

## APPEAL OF ADMINISTRATIVE DETERMINATION STAFF REPORT

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**HEARINGS:** Board of County Commissioners: August 5, 2025

**APPLICANT:** Jason E. Morphet, Ayleen N. Gallahue

**APPEAL CASE  
NUMBER:** 1506295

**REQUEST:** Appeal of an Administrative Determination on the Status of a  
Nonconforming Use

**GENERAL  
LOCATION:** East side of Emerson Road, approximately 1,600' north of Powell  
Road

**PARCEL KEY  
NUMBERS:** 381722

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### CURRENT REQUEST

The current property owner has submitted a formal appeal challenging the determination issued by the County Administrative Official regarding the nonconforming status of the *Skyline Mobile Home Park* units on the subject parcel. The owner contends that all previously existing units remain legally nonconforming and therefore should be entitled to replacement permits pursuant to the provisions of the County's Land Development Regulations.

In support of this position, the owner asserts that the use of the site as a mobile home park has not been discontinued in a manner that would terminate its nonconforming status and that the site continues to operate in substantial conformance with its historical use. The appeal seeks to overturn the County's finding that the nonconforming status has lapsed and to reinstate eligibility for replacement of all removed units.

### SITE HISTORY AND USE

The subject site is located on the east side of Emerson Road, approximately 1,600' north of Powell Road and encompasses the eastern 3.0 acres of the parent 10.0-acre parcel. Historical development of the mobile home park dates back to the early to mid-1970s, with electric service established as early as 1972 (per utility records from Withlacoochee River Electric Cooperative). At its peak, the park consisted of eight (8) mobile home units and one (1) manager's quarters.

The mobile home park has experienced various modifications over time, including the removal and replacement of older units—some as old as 1959. The property has also

been the subject of multiple code enforcement actions due to noncompliance with various regulatory standards.

As of 2019, a total of nine (9) units, including the manager's quarters, were present on-site. However, several of these units were determined to be uninhabitable or beyond their economic lifespan.

### DEMOLITION ACTIVITY AND NONCONFORMING STATUS

In 2020, the prior property owner began removing several units via the County's established demolition permitting process. A total of six (6) units were removed under valid permits but were not replaced within the one-year period required under the County's Land Development Regulations (LDRs) to preserve legal nonconforming use status.

In accordance with County LDRs, any failure to replace a nonconforming structure within one (1) year of removal results in forfeiture of its nonconforming status. As such, the aforementioned six (6) units are no longer recognized as legally nonconforming.

Subsequently, one (1) additional unit was removed without obtaining a demolition permit and was likewise not replaced. This unauthorized action constitutes a further violation of the nonconforming use provisions and voids that unit's status as well.

Despite the loss of status for the majority of the units, County staff has reviewed the remaining site conditions and associated records and has determined that **three (3)** units may retain their legal nonconforming use status; the managers quarters, Lot 2 (current replacement permit #1487756) and Lot 3 (current replacement permit #1487657)

The following units are listed as expired and no longer available units:

Unit No.	Demo Permit No.	Date	Notes
1	1407645	12/31/20	Demoed
4	1357369	5/08/18	Permit voided, mobile was still demoed.
5	1400680	8/24/20	Demoed
6	1407647	12/31/20	Demoed
7	1402555	9/24/20	Demoed
10	1402556	9/24/20	Demoed

### SITE CHARACTERISTICS

Site Size: Eastern 3.0 acres (Mobile Home Park)  
Western 7.0 acres (Undeveloped)

Surrounding Zoning  
& Land Uses: North: AG; Single Family Home

South: AG; Single Family Home  
East: AG; Single Family Home, Mobile Home  
West: AG; Single Family Home

Current Zoning: AG (Agricultural)

### LAND USE REVIEW:

The AG (Agricultural) District is designed to promote and encourage the conservation and utilization of prime and productive agricultural land, as well as the preservation of the open character of certain land, which, by virtue of their topography, soil types, natural resources and/or relationship to other land use areas, should be carefully reviewed and evaluated prior to their possible development or else should continue to be developed at a relatively low-density to maintain their overall natural environment and unique character with the county.

The AG (Agricultural) District is designed to allow the continued development of low-density, single-family housing. The Hernando County Code of Ordinances, Appendix A, Article IV, Section 6 identifies the permitted uses within the AG zoning district as follows:

#### A. *Agricultural District:*

- (1) *Permitted Uses:* The following permitted uses shall apply in the agricultural district:
  - (a) Animal specialty establishment;
  - (b) Farming and farming service establishments;
  - (c) Fisheries;
  - (d) Forestry and forestry service establishments;
  - (e) Horticultural specialty farms;
  - (f) Hunting, trapping and game propagation;
  - (g) Landscaping service establishment;
  - (h) Single-family dwelling;
  - (i) **Mobile Home, provided that such mobile home meets all of the regulations, requirements and provisions of this ordinance for minimum living area within the zoning district;**
  - (j) Land Application of Domestic Septage, provided that such operation meets all of the special regulations, requirements and provisions of this ordinance for operation and siting and applicable Florida Statutes, Administrative Rules, and provisions of the Hernando County Code of Ordinances;
  - (k) Wildlife management activities;
  - (l) Resource-oriented recreational activities;
  - (m) Aquaculture.

