

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
March 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

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

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.

Members Young, Russell, Cornett, Severino and Sixma spoke to Sheldon Rubin regarding CPMA-002-09 and PUD-09-004. Member Gove spoke to Mark Hall regarding CPMA-002-09 and PUD-09-004. Member Severino also spoke with Dennis Gardner and Sammy Vaughn regarding S-09-076 and V-09-077.

ITEM(S) TO BE CONTINUED

V-10-010 – **Application of Carl and Laura Hodges, owners**, requesting a variance to Section 72-206(1) *Nonconforming Lots* to separate parcels 8505-01-25-0110 and 8505-01-25-0120 from parcel 8505-01-25-0010 on R-9W (Urban Single Family Residential/Indian River Lagoon Surface Water Management Overlay Zone) and RCW (Resource Corridor/ Indian River Lagoon Surface Water Management Overlay Zone) zoned property. The property is located on the south side of Bonita Avenue at its western terminus, Bethune Beach; ± 7,590 sq. ft. (Nagle) 8505-01-25-0110 and 8505-01-25-0120

Michael Woods, Cobb & Cole, 351 East New York Avenue, DeLand, asked for a continuance to the April 13, 2010 public hearing. He was retained recently and would like the time to review and talk with staff.

Becky Mendez, AICP, Senior Planning Manager, stated did not object to the request for continuance but would ask that the continuance be to a time certain so re-advertisement would not be necessary.

Member Sixma moved to continue case V-10-010 to the April 13, 2010 public hearing. Member Young seconded the motion. Motion carried unanimously.

PUBLIC HEARING ON PRIVATE REQUESTS

CPMA-001-08– **Application of Dwight DuRant, Zev Cohen & Associates, agent for Harry Merryday and Robert Ahrens, owners** requesting a small scale comprehensive plan map amendment from the R (Rural) and ECO (Environmental Core Overlay) future land use designations to the I (Industrial) future land use designation. The property is located on the north side of SR 40, approximately 2.18 miles west of I-95 and 0.32 miles W of the intersection of Breakaway Trail; ± 8.18-acre (Jackson) 4127-00-00-0030 and 4127-00-00-0036

Becky Mendez, AICP, Senior Planning Manger, presented the staff report. The property is about eight acres and has a future land use of Rural and a zoning classification of Industrial, the request is to change the future land use to Industrial which is more compatible with the zoning classification. There is a concurrent zoning application that would not be effective unless this small scale map amendment is approved. She discussed the location of the property and page seven of seven of the ordinance has a map annotation that caps the trips on the property. Staff recommends approval of this request.

James Morris, attorney for Imperial Foam, stated he agreed with the staff report. He spoke to the history of the site, prior to 1980 the property was a sawmill and in 1980 imperial foam was established. This request is necessary to upgrade the existing business and property. The property owner didn't want to annex into the city however, it will in the future happen.

Member Severino asked staff, if there were any comments from the City of Ormond Beach.

Ms. Mendez replied that the City has been fully involved in this project.

Mr. Morris replied that in the rezoning the city's standards have been incorporated into the PUD and the timing of the annexation.

Member Sixma asked where the access to the property was.

Mr. Morris replied that the access was closest to State Road 40. (He pointed to it on the map)

Member Young commented about the access from the rear of the property.

Mr. Morris replied that the access to the rear of the property (Old Tomoka Road) is adjacent to a residential area and Mr. Merryday could provide more information. There have not been any compatibility issues to my knowledge.

Harry Merryday 17 Collinwood Lane, Palm Coast, the properties in the rear of the property is agricultural and we are good neighbors. Annexation was not favorable however it is necessary to get city water.

Member Young asked about the tenant, Tomoka yacht club bar and grill.

Mr. Merryday replied they work together.

Member Young asked about hours of operation.

Mr. Merryday stated that they operate eight hours a day. We apply steam to the foam to mold it.

Member Young asked about big trucks accessing the property in the rear.

Mr. Merryday replied the maximum is three deliveries a day right now and when the project upgrades are complete Old Tomoka Road would not be utilized, we will be using our access road.

No public participation

Member Cornett moved CPMA-001-08 be forwarded to County Council with a recommendation of approval. **Member Young** seconded. **Motion carried unanimously.**

Ms. Mendez commented that the amendment will be forwarded to VGMC for certification, once VGMC makes action, and then it will be scheduled for County Council for action.

