

Planning Board / Board of Adjustments and Appeals

Regular Meeting

June 27, 2017

Minutes

The Okeechobee County Planning Board/Board of Adjustments and Appeals met in regular session on Tuesday, June 27, 2017 at 6:00 p.m. in the Okeechobee County Health Department Auditorium, 1728 NW 9th Avenue, Okeechobee, Florida.

Board members present were Joey Hoover, Ted Kelchner, Debra Sales, Rob Willson, Mack Worley, Jr. and Ron Zobel. Alternate Weston Harvey was designated as a voting member. Board member Mitchell Hancock was absent. Also in attendance were Planning Director Bill Royce, County Attorney John Cassels, Planner Ty Hancock and Administrative Secretary Tammy Beard.

Chairman Ted Kelchner called the meeting to order at 6:00 p.m. and the Pledge of Allegiance was recited.

Agenda Item #1. Public Comment.

There were no comments from the public.

Agenda Item #2. Approval of Minutes.

Mack Worley, Jr. moved to approve the May 23, 2017 Minutes as submitted by staff. Ron Zobel seconded the motion. The motion passed unanimously.

Agenda Item #3. Public Hearing, Petition S-2017-0754, Special Exception. Cattlemen's Market of Okeechobee, LLC, property owner and applicant. Request for a special exception to allow a livestock auction with a restaurant in an Agriculture (A) zoning district. The property address is 1849 NW 160th Street. This is a continuation of a public hearing that began on May 23, 2017.

Bill Royce presented the petition and described the surrounding area making note that this petition was originally heard on May 23, 2017 and was continued to this meeting. He stated the subject property is approximately 100 acres in area and is zoned Agriculture (A) with over 2,100 feet of frontage along the north side of NW 160th Street, a County maintained collector road that connects two arterial highways. He stated the surrounding parcels are all

zoned Agriculture (A) but there is a residential area zoned Residential Mixed (RM) located about 2/3 of a mile to the west.

Mr. Royce stated that the proposed use is consistent with county regulations and with the comprehensive plan. Mr. Royce stated that staff recommends that the Board of Adjustments and Appeals grant the special exception subject to several conditions he reviewed with the Board. He stated that when the petition was heard at the previous meeting that the Board tabled the petition until the next meeting in order for a traffic study to be obtained and submitted by the applicant as requested by the Board.

Mr. Royce stated that a traffic impact analysis was prepared by the applicant and submitted to the county which was then given to the county's transportation consultant. He stated the county's consultant had a preliminary review and asked for and received some additional information but that he has not yet completed his final review of the applicants' traffic impact analysis. He noted the applicant's analysis determined there was no need for turn lanes from NW 160th Street into the site. Mr. Royce stated out that since findings from the county consultant were not yet available, staff cannot say whether staff concurs with the applicant's conclusion.

Chairman Ted Kelchner asked for comments from the Board.

Board members discussed the lack of a final review from the county's consultant with regard to the traffic impact analysis presented by the applicant.

Chairman Ted Kelchner opened the public hearing.

Court Reporter Deborah Carmela Dew, FPR of Atlantic Reporting, was in attendance for the purpose of recording the meeting at the request of Okeechobee Livestock Market.

Attorney Virginia Sherlock, representing the applicant, addressed the Board and asked that County Attorney John Cassels swear in any potential speakers. County Attorney Cassels then swore in those who indicated that they may speak at the hearing.

Ms. Sherlock introduced engineer Steve Dobbs. Mr. Dobbs distributed a document to Board members that listed special exception uses in several zoning districts, and then proceeded to discuss various provisions for restaurants in the county regulations.

Mr. Dobbs then requested a brief recess as their traffic consultant had arrived at the meeting.

Chairman Kelchner recessed the meeting then called the meeting back to order 6:17 p.m. Susan O'Rourke, traffic consultant for the applicant, was sworn in.

Ms. O'Rourke presented her traffic impact analysis which was prepared at the request of the applicant. Ms. O'Rourke said she used Department of Transportation standards and her findings show that no turn lanes would be required according to those standards.

There were questions from Board members about when turn lanes might be required, the traffic levels on the highways and on NW160th Street, and whether the analysis took into account the number of tractor trailers that would be present.

Attorney Kate English, representing the Okeechobee Livestock Market, addressed the Board. She introduced Planner Kathleen Berkey, who attended and spoke at the initial board meeting in May, along with Josh Hildebrand and Matthew S. Simmons that she presented as expert witnesses.

Matthew Simmons addressed the Board and listed his qualifications as an expert witness on property valuations. Board Member Rob Willson protested Mr. Simmons' qualifications to testify in the matter stating that his expertise is limited to land uses that are 1-10 acres and residential only. Mr. Simmons continued his presentation and discussed ambient light and noise.

Josh Hildebrand addressed the Board to discuss traffic impacts. He stated he disagreed with the traffic impact analysis submitted by the applicant and that he disagreed that a turn lane was not required.

Attorney Virginia Sherlock, representing the applicant, stated that the hearing is for the special exception and that some issues are not relevant at the hearing but should be addressed during the site plan phase. Board member Hoover said he disagreed with that, stating that all information is relevant at this stage.

Kathleen Berkey, representing the Okeechobee Livestock Market, addressed the Board stating the special exception for the new livestock market is inconsistent with the land development regulations and the comprehensive plan and that the applicant has failed to meet the requirements for a special exception.

