

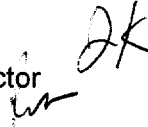
**Hickory Hill
Public Hearing Agenda Packet**

EXHIBIT A

**PUBLIC HEARING PROCEDURES
ADOPTED BY THE BOARD ON
MARCH 14, 2007**

MEMORANDUM
HERNANDO COUNTY ATTORNEY'S OFFICE

TO: Honorable Chairperson and Members, Board of County Commissioners

FROM: Jeff Kirk, Assistant County Attorney
Ronald F. Pianta, AICP, Planning Director 

DATE: March 5, 2007

SUBJECT: Establishing Procedures for Hickory Hill Public Hearing Set for April 26, 2007 regarding the proposed Comprehensive Plan Amendment submitted by Hickory Hill, LLC and the proposed Development Order for the Hickory Hill DRI

Background:

Hickory Hill, LLC (Applicant) has filed an Application for Development Approval for the Hickory Hill Development of Regional Impact (DRI) and a concurrent application for a Comprehensive Plan Amendment (CPAM) necessary to accommodate the proposed DRI. On June 14, 2006, the BOCC voted 3-2 to transmit the proposed CPAM to the Florida Department of Community Affairs (DCA) for review.

By statute and administrative rule, the BOCC shall conduct the public hearing for the adoption of the CPAM and for approval of the Development Order (DO) in connection with the DRI on the same day. This public hearing must be advertised at least sixty (60) days in advance of the scheduled hearing. The Public Hearing date for Hickory Hill has been set and advertised for April 26, 2007.

Both the Applicant and other interested parties have requested that hearing procedures be established so that all interested persons know the ground rules for the hearing in advance and will be given a fair opportunity to be heard. The procedures are also important so that the hearing is conducted in a fair and orderly fashion.

In response to the requests Staff has prepared a set of proposed procedures for consideration by the Board. The attached proposed procedures establishes requirements for the pre-qualification of common spokespersons (either pro or con) and experts at a prior Board meeting (April 17, 2007), allocates blocks of time for the Applicant and supporters to make their presentation, allocates blocks of time for those in opposition to make their presentation, provides for summation comments by the Applicant and those in opposition, and provides for citizen comment.

Requested BOCC Action:

It is requested that the BOCC review and discuss the proposed procedures, and adopt procedures in relation to the April 26, 2007 Public Hearing for Hickory Hill.

AGENDA ITEM

G.

Board of County Commissioners

April 17, 2007

Hickory Hill Pre-Qualification Hearing

1.A. If there is any person (regardless of whether an attorney or not) who desires to be a common representative spokesperson for those who support of or in opposition to the proposed development, such person shall file a letter with the Planning Department (attention: Ron Pianta, Planning Director) no later than April 6, 2007. The letter will advise who they intend to speak for, the nature of the group, why they should be recognized as a common representative spokesperson and indicate how much time they would require. If there are more than one person claiming common representative spokesperson status for those in support or in opposition to the proposed development, the Board will determine how time should be allocated among such persons.

1.B. Any person wishing to offer "expert" testimony at the April 26th Public Hearing regarding Hickory Hill, in support of or in opposition to, will file their resume under cover letter with the Planning Department (c/o Ron Pianta, Planning Director) no later than April 6, 2007. The cover letter will state what area or areas that person intends to offer expert testimony.

2. This pre-qualification process will be placed on the BOCC regular agenda for April 17, 2007. The BOCC Agenda Packet will include all letters for common representative spokesperson status and resumes for persons seeking to offer expert testimony (as received by the Planning Department through April 6th).

3. At its April 17th meeting, the Board will: (i) identify any common representative spokesperson(s) in support of or in opposition to the proposed development; (ii) how much time such persons should receive; (iii) identify all experts who intend to speak in support of or in opposition to the proposed development; and (iv) resolve any timing issues not otherwise addressed herein. If a bona fide objection is made to any expert based upon the qualifications submitted, then the Board may defer ruling on whether that person should be granted expert status to the beginning of the April 26th hearing.

