



HENDRY COUNTY PLANNING & ZONING DEPARTMENT

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MEMORANDUM

TO: Hendry County Local Planning Agency

FROM: Hendry County Planning & Zoning Department

RE: Proposed Land Development Code (LDC) Amendments
for the RR-F Zoning District

DATE OF MEETING: October 09, 2019

BACKGROUND

The proposed LDC amendments are based on a request from Central County Water Control District (CCWCD) regarding fish farms in Montura Ranch Estates.

On July 15, 2019 the County received an email from the CCWCD requesting the Hendry County Board of County Commissioners (BCC) to consider Resolution No. 19-7 (attached) adopted by the CCWCD board on July 9, 2019. The resolution requested the BCC to "...impose a temporary zoning moratorium so that Hendry County can review the concerns of the District's residents related to the locations and proximity of fish farm and residential uses within the District, and identify corrective actions within its authority to undertake."

Staff presented an option to start the discussion with the BCC and the community at the August 13, 2019 BCC meeting. Based on the initial input from the community, County staff has a different approach to discuss with the community that would address the fish farms/commercial agriculture issue. The RR-F zoning would not be changed to a new zoning district and the unlimited number of household farm animals would not change with this amendment. The only change would be to eliminate any future commercial agriculture uses/operations including fish farms. All existing commercial agriculture uses would be grandfathered in. The BCC directed staff to make changes to the Land Development Code and to proceed with the public hearing process.

Prior to processing the amendment, staff attended the August 28, 2019 CCWCD meeting to present the proposal to address concerns with the Fish Farms. There were concerns about losing their existing agriculture uses, both commercial and the unlimited number of farm animals. Staff explained that the existing commercial agriculture operations would be grandfathered in. Also discussed was the upcoming Land Use Study for the community which will kick off in October 2019.

ANALYSIS

Staff is recommending the following amendments to the Land development Code Chapter 1-53. Recommendations are in bold:

1-53-2.1A. *RR-F district.* – The RR-F rural residential farm zoning district shall be subject to the same criteria, restrictions, and conditions and shall allow and provide the same uses as set forth in this chapter for the RR rural residential zoning district, except as provided in subsection 1-53-6.7(g)

Delete this section as it is inconsistent with Section 1-53-6.7 relating to the RR and RR-F zoning districts allowing the same uses except as provided in subsection 1-53-6.7(g). With the revision to prohibit commercial agriculture in the RR-F zoning district this would no longer be consistent since commercial agriculture can be permitted through a special permit in the RR zoning district if they have a minimum five acre parcel.

Section 1-53-3.1 *Table of Use Regulations Table 53-1.*

Delete the P/1 in the table for agriculture uses permitted in the RR-F zoning district and add the footnote – “6” – “Limited agricultural activities are allowed in accordance with section 1-53-6.7.” Note that the RR-F was supposed to be P that permitted all agriculture but was inadvertently changed to P/1 during the Wheeler Estates amendments.

Section 1-53-6.7 *Agriculture in nonagriculturally zoned districts.* Subsection 1-53-6.7(g)(1)-(3)

Revise the language describing what animals are permitted in RR-F as follows:

- (1) ~~There shall be no limit on the number of animals regardless of lot size~~ **Domestic farm animals for household use are allowed without numeric limit, except:**
 - a. ~~All~~ **The** animals shall be properly enclosed on the possessor's property.
 - b. ~~All~~ **The** animals shall be fed, watered, and cared for in a humane and proper manner.
 - c. The keeping of the animals under this subsection shall not be done in a manner which creates a common law nuisance.
 - d. Animal waste shall not be allowed to remain on the premises in amounts which cause a health or environmental hazard.
 - e. **The animals may not be bred for sale and animal products may not be sold.**

(2) ~~Commercial agricultural activities are permitted.~~

~~(3) Barbed wire fences are allowed in this zoning district.~~

CONCLUSION

Staff is recommending these changes be approved. These changes will address the concerns of the Montura Ranch Estates residents' concerns with Fish farms.

RECOMMENDATION

Conduct a public hearing and make a recommendation to the Board of County Commissioners to approve the amendments.

