

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
February 9, 2010**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Frank Severino**, at 9:00 a.m. in the County Council Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, Florida. On roll call, the following members answered present, to-wit:

FRANK SEVERINO, CHAIRMAN
JEFF GOVE, VICE CHAIRMAN
JIM RUSSELL, SECRETARY
TAVER CORNETT
STONY SIXMA
JAY YOUNG
JAMES WACHTEL – resigned effective February 4, 2010

STAFF PRESENT

MICHAEL DYER, Assistant County Attorney
BECKY MENDEZ, AICP, Senior Planning Manager
SCOTT ASHLEY, AICP, Planning Manager
JOHN H. STOCKHAM, ASLA, Planner III
CHRISTIAN NAGLE, AICP, Planner II
YOLANDA SOMERS, Current Planning Secretary

APPROVAL OF MINUTES

November 10, 2009

No discussion

Member Young moved to approve the November 10, 2009 minutes with the correction discussed. Member Cornett seconded. Motion carried unanimously.

January 12, 2010

Member Cornett asked for clarification on page 3 line 5.

Add the word "Seconded".

Member Young moved to approve the January 12, 2010 minutes with the correction discussed. Member Cornett seconded. Motion carried unanimously.

Chairman Severino explained the procedure for forwarding the Commission's decisions to the County Council and invited the public to speak for or against any of the cases being heard.

Michael Dyer, Assistant County Attorney, explained that decisions by this body on special exception cases and cases which rezone real property from one classification to another pursuant to the Zoning Ordinance are recommendations only to the County Council and do not constitute a final hearing. New evidence may be introduced at the County Council public hearing. Decisions on variances made by this body constitute final action, subject to an appeal to the County Council. What this means is that no new evidence may be presented at the time of the County Council public hearing on appeal. An aggrieved party that appeals such a decision is confined to the record made before this body. Hearings by this body on rezoning, special exceptions and variances are quasi-judicial in nature meaning that this body is acting more like a court and must take into account all oral, written or demonstrative evidence presented. Their decisions on these cases must be based on competent, substantial evidence in the record. Competent, substantial evidence has been defined, as that evidence a reasonable mind would accept to support a conclusion.

Disclosure of Ex Parte Communications

Members of the Volusia County Planning & Land Development Regulation Commission Board are asked to please disclose, for the record, the substance of any ex parte communications that have occurred before or during the public hearing at which a vote is to be taken on any quasi-judicial matters.

No Ex Parte communication was disclosed by any member.

PUBLIC HEARING ON ZONING APPLICATIONS

There were no consent agenda items.

PUD-09-019 – **Application of Douglas Daniels, attorney for Hy-Em USA Properties, owner**, requesting a Major Amendment to Resolution 2003-24 4/44 Business Center BPUD including, but not limited to, sign regulations, landscape requirements, and revised master plan. The property is located on the north side of East State Road 44 at the Interstate 4 interchange, east of the City of DeLand; ± 43.10 acres (Ashley) 7118-00-00-0010

Scott Ashley, AICP, Planning Manager, presented the staff report detailing the location of the property and the requested changes to the existing planned unit development. Staff recommends approval of the request subject to the staff recommended changes to the development agreement, the highway sign height is proposed at 100 feet and staff does not recommend this but does recommend 50 feet.

Doug Daniels, attorney for owner, stated that the changes in the property were caused by the change in the I-4 and SR 44 exchanges. We need visibility from the highway. Originally there was plenty of visibility on SR 44 but now with the fly over bridge which may be 40 feet tall, without signage it would be a marginal site. He agreed with changing the project id sign from 100 feet to 25 feet in height; calculation of wall

signage; limit on directional signs; the distance between id signs; and number of id signs from 5 to 4. However, we really need the height on the project id signs along the interstate.

Paul Momberger, RLA, 300 Interchange Blvd, Ormond Beach, presented a powerpoint presentation and explained the view vantage of the three different height.

Member Gove asked what the distance between the sign location and the view point in the 100 foot sign photo.

Mr. Momberger replied approximately 1/8 or 1/4 mile.

There was discussion about the location and the amount of signage for the project, including if this was enough signage and whether DOT sponsored directional signs or billboards would be an option.

Member Russell asked the applicant if he agreed to the development agreement as presented by staff entirely except for the one sign height on page 14, line 3 from staff recommending 50 feet and you are proposing 100 feet.

Mr. Daniels affirmed.