- (7) *Dimension and area regulations:* Unless otherwise approved under the special provisions section of the Agricultural District, the dimension and area regulations for lots and structures are as follows:

(a) *Lot area:*

- i. *Lot area:* The minimum lot area for a parcel created after January 1, 1990, shall be ten **(10) acres (including rights-of-way and access tracts).**

**Staff Comments:** The parent 10.0-acre parcel would be restricted to a single dwelling unit under current Code provisions.

(b) *Single-family dwelling not accessory to the principal agricultural use of the premises:*

- i. *Building height:* The maximum building height shall not exceed forty-five (45) feet.
- ii. *Lot widths:* The minimum lot width of the building line shall be one hundred fifty (150) feet.
- iii. *Front yard:* The minimum front yard requirement in the agricultural districts shall be **seventy-five (75) feet.**
- iv. *Side yard:* The minimum side yard requirement shall be **thirty-five (35) feet.**
- v. *Rear yard:* The minimum rear yard requirement shall be **fifty (50) feet.**
- vi. *Lot frontage:* All lots shall front on a street for a minimum distance of one hundred (100) feet except on dead-end streets, where frontage shall be a minimum of fifty (50) feet.
- vii. *Lots on curves:* Lots on curves shall have a minimum street frontage of fifty (50) feet.
- viii. *Minimum living area:* The minimum living area of a dwelling shall be six hundred (600) square feet. For the purposes of this subsection, "minimum living area" shall mean the minimum floor area of a dwelling unit, exclusive of carports, breezeways, unenclosed porches or terraces.

**Mobile Home Provisions:** In accordance with the provisions of this subsection, the minimum living or floor area of a mobile home will be six hundred (600) square feet, exclusive of all attachments, and no mobile home shall be permitted to be attached or detached in a manner that would be inconsistent with the original manufacturer's design standards. No mobile home shall have a length or width dimension less than twelve (12) feet, not including popouts and attachments.

All mobile homes must be skirted within thirty (30) days from the issuance of the certificate of occupancy. The skirting shall constitute a visual screen of new material, or material in acceptable condition, consisting of aluminum, pressure-treated wood, masonry, or other acceptable material normally used for mobile home skirting and be placed around the entire perimeter of the mobile home and extending from the base of the mobile [home] to the ground.

Applicants applying for a building permit to place a used mobile home shall either provide proof of a current and valid inspection by the Department of Motor Vehicles or be inspected by the Hernando County Development Department prior to the issuance of a building permit to set the mobile home. The inspection will be in areas of fire safety, electrical, plumbing, mechanical and overall construction of the mobile home.

If the inspection of the mobile home determines that the unit is not repairable, no building permit shall be issued.

No applicant applying to place a mobile home shall perform any repair work or commence setup of the mobile home until a building permit has been secured.

Any deficiencies noted in the inspection report shall be corrected prior to the issuance of a certificate of occupancy.

Standards for used mobile home inspections will be adopted by resolution of the Hernando County Board of County Commissioners and will be consistent with state standards regulating used mobile homes.

## Nonconforming Ordinance

The subject site existed as a nonconforming nine (9) unit mobile home park for several decades and only recently (last 2 to 3 years) has the property owner sought to upgrade the mobile homes that were considered inhabitable and/or required replacement.

Appendix A – Article II General Regulations, Section 2. - General Regulations for Structures and Uses. Code underlined and **bolded** for emphasis.

- (2) Any use which is lawfully existing on the effective date of this ordinance, or any amendment thereto, and which does not conform with all the provisions of this ordinance may be continued subject to the following regulations:
  - (a) The use shall not be expanded without the approval of the Planning and Zoning Commission. Approval to expand or to extend a use shall not be

granted if such expansion or extension will be detrimental to the overall character or appearance of the general area. Expanded uses shall be confined within the boundaries of that parcel of land upon which the use occupied on the date the use became nonconforming. **The determination by the Planning and Zoning Commission of whether the expansion of a nonconforming use is detrimental to the overall character or appearance of the general area includes, but is not limited to, the following factors:**