Board of County Commissioners

April 26, 2007

Hickory Hill Public Hearing

- * The Board will be advised, **and the Applicant will stipulate on the record at the beginning of the hearing**, to the following:

"At the conclusion of today's public hearing, the Board will make two separate votes.

1. *The first vote on whether to approve, approve as modified, or deny the proposed comprehensive plan amendment is considered "legislative" in nature. A reviewing court will uphold the decision if it is "fairly debatable" that reasonable persons could disagree over the conclusion reached based upon the evidence in the record. In other words, the Board's decisions should be based upon reasonable evidence in the record.*
 2. *The second vote on whether to approve, approve as modified or deny the DRI Development Order is quasi-judicial in nature (similar to a zoning hearing)."*
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** In the interest of judicial economy, quasi-judicial procedures shall apply to the entire hearing. Board members will disclose if they have had any ex parte communications. All persons who intend to offer sworn testimony will be sworn. All persons offering sworn testimony shall be subject to cross-examination. All parties agree that such use of these procedures shall in no way alter the standard of review to be used in any subsequent appeal. That is, the Board's action on the proposed comprehensive plan amendment is "legislative" and the Board's action on the proposed DRI Development Order is "quasi-judicial".

*** The Board in its discretion may allow additional time as may be appropriate.

1. The Board will discuss any pending or unresolved qualification matters deferred from its April 17th meeting (including qualifying persons as experts where a bona fide objection was made at the pre-qualification hearing and allocating time if there are competing persons claiming common representative spokesperson or expert status).
 2. Staff will provide overview regarding the proposed Plan Amendment and proposed DRI Development Order and state any opinions or recommendations they may have.
 - 3.A. Applicant (Hickory Hill, LLC) will have up to seventy-five (75) minutes for its common representative spokesperson(s) and experts to present their case in support of the proposed comprehensive plan amendment and the proposed DRI Development Order. It will be up to the Applicant to determine how they wish to share their time with any groups in support of the proposed development.
 - 3.B. Following the Applicant completing its presentation under Paragraph 3.A above, persons offering sworn testimony on behalf of the Applicant will be subject to cross-examination (time spent on cross-examination will not be counted towards the Applicant's 75 minutes time allotment).
 - 4.A. Those persons in opposition to the proposed development will have up to sixty (60) minutes total for its common representative spokesperson(s) (subject to being pre-qualified by the Board) and expert(s) (subject to being pre-qualified by the Board) to present their case in opposition to the proposed comprehensive plan amendment and the proposed DRI Development Order. If there is more than one identified common representative spokesperson, then time shall be allocated as determined by the Board during the pre-hearing process.
 - 4.B. Following the opposition completing their presentation under Paragraph 4.A. above, persons offering sworn testimony in opposition to the proposed development will be subject to cross-examination (time spent on cross-examination will not be counted towards the 60 minutes time allotment described above).
 5. General Public Comments. Limited to customary 3 minutes per person (any person who previously spoke under Paragraph 3 or 4 above, or who has been identified as being represented by a common representative spokesperson, will not be allowed to speak under General Public Comments).
 6. The person(s) who spoke in opposition (pursuant to Paragraph 4 above) will have a total of twenty (20) minutes for closing comments. If more than one identified person, and an agreement to allocate time cannot be reached, time will be divided evenly.
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7. Applicant will have up to thirty (30) minutes for rebuttal/closing presentation. Applicant may share its time with any common representative spokesperson(s) in support of the proposed development.
8. The Board Chair will close the public hearing.
9. Board questions (including those directed to earlier speakers) and discussion.
10. The Board (sitting in its “legislative” capacity) will vote on whether to adopt, adopt with changes, or deny the proposed Comprehensive Plan Amendment.
11. The Board (sitting in its “quasi-judicial” capacity) will vote on whether to adopt, adopt with changes, or deny the proposed DRI Development Order. [*If the Board votes to deny the DRI Development Order, “it shall specify its reasons in writing and indicate any changes in the development proposal that would make it eligible to receive the permit.” § 380.08(3), Fla. Stat.*]

3-05-07