Member Cornett moved to forward case PUD-09-019 to County Council with a recommendation of approval as presented with a modification to page 14 of 24, line 3 of the Development Agreement changing the height to 100 ft. and incorporating the interoffice memo from Scott Ashley referenced 10-CP-002 recommendation to amended paragraphs F and J. **Member Russell** seconded the motion. Motion carried unanimously.

PUBLIC HEARING ON VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

PH-10-001 – **Application of Ronald Luznar, owner**, requesting a public hearing pursuant to the Cabbage Patch BPUD Resolution No. 2000-54 to allow Temporary campsites for three days before, during, and three days after any regularly scheduled racing event at the Daytona International Speedway for Speedweeks, Biketoberfest, the Pepsi 400 (Coke Zero), and Bikeweek, and related special events and itinerant merchant sales at the Cabbage Patch. The property located on the northeast corner of Tomoka Farms Road and Pioneer Trail, near the Silver Sands Bridle Club, in the Rural Community of Samsula, west of the City of New Smyrna Beach; ± 4.2 acres (Ashley)

Scott Ashley, AICP, Planning Manager, presented the staff report by describing the request as a renewal of a previously approved event and that the PUD requires the applicant to apply for a public hearing every two years. Mr. Ashley described the location of the property and that Environmental Management stated that the approved site plan had not been complied with in regards to the number of trees planted on site and that they would request that the trees be planted before Bike Week.

Member Gove asked staff to clarify the number of trees.

Mr. Ashley replied the approved site plan states a total of 74 trees to be planted on site. (Displayed site photos)

Ron Luznar, 549 Tomoka Farms Road, owner, stated he agreed with the staff recommendation except that it would be hard to plant that number of trees prior to Bike Week given the weather and the time frame.

Mr. Ashley commented that the landscape was approved by zoning however; the trees in question are for the Environmental Management requirements.

Becky Mendez, AICP, Senior Planning Manager, suggested to the commission that if they were inclined to approve the request that they could give a date certain for compliance with the Environmental Management tree requirements.

Mr. Luznar replied he could comply prior to the next event after Bike Week.

Member Severino asked compliance by the July race event.

Michael Dyer, Assistant County Attorney, suggested amending the condition with a date certain for compliance.

Member Cornett stated that if the applicant wanted to operate for the July race event then compliance with the Environmental Management tree requirements must be by June 1, 2010.

Mr. Luznar agreed.

No public participation

Member Cornett moved to approve public hearing case PH-10-001 with modification to condition number one:

1. **This approval ~~does not become valid until~~ becomes void if compliance with the Environmental Management letter dated January 26, 2010, is not completed by June 1, 2010, as determined by the Growth & Resource Management Director.**
2. **The temporary camp sites shall be located outside any perimeter landscape buffer area and limited in the areas shown on the site plan attached hereto. The temporary camp sites shall only be open for operation three days before, during, and three days after the Daytona International Speedway for Speedweek, Bike Week and Biketoberfest events scheduled for 2010 through 2011.**
3. **The maximum number of campsites that may be allowed on the site shall not exceed 40. The size of the individual campsites, number of recreational vehicle's per acre, number of portable toilets, potable water and shower facilities shall be in accordance with the Volusia County Health Department requirements.**
4. **The applicant shall submit copies of a detailed revised site plan, drawn to scale and provisions that address these conditions of approval, directly to**

the Volusia County Health Department, Fire Services, Sheriff's Office, and the Building and Zoning Division for review and approval before using the subject property for temporary camping use. The applicant shall coordinate with these departments on an individual basis. However, the applicant is responsible for providing copies of all approvals to the Building & Zoning Division. A site plan with all signed contracts for portable toilets and garbage pick/clean up times(s) shall also be submitted to the Building and Zoning Division 30 days prior to Speedweek, Bike Week and Biketoberfest events scheduled for 2010 and 2011.