- (i) Whether the expansion of the nonconforming use is incompatible with the surrounding land uses.
- (ii) Whether the expansion of the nonconforming use changes the scope, volume, intensity, or extends the useful life of the nonconforming use.
- (iii) Whether the expansion of the nonconforming use requires a significant investment in additional infrastructure to allow the use to continue.
- (iv) Whether the expansion of the nonconforming use constitutes a change of use, including the requirement of additional types of use permits that are necessary to accommodate the proposed expansion.
- (v) Whether the expansion increases residential density.
- (vi) Whether the expansion is contrary to the public interest.
- (b) Shall not be changed to or expanded to include another nonconforming use.
- (c) May be changed to a conforming use.
- (d) **Whenever a nonconforming use has been discontinued for a period of one year, no nonconforming use may be reestablished on those premises.**
  - (1) **A use shall be considered discontinued once the activities and commerce, essential to the continuation of the use, have ceased.**
  - (2) Proof of the discontinuation of a nonconforming use for the required time period creates a rebuttable presumption of intent to discontinue. The presumption does not apply when a nonconforming use is discontinued involuntarily by compulsion of government action.
  - (3) **Where a nonconforming use has been deemed or presumed to have been discontinued under the provisions of this Section, the owner of the property or operator of the use may rebut the presumption of discontinuance by establishing, by clear and convincing objective evidence, that the use has continued or**

**existed beyond the date of presumed discontinuance. In all cases, the party attempting to rebut the presumption of discontinuance shall have the burden of establishing the continuation or existence of the use beyond that date of presumed discontinuance, as well as the burden of establishing the existence or continued operation of the use at any particular time.**

- (e) Shall be discontinued ten (10) years after reasonable notice from the Administrative Official to the owner of the parcel upon which the use exists that the use is nonconforming. The Governing Body may, upon application by the owner of the parcel upon which the nonconforming use exists and after a quasi-judicial hearing, modify the time for the amortization of the nonconforming use to allow the owner of the parcel upon which the nonconforming use exists to realize a return on his or her investment.
- (f) **Shall be discontinued where the factual circumstances relating to the use of the premises shows an intentional and voluntary act to discontinue the nonconforming use on the premises.**
- (g) **Notwithstanding the foregoing, the termination of a nonconforming use does not require a decision by the property owner to discontinue the use. A nonconforming use may be lost through negligence or inadvertence. A use may also be lost if a person engages in civil or criminal misconduct that the property owner knows or should know could lead to involuntary closure and indeed does lead to closure.**
- (h) **Changes in ownership, tenancy, or management of a nonconforming use, building, or structure are permitted.**

***Administrative Official Conclusion:***

A formal request to reinstate or replace previously existing mobile home units at the subject site is currently pending, contingent upon a final determination regarding the property's legal nonconforming use status and the overall legality of the mobile home park.

Following a comprehensive review of the parcel's historical land use, permit activity, demolition records, and development patterns, the Administrative Official has determined that the parcel has forfeited its legal nonconforming use status for six (6) mobile home units. This determination is based on the fact that the mobile homes that were removed failed to be replaced within the year of their demolition permits and that the density in general exceeds the per parcel code allocation. As stated in the County LDRs, "Whenever a nonconforming use has been discontinued for a period of one year, no nonconforming use may be reestablished on those premises."

**Powers, Duties and Authority of the Administrative Official**

- A. *Appointment.* The governing body shall appoint an administrative official, who shall be charged and provided with the authority to administer the zoning ordinance and to enforce the regulations and procedures contained herein governing land development and use, indicating the issuance of zoning permits and certificates of use. The administrative official, in the performance of his duties and functions, may enter upon any land and make examinations and surveys that do not occasion damage or injury to private property.
- B. *Powers and duties.* The administrative official shall have the following powers and duties:
- (1) To decide the literal interpretation of the zoning ordinance including definitions and land use classifications.
  - (2) To decide the interpretation of the exact location of zoning district boundaries according to the zoning ordinance.
  - (3) To decide the interpretation of the amount of off-street parking, loading and unloading space required according to the zoning ordinance.
  - (4) To decide the interpretation of the general environmental control criteria and performance standards according to the zoning ordinance.
  - (5) To decide any other interpretation or decision delegated by the land development regulations.
- C. *Administrative variances.* The administrative official shall have the authority to grant a minor dimensional variance of up to ten (10) percent of adopted standards when the terms of this ordinance are met. When the terms of the ordinance are not met, the administrative official shall deny the request, at which time the petitioner shall have all rights of appeal as set forth in this ordinance.

**Appx. A, Art. V, Sec. 3.A(2)**

- (2) *The governing body may authorize upon appeal a variance from the terms of the ordinance that will not be contrary to the public interest when due to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the ordinance, the governing body shall consider:*
- (a) **That special conditions and circumstances exist which are peculiar to the land,** structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;
  - (b) **That the special conditions and circumstances do not result from the actions of the applicant;**



- (c) *That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;*
- (d) *That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;*
- (e) **That the variance granted is the minimum variance that will make possible the reasonable use of the land,** *building or structure;*
- (f) *That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

**STAFF RECOMMENDATION:**

It is recommended that the Board of County Commissioners consider the Administrative Official's determination and remove the nonconforming status on six (6) of the preexisting nine (9) mobile home units, leaving three (3) units which have preexisting Impact Fee preemptions (dated 2008) and one (1) fully paid Impact Fee. The approved three (3) units shall be limited to the historical eastern 3.0 acres. The property owner shall responsible for obtaining all permits from Hernando County and other applicable agencies and meet all applicable land development regulations, for either construction or use or the property, and complete all applicable development review processes.