ATTACHMENTS:

1. Strikethrough/underline version of the text amendment.
2. CCWCD Resolution 19-7.

(b)	<i>Residential uses.</i>																
(1)	Boardinghouse and roominghouse	—	—	—	—	—	—	—	—	—	S	—	S	—	—	—	—
(2)	Community residential home, major	—	—	—	—	—	—	—	—	—	P	—	P	—	—	—	—
(3)	Community residential home, minor	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	—	—	—	—
(4)	Manufactured Home	P	P	—	P	P	—	P	—	P	—	P	—	S	—	—	—
(5)	Mobile home park	—	—	—	—	—	—	—	—	—	—	S/2	—	—	—	—	—
(6)	Modular Home	P	P	P	P	P	P	P	P	P	P	P	P	P	—	—	—
(7)	Multifamily dwelling	—	—	—	—	—	—	—	—	—	—	—	P	—	—	—	—
(8)	Single-family dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	—	—	—
(9)	Townhouse dwelling	—	—	—	—	—	—	—	—	—	—	—	P	—	—	—	—
(10)	Two-family dwelling	—	—	—	—	—	—	—	—	—	—	—	P	—	—	—	—
(11)	Mixed use development	—	—	—	—	—	—	—	—	—	P/2	P/2	P/2	P/2	P/2	P/2	—
(12)	Nursing	—	—	—	—	—	—	—	—	—	S	—	S	—	—	—	—

—	Use not permitted in this district.
P	Use permitted by right in this district.
S	Use permitted by special exception in this district.
P/1	Use permitted subject to provisions of section 1-53-6.7.
P/2	Use permitted by planned unit development in this district subject to provisions of section 1-53-5.
S/2	Mobile home park by special exception in RG-3M district only.
P/3	A minor community residential home must have a minimum separation of 1,000 feet from another minor community residential home and shall provide the planning and community development department with a list and location of all licensed facilities in the county to ensure the 1,000 feet separation is met.
P/4	Agricultural uses in the RR-WE district are permitted in accordance with section 1-53-3.7.1.e.
5	Use allowed by planned unit development in the RR-WE district subject to the provisions of section 1-53-3.7.
6	Limited agricultural activities are allowed in accordance with section 1-53-6.7.

1-53-6.7. *Agriculture in nonagriculturally zoned districts.*

- (a) Whenever property is rezoned by this chapter or any amendment hereto, agricultural uses existing on the property at the time of rezoning may be continued.
- (b) For any parcel of land in the county, regardless of zoning, which is at least five acres in size, agricultural uses may be recommenced after discontinuance within three years after discontinuance.
- (c) In accordance with table 53-1, new agricultural uses may be initiated on parcels zoned residential/rural development (rr) which are at least five acres in size, upon the issuance of a special permit. The application for a special permit must be accompanied by a fee as established by the board of county commissioners.
 - (1) *Notification procedures.*
 - a. The community development director, upon receipt of an application and fee, shall provide notification of the application as follows:

1. To the building official, county administrator, the county engineer, county attorney, and the county commissioner in whose district the subject property is situated.
 2. To persons owning land within 750 feet of the subject property by first class mail.
 3. By posting a conspicuous notice on the subject property.
- b. The notice shall clearly and conspicuously state that, unless an objection is filed with the community development director within 15 days from the date of the postmark of the letter received from the county, the director may issue a special permit in accordance with this section.
 - c. If a written objection is received, the matter shall be presented to the county commission for final decision at a public hearing. Notice of the public hearing shall be sent to each person who has previously received written notice by first class mail no less than ten days prior to the hearing, and notice shall be published in a newspaper of general circulation within the county no less than five days prior to the hearing.
- (2) *Criteria for granting or denial of permit.* The county shall consider the following criteria in reviewing the application:
- a. The allowance of the proposed agricultural use does not create a common law nuisance in respect to odor, noise and health or environmental hazards.
 - b. The proposed use is compatible with surrounding uses.
 - c. The proposed use can meet all applicable setback requirements contained in the Land Development Code.
 - d. The proposed use will not deny any landowner who received notification of the ability to use their land in accordance with the rules, criteria, and regulations contained in the Land Development Code.
- (3) *Appeal to board of county commissioners.*
- a. In the event the community development director denies a permit after an application is made hereunder, the applicant may, within 15 days, appeal the denial to the board of county commissioners by completing a form provided by the community development director.
 - b. An appeal filed under this section shall be decided by the board of county commissioners after a public hearing in which notice has been sent to each person who has previously received written notice by first class mail no less than ten days prior to the hearing, and such notice has been published in a newspaper of general circulation within the county no less than five days prior to the hearing.
 - c. At or after such public hearing, the board of county commissioners may grant a permit to the applicant, grant a permit with conditions or deny the application.
- (d) There shall be no restriction or incidental gardening or horticultural activities accessory to residential use.
- (e) Domestic animals for household use only may be kept on parcels of any size in the residential/rural development (RR) zoning district, provided that the number of animals on a parcel may not exceed the number set forth herein:

		On parcels not exceeding two acres:	Allowed per additional acre or fraction thereof:
(1)	Horses and cows	1 (total)	1 (total)

(2)	Hogs	2	2
(3)	Goats and/or sheep	5	3
(4)	Poultry	6	5
(5)	Llamas	2	2
(6)	Caged animals	10	5
(7)	Animals not listed above shall be subject to the restrictions for the most similar animal listed above.		

- (f) Except as allowed by this section, no animals, other than common household pets for personal, noncommercial use by the occupants of a residence, may be kept on premises in any residential zoning district within the county.
- (g) Notwithstanding any other part of this chapter, the following shall apply to the RR-F zoning district:
- (1) ~~There shall be no limit on the number of animals regardless of lot size. Domestic farm animals for household use are allowed without numeric limit, except:~~
 - a. ~~All The animals shall be properly enclosed on the possessor's property.~~
 - b. ~~All The animals shall be fed, watered, and cared for in a humane and proper manner.~~
 - c. ~~The keeping of the animals under this subsection shall not be done in a manner which creates a common law nuisance.~~
 - d. Animal waste shall not be allowed to remain on the premises in amounts which cause a health or environmental hazard.
 - e. ~~The animals may not be bred for sale and animal products may not be sold.~~
 - (2) ~~Commercial agricultural activities are permitted.~~
 - ~~(3) Barbed wire fences are allowed in this zoning district.~~

RESOLUTION 19-7

A RESOLUTION OF THE BOARD OF SUPERVISORS OF CENTRAL COUNTY WATER CONTROL DISTRICT REQUESTING HENDRY COUNTY TO IMPOSE A TEMPORARY MORATORIUM TO STUDY THE ZONING OF FISH FARM AND RESIDENTIAL USES WITHIN THE DISTRICT; PROVIDING AN EFFECTIVE DATE; AUTHORIZING A COPY OF THIS RESOLUTION TO BE TRANSMITTED TO HENDRY COUNTY; AND FOR OTHER PURPOSES.

WHEREAS, the Central County Water Control District (the "District") is a Florida water control district; and

WHEREAS, Hendry County is responsible for the planning and zoning of land within the District's boundaries; and

WHEREAS, land within the District's boundaries is serviced by private wells, as acknowledged by the Future Land Use Element of the Hendry County Comprehensive Plan at Policy 1.1.3; and

WHEREAS, fish farms operating within the boundaries of the District have interfered with the District's water control plan, and its water management and drainage responsibilities, by discharging into and onto the District's waters, canals, and lands; and

WHEREAS, the District Board of Supervisors ("Board") has been contacted by District residents concerned about water discharges from adjacent fish farms has intruded into private wells servicing adjacent residential homes, threatening the health, safety, and welfare of persons residing within the District; and

WHEREAS, the District Board requests that Hendry County impose a temporary zoning moratorium so that Hendry County can review the concerns of the District's residents related to

the locations and proximity of fish farm and residential uses within the District, and identify corrective actions within its authority to undertake; and

WHEREAS, the District Board considers fish farms, and industrial wastewater discharges, incompatible with adjacent residential land uses.

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the Central County Water Control District as follows:

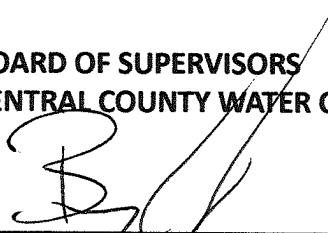
Section 1. The WHEREAS clauses of this Resolution are hereby incorporated as if restated herein.

Section 2. The District Secretary or its designee is authorized to transmit a copy of this resolution to the Clerk of Hendry County and the Hendry County Board of County Commissioners

Section 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 9th day of July 2019.

**BOARD OF SUPERVISORS
CENTRAL COUNTY WATER CONTROL DISTRICT**



By: BENNY ALVAREZ, President

APPROVED AS TO LEGAL SUFFICIENCY AND FORM:

/s/ John J. Fumero

By: JOHN J. FUMERO, District Attorney