5. The applicant must obtain a County Local Business Tax Receipt for the operation of a campsite and collect all appropriate tourist development tax and sales tax, as required by County Ordinance and State Statute. All vendors shall obtain Itinerant Merchant licenses. A copy of the above licenses shall be submitted to the Building and Zoning Division prior to the opening of the campsites for Speedweek, Bike Week and Biketoberfest events.
6. The Volusia County Sheriff's Office, Finance, Fire Services, and Building and Zoning Division, and the Volusia County Health Department and State Department of Revenue, and the Department of Business and Professional Regulation (DBPR) shall have unlimited and unconditional access to the subject property including common areas within the temporary camp site on a 24 hour a day basis without having to give prior notice and without having to pay any type of fee or dues to gain entrance for inspection or enforcement purposes.
7. No open fires are permitted on the subject property. The applicant shall provide fire protection services for the temporary camp site in accordance with the requirements of the Assistant Chief of Fire Safety Management, including, but not limited to: stabilized access drives for emergency vehicles and apparatus to all areas and sites; and provisions for fire suppression by providing fire extinguishers, Type 2A-40BC.
8. All recreational vehicle units with self-contained holding tanks for wastewater shall secure all sewer waste line caps at all times in a manner to preclude any leakage. Posted signs throughout the camp site shall state that no direct discharge of any wastewater from any recreational vehicle will be permitted.
9. Portable toilets and hand wash sinks shall be required at a central location at the campsite. An approved service contract for pumping of the portable toilets shall be provided to the Volusia County Health Department and the Building and Zoning Division 15 days prior to the opening of the campsites for Bike Week and at least 30 days prior to the Biketoberfest events scheduled for 2010 and 2011.
10. The temporary camp site shall comply with the minimum requirements for potable (drinking) water supply as required by Chapter 64E, Florida Administrative Code and applicable provisions of the Florida Building Code. Provisions for potable water are subject to review and approval by the Volusia County Health Department. A copy of any approvals shall be

submitted to the Building and Zoning Division.

11. Any food and beverage concession operations must receive a temporary Food Service Permit from the Volusia County Health Department, and/or a permit from the DBPR Division of Hotels and Restaurants, prior to operating on the site. Also, all vendors shall obtain a required current County Local Business Tax Receipt. Vendors shall not offer for sale any item, which is prohibited by local, state or federal law. Except for beer, the sale of any alcoholic beverages shall be prohibited.
12. The applicant shall provide adequate traffic control as determined by the Sheriff's Department, including, but not limited to, an off-duty uniformed officer(s) (police/sheriff/highway patrol) stationed during the weekends, special events and peak traffic hours along Tomoka Farms Road in front of the entrance/exit. The uniformed officer(s) are for traffic control only and the applicant shall be required to pay any cost associated with these officer(s). In the event the temporary camp site becomes full, the applicant shall temporarily close the parking area to entering vehicles.
13. The applicant shall provide his own security for the campsite. Further, the officer(s) providing traffic control will not be providing security for the campsites. The applicant shall inform the Building and Zoning Division and Special Services of the Sheriff's Office of the person(s) in charge of security with his/her telephone number(s) and addresses 30 days prior to Speedweek, Bike Week and Biketoberfest events scheduled for 2010 and 2011.
14. The applicant shall provide an adequate number of trash containers and Dumpsters placed in strategic locations on the site. These Dumpsters and containers shall be emptied and cleaned on an as needed basis. The area shall be completely clear of litter and other refuse after each day of operation. To ensure compliance, the applicant shall provide the Building and Zoning Division with a written contract with a local solid waste management company 30 days prior to opening the camp site facility. The contract shall require a provision for garbage to be collect and removed from the site every other day.
15. The Applicant shall comply with all current and future requirements and provisions of the Itinerant Merchant License Ordinance, as amended, and the Outdoor Entertainment Event Ordinance, as amended, of the Volusia County Code of Ordinances.
16. Violation of any of these conditions may result in automatic revocation of the Public Hearing approved permit by the Zoning Enforcement Official. Upon revocation, the temporary camp site shall not be resumed without approval of another Public Hearing in accordance with Resolution 2002-154.

Member Sixma seconded. Motion carried unanimously.

S-10-002 – Application of Ronald Luznar, owner, requesting a special exception to allow temporary campsites for three days before, during and three days after any

regularly scheduled racing event at the Daytona Beach International Speedway for Speedweeks, Bikeweek, the Pepsi 400 (Coke Zero), and Biketoberfest on A-1 (Prime Agriculture) zoned property. The property is located at the southeast corner of Tomoka Farms Road and Pioneer Trail, in the Rural Community of Samsula, west of the City of New Smyrna Beach; ± 4.8 acres (Nagle) 7211-00-00-0050