PUD-08-070 – Application of Dwight DuRant, Zev Cohen & Associates, agent for Harry Merryday and Robert Ahrens, owners, requesting a rezoning from the I-1 (Industrial), B-5 (Commercial) and A-2 (Agriculture) zoning classifications to the IPUD (Industrial Planned Unit Development) zoning classification. The property is located on the north side of SR 40, approximately 2.18 miles west of I-95 and 0.32 miles W of the intersection of Breakaway Trail; ± 8.18-acre (Jackson) 4127-00-00-0030 and 4127-00-00-0036

Becky Mendez, AICP, Senior Planning Manger, presented the staff report. The planned unit development zoning classification would allow the consolidation of the current land uses on the property and define the development standards. She discussed different aspects of the development agreement such as stormwater provisions, landscape buffers, architectural and development standards. Staff was requesting language changes to paragraph O and N to clarify the Reverter Clause and Binding Effect of the agreement.

Michael Dyer, Assistant County Attorney, mentioned that if the Commission were to recommend approval, the motion would need to include staff recommended revisions to the Reverter Clause and Binding Effect sections of the development agreement.

Member Severino asked for clarification about the square footage of the building in the development agreement.

James Morris, attorney for Imperial Foam, suggested amending the language to “proposed additional” and show cumulative square footage.

Member Cornett asked about the outside storage provision page 9 of 13 of the development agreement. He asked if the 20-foot easement through the property was enough for ingress and egress.

Ms. Mendez replied that the outside storage containers must be contained internally and outside any setbacks or landscape buffers; and that the 20-foot easement was sufficient.

Mr. Morris commented that he was in favor of the new process of concurrently processing the future land use and zoning changes. He was in agreement with the staff recommendations and modifications of paragraphs n and o. He spoke about the current operation of the property and addressed the commission’s concerns regarding access, buffers, and storage areas.

No pubic participation

Member Cornett moved to forward case PUD-08-070 to County Council with a recommendation of approval subject to the modification to paragraphs n and o as presented by staff and modification to page seven of thirteen, lines eight through twelve, of the development agreement regarding building allocation. Member Young seconded. Motion carried unanimously.

Ms. Mendez commented as a reminder that this item would be forwarded to County Council for final action once action on the comprehensive plan amendment has been received from the VGMC.

CPMA-002-09– **Application of Sheldon Rubin, agent for RR FARMS LLC, owner,** requesting a small scale comprehensive plan map amendment from the AR (Agriculture Resource) future land use designation to the COM (Commercial) future land use designation. The property is located at the northeast corner of the intersection of Airport Road and Pioneer Trail; ± 9.637-acre (Jackson) 7306-01-00-0170

Becky Mendez, AICP, Senior Planning Manger, presented the staff report. She explained that the property is currently over ten acres and would be processed as a large scale map amendment however; the applicant is in the process of completing a dedication of right-of-way to the County which would reduce the property 9.637 acres. This request also has a companion rezoning case. The County Council public hearing will not be scheduled until the right-of-way dedication is complete and VGMC has taken action. There is a map annotation being proposed to limit the amount of development that can take place to 60,000 sq. ft. The property is immediately adjacent to the Samsula Local Plan (west of Airport Road) and the City of New Smyrna Beach to the south (Venetian Bay development); it is also a few parcels from the City of Port Orange. The future land use designation is currently Agricultural Resource and the request is Commercial. This is a transitioning area; and in staff's opinion is pivotal for the area. A planning study should be conducted with cooperation with the two cities. There was a settlement agreement between the County and the City of Port Orange in 2005 that does not allow new connections to the utilities unless County Council approves the connection, because the city extended their utilities into the area which was not within the city. She discussed several comprehensive plan policies within the staff report. Staff recommends denial of this small scale map amendment for reasons within the staff report.

There was a discussion about the DCA Objections Recommendation and Comments Report regarding the City of Port Orange's previous request for a similar comprehensive plan amendment in the area which suggested Port Orange not adopt the amendment.

Ms. Mendez stated staff had received objections from the City of New Smyrna Beach, which have not been withdrawn even though those who made the objections are no longer with the city. Staff has not received any objections from the City of Port Orange.

Member Severino asked staff if this application would be allowed within the Samsula Local Plan.

Ms. Mendez replied that the intent of the plan is to protect the rural character of the area, commercial uses are not outright prohibited but the scale of the development and use would have to be evaluated.

Robert Riggio, attorney for RR Farms, LLC, explained the request and stated that the development cap that was being proposed had a FAR of 0.14293 or 60,000 sq. ft. of commercial. Mr. Riggio called Mr. Don Sikorski to answer a few questions concerning the property and request.

Don Sikorski explained his education and work history. He showed aerial photos of the area from the 1970s and from 2009. Mr. Sikorski stated that urban development

surrounded the property. He questioned why the Samsula local plan stopped at Airport Road and did not include this property. He answered Mr. Riggio's questions concerning the characteristics of the property and the project development. He stated that had a development cap not been proposed, the commercial development could have a FAR of 0.55 or 200,000 sq. ft.

