in Section 25, Township 42 South, Range 25 East.

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

Applicant Presentation

Lynn Brewer, applicant, 41420 Horseshoe Road, Punta Gorda, said she was sworn in. Ms. Brewer said they have been at this address for 20 years. They have never needed any special permits until recently now, they were told they needed a USDA permit. They would like to keep these animals. They have started showing the animals with tours and groups which is required for the State to give them this USDA permit. These tours are just once or twice a month for boy scouts or girl scouts, or others for education. Each animal is in its own cage with their own little pool. The whole area is fenced in. She has never had an animal escape. They are inspected regularly by the Florida Fish and Wildlife Conservation Commission.

There were some questions about breeding the animals (which they do not do), the sizes of the cages, and the difference between Class I and Class II animals. There was also discussion about the future tours.

Ms. Brewer said the Octagon facility is three lots down the road. They have tours daily but she does not want tours daily. Just once or twice a month because it is required for the USDA permit.

Investigator Lar Gregory, said he was sworn in and is with the Florida Fish and Wildlife Conservation Commission. Mr. Gregory said he is an inspector for Sarasota, Charlotte and Lee County. He said you cannot have Class I animals without a commercial purpose. This was not required before, but now it is. They now need a USDA license. This shows they are not a personal pet. They have always had adequate caging. They exceed the State requirements. They need a commercial purpose. They can do that one of two ways – they need to exhibit, they have to sell, or they have to become a sanctuary. If you become a sanctuary, you cannot bring in young new animals you purchased, they have to be unwanted animals and no one else wants them. He said this site has had a permit long before I came along 8 years ago. They get inspected every 6 months. They are not really a sanctuary. A true sanctuary would be someone who takes in animals that maybe is older and no one else wants. Their animals are from birth. If they want to finish out the life of the animals they currently have, they might be able to become a sanctuary but they would not be able to purchase new animals. If they want to bring in new animals, they would have to be an exhibitor, or a breeder or seller.

Chris Colletta, who lives at the facility, said he was sworn in. Mr. Colletta said the cages are above and beyond what is required by the State. The largest animal pool is 12' x 13'. The other 3 pools are 8 foot in diameter.

Ms. Brewer said originally they had planned on breeding. That just didn't happen. They would like to let the animals just stay here and live until the end of their lives. They are not going to be a breeding place. They would not mind being open by appointment only for educational purposes. This would allow them to get the USDA permit.

Chair Ariens opened the meeting to Public Hearing.

Mr. Vieira said he had met Mr. Takos years ago (more than 4 years) for a real estate transaction. He was the go between person for the seller/buyer and wanted to disclose that.

Josh Moyer, Asst. County Attorney, said it was a past relationship more than 4 years ago and this is fine to vote on this matter.

Public Input

Peter Takos, 5 Cypruss Point, Naples, FL, said he was sworn in and spoke against this request. Mr. Takos had a handout for the Board. (Exhibit E) This packet showed incidents of big cats attacking people. Mr. Takos said he is representing PGR LLC, which is Punta Gorda Realty. They are the current owners of 41481 Little Farm Road. The corners of these two properties touch. They had questions about this request and how the property was going to be used. He is not opposed to having older animals live out their lives, but he is opposed to bringing in more animals and becoming commercialized. They also wanted to point out the big cat safety issue, which is in the report he handed out.

Rebuttal

Ms. Brewer said the Octagon site is close to their property also and they have tours every day. There are other people on this road that have Class I and Class II animals. She does not see a threat to the neighbors.

Ms. Ariens asked if they board animals?

Ms. Brewer said no, they do not board animals.

Shaun Cullinan arrived from his other meeting. Time is 9:55 a.m. He was sworn in.

Mr. Moyer asked Mr. Cullinan how would commercial uses play in with this Special Exception?

Mr. Cullinan said the main purpose of the use is the boarding, training, breeding of the animals. Typically in most agricultural uses and other uses allowed here, there may be an accessory commercial component to that. Octagon has accessory commercial components to it. Some of the other uses out in agriculture zoning, have accessory commercial uses. If they want to sell a t-shirt or something of that sort, that would be an accessory use.

Mr. Moye asked what about group tours? (boy scouts, girl scouts)

Mr. Cullinan said yes, that is the type of thing this type of use is. Animal sanctuaries typically do have private tours or open a few weekends, here and there. There are bird sanctuaries in various locations. Because of the changes in USDA regulations, they now have to either show them, breed them, or other restrictions, that is what kicked them out of the legal non-conforming section into having to have to come for this Special Exception because now their regulations changed. Now she needs to come forward because she is expanding the use. Not voluntarily, but because of the new requirements of the USDA.

There was discussion about tours, fees, donations, supporting the operation, care for the animals and the purpose of this facility.

Inspector Gregory said he told the Brewers they needed to start having tours if they want the USDA permit and document those tours, that is why she had a few tours recently.

Ms. Brewer said she wants to comply with whatever rules they need to comply with. She has letters from 3 neighbors who are fine with the animals she has. (Exhibit F1, F2, F3)

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public hearing, seconded by Mr. Tiseo. 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

There was discussion about the use staying with the land or if this use could change or expire with the sale of the property. They also discussed how long the animals could live.

Mr. Collette asked if he could speak again.

Mr. Tiseo made a motion to reopen the public hearing, second by Mr. Vieira.

Mr. Collette said regarding safety, the cages are in a row, and if tours are there, there is another fence around the animals, so the tour people would be safe. The neighbor across the road has tigers and other animals and another neighbor has alligators.

Mr. Takos said the animals allowed right now are pigs and goats not bangle tigers. If the tigers were allowed, we would not be having this meeting.

Inspector Gregory came back up and explained the differences between the Class I animal and the Class II animal and some of the State requirements for keeping them.

Mr. Tiseo asked if Zoning has received complaints for any of these animal sites in this area?

Mr. Cullinan said he does not believe so, but Code Enforcement could have received calls that he is not aware of, but he does not believe so.

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

The Board members discussed some of the conditions and determined although the owner presently has 3 tigers, in case they get a chance to help more, they limited the amount of Class I animals allowed on the site.

ACTION: A motion was presented by Steve Vieira and seconded by Joe Tiseo that Petition SE-15-002 be APPROVED based on the Community Development Staff Report dated April 1, 2015, 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 the 4 conditions recommended by staff, adjusting condition #1 to limit Class I animals to no more than 10.

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

1. The special exception as approved by the Board of Zoning Appeals is to allow exotic animal boarding of Class I and Class II animals located on subject property. The number of Class I animals shall not exceed ten animals.
2. This special exception extends only to the land included in the Site Plan and legal description submitted with this application. The property owner shall combine the two lots (lots 17 and 19) into one parcel to comply with the minimum lot size of ten acres in the Agriculture zoning district.
3. The site plan submitted by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and codes are applicable to the erection and operation of any future buildings.
4. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

IX. Public Comments - None

X. Staff Comments -

Ken Quillen said there is one petition for the May 13 BZA meeting.

Mr. Quillen said on May 8, 2015 there is a Promised Lands Land Use Symposium from 10 a.m. to 1 p.m. in room B-106. All are invited.

XI. **Member Comments** - None

XII. **Next Meeting**

The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, May 13, 2015, at 9:00 a.m., in Room 119.**

There being no further business, the meeting **ADJOURNED** at 11:15 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc



Katherine Ariens, Chair

Approval Date: 5/13/15