Christian Nagle, AICP, Planner II, presented the staff report by summarizing the location of the property has being south of the Cabbage Patch property at Pioneer Trail and Tomoka Farms Road. The request is for a renewal of an approved temporary camp site from April 2007 with a couple of changes such as the previous approval was for primitive tent camping only and this request is asking for tent camping as well as the following tent campers, truck campers, pickup covers, travel trailers, and fifth wheel trailers (defined by the zoning ordinance as *mobile recreational shelters and vehicles* types (1), (2), (3), (5) and (7)), and the time period of operation has been requested for five years instead of two and for operation to include all events instead of just the bike events as previously approved. No vendors or special events are allowed on this property. There is a wetland on the property and must be fenced as per the proposed conditions. He also summarized the comments received by the reviewing staff. Staff recommends approval of this request subject to the standard conditions as well as the conditions provided by the Volusia County Health Department and the Volusia County Traffic Engineering comments which have been incorporated within the standard conditions.

Member Cornett asked for clarification on the length of the vehicle.

Mr. Nagle replied that Traffic engineering staff commented that the driveway on Pioneer Trail was inadequate for the ingress of vehicles longer than 30 feet. Therefore, they have recommended the ingress to the camp site from the County Road 415 and egress on to Pioneer Trail with a maximum vehicle length on 30 feet which has been incorporated into condition twelve.

Ron Luznar, owner, stated this campground is a primitive site, there are four surrounding sites to accommodate the big campers they have water hook ups. Occasionally, there is a truck with a travel trailer and we would like to be to accommodate without violating our conditions.

Member Severino asked if Mr. Luznar had any questions with the conditions and if he agreed with the conditions presented.

Mr. Luznar had no disagreements and agreed to all conditions, he did state that the sheriff's office restricts the access point on Pioneer Trail and he lets the sheriff's office run the traffic as they see fit.

No public participation

Member Young moved to forward case S-10-002 to County Council with a recommendation of approval with conditions as presented. Member Cornett seconded. Motion carried unanimously.

Becky Mendez, AICP, Senior Planning Manager, commented that this item was being heard at the February 18th County Council.

V-10-003 – Application of Joseph Hopkins, P.E., agent for Terence and Jumana Kaidbey Murphy, owners, requesting a variance to Section 72-277(5) for a north side yard from the required 15 feet to 1 foot for a dock access walkway on R-3 (Urban Single-Family Residential) zoned property located at 1772 John Anderson Drive, Ormond Beach. The property is located on the west side of John Anderson Drive, at its intersection with Roberta Road in the community of Ormond-by-the-Sea, north of the City of Ormond Beach; ± 5,459 square feet (Stockham) 3234-01-00-0450

John H. Stockham, ASLA, Planner III, presented the staff report by describing the location of the property and the request.

Joe Hopkins, P.E., applicant, provided background on the project and stated that the Florida Department of Environmental Protection required this dock to be elevated five feet because of existing vegetation on the property.**1:32:50, provided background on the project. DEP required dock to be elevated 5 ft. because of the vegetation existing on the property.**

No public participation

Member Russell moved to approve variance case V-10-003 as presented with the following conditions:

- 1. An after-the-fact building permit shall be obtained and all wetland alteration permits be obtained within 45 days of the date of the rendition letter.**
- 2. All permits for the portion of the boat dock that occur within the jurisdiction of the City of Ormond Beach shall be obtained.**

Member Young seconded. Motion carried unanimously.

PUBLIC ITEMS

1. Proposed Ordinance amendment to Section 72-298 regarding Signs
.....Becky Mendez, AICP, Senior Planning Manager

Becky Mendez, AICP, Senior Planning Manager, this item is being brought forward as a result of a Council discussion with regards to public transportation benches and shelters. The current ordinance prohibits signs on such things however; Council has directed staff to draft this amendment.

Michael Dyer, Assistant County Attorney, stated that this was an amendment that was directed to staff by the County Council.

Member Cornett asked if content of the advertisement was being controlled.

Ms. Mendez replied not with this amendment. The advertisements would be brought forth to the County through the procurement process.

Mr. Dyer commented that this amendment does not pertain to content only the prohibition of the location of the sign.

There was a discussion regarding the procurement process and whether it would be handled by the county Council or by a contracted third party.

Member Russell moved to forward the proposed amendment to County Council finding the amendment consistent with the Comprehensive Plan. Member Young seconded. Motion carried unanimously.

STAFF ITEMS

PRESS AND CITIZEN COMMENTS

None

ADJOURNMENT

Having no further comments from the public, staff or commissioners, Chairman Severino thanked everyone and adjourned the meeting at 11:03 a.m.

Frank Severino, Chair

Date

James Russell, Secretary

Date