Attorney Kate English addressed the Board stating that the subject property is in the Rural Estate future land use classification and not the Agriculture future land use classification.

Board member Mack Worley, Jr. read from Section 2.04.01 of the Okeechobee County Land Development Regulations and asked whether or not they are rezoning the land and which side bears the burden of proof in the matter. Mr. Cassels stated the Board would not be rezoning the land and that the applicant bears the burden of proof.

Tommy Rucks, Jr. addressed the Board. He stated he is against the livestock market and had a concern about the potential decline of the value of his property next to the site and expressed concern about traffic issues.

Suzanna Rucks addressed the Board. She stated she is against the livestock market and expressed concerns over traffic, noise, light, damage to county maintained roads and property values.

Carlos Abreu addressed the Board stating his concerns over property values.

James Hogan addressed the Board stating the need for turn lanes.

Debbie Clemons addressed the Board stating she is part owner of the Okeechobee Livestock Market. She stated the opposition is about relationships and not money or competition.

Attorney Kate English presented her closing remarks stating the special exception cannot be an exception to the comprehensive plan and that zoning cannot authorize what is not permissible. She stated that according to the current comprehensive plan language, the special exception cannot be granted.

Attorney Virginia Sherlock presented her closing remarks stating the request does meet the requirements of the land development regulations and noted that the county staff says the request adequately meets the current land development regulations and requirements.

Greg Isbell addressed the Board requesting the traffic study be tabled.

There were no further public comments.

Mack Worley, Jr. moved to close the public hearing. Joey Hoover seconded the motion. The motion passed unanimously.

The Board discussed the various evidence at length with the majority of the discussion focusing on traffic and whether the restaurant is actually an accessory use.

Rob Willson moved to grant a special exception for a livestock market with a restaurant in an Agriculture (A) zoning district based on the staff report and recommendation and subject to the following conditions:

- 1. If construction of the proposed use does not commence within 36 months of the date that the special exception is granted, and thereafter continue in good faith, the special exception shall be null and void;**
- 2. Upon commencement of the proposed use, if the use then ceases for a period of 6 continuous months or 12 non-continuous months during a 24 month period, the special exception shall be null and void;**
- 3. The special exception authorizes the sale of livestock only as defined by Section 585.01, Florida Statutes or Section 588.13, Florida Statutes, but not other animals;**
- 4. The restaurant is authorized as an accessory use to the livestock market and would be open only on days livestock is being auctioned and that no advertising is allowed for the restaurant to the general public;**
- 5. On-site lighting shall be placed and shielded in a manner to minimize off-site impacts; and**
- 6. The premises shall be maintained at all times.**

The motion died for lack of a second.

The Board again discussed the restaurant as an accessory use and their concerns over traffic issues including ingress and egress into the site.

Rob Willson moved to grant a special exception for a livestock market with a restaurant in an Agriculture (A) zoning district based on the staff report and recommendation and subject to the following conditions, adding a condition #7:

- 1. If construction of the proposed use does not commence within 36 months of the date that the special exception is granted, and thereafter continue in good faith, the special exception shall be null and void;**
- 2. Upon commencement of the proposed use, if the use then ceases for a period of 6 continuous months or 12 non-continuous months during a 24 month period, the special exception shall be null and void;**
- 3. The special exception authorizes the sale of livestock only as defined by Section 585.01, Florida Statutes or Section 588.13, Florida Statutes, but not other animals;**
- 4. The restaurant is authorized as an accessory use to the livestock market and would be open only on days livestock is being auctioned and that no advertising is allowed for the restaurant to the general public;**
- 5. On-site lighting shall be placed and shielded in a manner to minimize off-site impacts;**
- 6. The premises shall be maintained at all times; and**
- 7. The site plan must get final approval from the Planning Board including providing appropriate ingress and egress.**

The motion was seconded by Joey Hoover.

The motion failed by a vote of 3 to 3. Rob Willson, Joey Hoover and Ted Kelchner voted for the motion. Debra Sales, Mack Worley, Jr. and Ron Zobel voted against the motion. Weston Harvey abstained, stating this was his first meeting as a Board member and he did not have enough information to vote on the petition.

The Board continued to discuss the petition and discussed leaving out the restaurant as an accessory use.

Rob Willson moved to grant a special exception for a livestock market in an Agriculture (A) zoning district based on the staff report and recommendation and subject to the following conditions, deleting previous Condition #4 and adding a Condition #6:

1. If construction of the proposed use does not commence within 36 months of the date that the special exception is granted, and thereafter continue in good faith, the special exception shall be null and void;
2. Upon commencement of the proposed use, if the use then ceases for a period of 6 continuous months or 12 non-continuous months during a 24 month period, the special exception shall be null and void;
3. The special exception authorizes the sale of livestock only as defined by Section 585.01, Florida Statutes or Section 588.13, Florida Statutes, but not other animals;
4. On-site lighting shall be placed and shielded in a manner to minimize off-site impacts;
5. The premises shall be maintained at all times; and
6. The site plan must get final approval from the Planning Board including providing appropriate ingress and egress.

Mack Worley, Jr. seconded the motion.

The motion passed by a vote of 4 to 2. Rob Willson, Mack Worley, Jr., Ted Kelchner and Debra Sales voted for the motion. Joey Hoover and Ron Zobel voted against the motion.

There being no additional business, the meeting was adjourned.



Ted Kelchner, Chairman

7-27-17

Date of Approval



Tammy Beard, Secretary to the Board

7-27-17

Date