

# FLORIDA LAND AND WATER ADJUDICATORY COMMISSION

## AGENDA

**AMENDED November 9, 2010**

Attachments to the agenda items below can be viewed at the following link:  
[http://www.myflorida.com/myflorida/cabinet/flwac/20101109\\_index.html](http://www.myflorida.com/myflorida/cabinet/flwac/20101109_index.html)

1. **Approval of the minutes of the meeting held September 14, 2010.**
2. **Consideration of a Recommended Order issued by the Division of Administrative Hearings in the proceeding of Department of Community Affairs vs. Polk County and Safari Wild, LLC, c/o C. Lex Salisbury. FLWAC Case No. APP-09-007.**

### Issue:

The issue in this proceeding is whether the activity authorized by a Development Order issued by Polk County is “development” as defined in Section 380.04, Florida Statutes. Additionally, if determined to be “development,” whether the Development Order is consistent with the Principles for Guiding Development for the Green Swamp Area of Critical State Concern (ACSC), the Polk County Comprehensive Plan, Polk County Land Development Regulations, and statutory and rule provisions that relate to development in the Green Swamp ACSC.

### Background:

The Safari Wild project has an involved history spanning over several years. The site for the Safari Wild Project was selected by the developer in 2005 and is located west of Moore Road, north of Lakeland, in northwestern Polk County. The site encompasses 258 acres in the Green Swamp ACSC and includes fencing, crude roads and several structures. Additionally, the site contains three man-made pond areas. One pond was dug some years ago to provide water for cattle. Another was dug near the eastern boundary of the property. Lastly, an additional pond area was dug to create an island area surrounded by a moat. This island served as habitat for primates and it was envisioned that the moat would act to confine the primates. However, several of the Patas monkeys being housed on the island swam the moat and escaped the Safari Wild property for several weeks until captured.

Since before the time the present owners acquired it, the Safari Wild property has been classified as “Agriculture/Rural Residential” and located within the special overlay districts “Green Swamp Special Protection Area” and “Rural Special Protection Area Overlay” (“A/RRX” and “Rural SPA”) under the Polk County Comprehensive Plan. These designations allow agriculture and up to one residential unit per ten acres. Also, the designations and the County Code provide for certain specific allowable uses and a prohibition of any use not specifically listed as an allowable use.

Safari Wild was envisioned by the developer as “an agricultural based game farm.” The project was expected to include up to 750 “Asian and African grazing animals” and would be cross-fenced to separate the Asian from African mammals and would house up to 1000 animals in all. The project was designed so that animals would be free to roam in their pastures, kept in multi-species herds, as would be seen in the wild.

One of the project structures was the subject of a 2008 Notice of Violation issued by the Department of Community Affairs for the owner's failure to obtain a required building permit. This particular building was contemplated for commercial use as a project visitor center. It is accompanied by a hay barn, animal commissary, aviary, and supporting facilities.

In late 2008, the owners of the Safari Wild project applied for an after-the-fact development order authorizing the safari-style commercial tour operation on the Safari Wild property. Development approval (Development Order) of the Safari Wild project was issued by Polk County in October of 2009. The Safari Wild property was designated by Polk County as "Recreation/Low Intensity" which is defined as "areas of public and private passive outdoor recreational activities."

The Department of Community Affairs appealed the Polk County Development Order for the already constructed project on November 25, 2009. The Secretary of the Commission forwarded the proceeding to the Division of Administrative Hearings (DOAH) for a hearing and further proceedings.

On April 27 through April 29, 2010, DOAH Administrative Law Judge David Maloney conducted an administrative hearing in Bartow, Florida. Judge Maloney issued a Recommended Order on July 30, 2010, recommending the Commission quash the Polk County Development Order and deny permission to Safari Wild to develop the Safari Wild project.

The Administrative Law Judge found: the Safari Wild project and activity authorized by the Polk County Development Order constitute "development;" the Development Order is not in compliance with the Polk County Land Development Regulations; the project is a prohibited use under the Polk County Development Code; the Development Order does not comply with provisions of the Polk County Development Code relating to Flood Hazard Management and Flood Plain Protection and Wetland Protection; and the project is inconsistent with the Polk County Comprehensive Plan. No exceptions to the Recommended Order were submitted to the Commission by any party in the proceeding.

**Recommendation:**

*Authorize the Secretary to enter the draft final order.*

**Back-Up:**

Department of Community Affairs' Notice and Petition for Appeal of Development Order filed November 25, 2009.

DOAH's Recommended Order received August 2, 2010.

*Draft final order.*