Mr. Riggio asked Mikal Hale of Kimley-Horn questions concerning the design of the development.

Mikal Hale, Kimley-Horn, presented three exhibits detailing the development (Exhibit 1, CP1 Coversheet and CP3 Master Development Plan). He also spoke to the design of the Master Development Plan, showing the tree preservation, leaving all the existing vegetation and the abutting communication tower to the north.

Mr. Riggio asked Chris Walsh of Kimley-Horn questions regarding the traffic and right-of-way design associated with the development.

Mr. Riggio asked Sheldon Rubin about the property and his request.

Mr. Rubin presented a black and white aerial photo from the 1950s. He stated he owned the property for three and one-half years, and that it isn't viable for agricultural. The County did try to initiate a planning study with the two cities but it never got any traction.

Public participation:

McDonald Owens, III, 652 Airport Road, commented that the property has been used as a farm since before the 1970s. He was in favor because of traffic and distance to the nearest store.

Jim Pleterski, 581 North Samsula Drive, stated that small farming was viable in the area and that he would be willing to help get Mr. Sheldon's farm up and running but did not want commercial development invading into the farming area.

Member Russell asked Mr. Pleterski about his view on the surrounding developments.

Mr. Pleterski responded that he preferred center core type growth and that this request was more of a leap frog attempt at growth.

Member Russell asked him if he was aware of why this property was not included into the Samsula Local Plan.

Mr. Pleterski responded that it wasn't from the lack of trying to get it included but he felt that the plan was given a clean cut shape boundary inside of a jagged boundary.

Douglas McGinnis, 3630 Pioneer Trail, commented that Venetian Bay was suppose to have more commercial development than it has, and did not see a reason to develop commercial outside such a close proximity of that center. He stated there was a settlement agreement between the people in Samsula and the County for a planning study to be done on the other side of Airport Road within the next few years, and it is important that the study be done in regards to all of the area.

Kevin J. Para, 214 Palmetto Street, stated he was a certifying agent with the Florida Green Building Council and that he has spoke to Mr. Rubin about making this development a “green” development and the more they talk the less the project becomes “green”. He was a planning and zoning board member in a city and thinks this is an appropriate use for the property. He would encourage staff to not only propose LEED standards but FGBC standards as well. Commercial development uses less water than farming.

Richard Hughes, 180 Hughes Road, commented he was in favor of the project; his family has been in the area since early 1900s and would like not to have to drive so far for groceries and medication. Venetian Bay commercial area isn’t designed for the outside population to access. He commented that the planners have allowed all these homes but to get necessities you have to travel to the city and it is irresponsible to not allow necessities to come closer.

James Morris, 420 South Nova Road, presented his qualifications in land use by giving his education and work history. This is the northern tail of the historic Samsula area. He was opposed to this land use change request and the need is not present with commercial use about two miles to the east of this property and the commercial center of Venetian Bay to the south. He commented that it was inconsistent with inter-governmental coordination and incompatible with the New Smyrna Beach comprehensive plan by drawing commercial business from the Venetian Bay’s commercial core. Woodhaven development has been approved by Port Orange and has 650,000 square footage of commercial at the corner of Pioneer Trail and Williamson Boulevard. Pioneer Trail is a rural section road with no plan to expand it. The land has always been known as a farm. Venetian Bay’s outparcel is limited to 10,000 square feet where the proposed outparcel for this property is proposed at more than 13,000 square feet. The right-of-way dedication only serves to escape DCA review.

Gisele Found, 2037 Country Club Drive, lives in spruce creek, and is in favor of the request and creating jobs for the area. It has been too long to have the commercial development meet the need of the roof tops.

Steve O'Donnell, 2017 Country Club Drive, resident of spruce creek, in favor of project. The area needs a grocery store and pharmacy close to home.

Joseph Benedict, III, 695 Airport Road, commented that he was born in Samsula in 1939. He was not in favor or opposed to this proposal, he is concerned with the information that is being presented and what is being left out. A comprehensive plan can be used to approve and to deny a request at the same time. He commented he didn’t want to live in the city.

There was a discussion regarding the joint planning area study between the County and the Cities of New Smyrna Beach and Port Orange. The County was unable to persuade the cities to cooperate in the attempt.

Member Russell commented that he has been apart of smart growth for many years and that this is smart growth and not urban sprawl.

Member Young commented that this is inconsistent with the core development concept.

Member Severino commented that this area is in transition. Venetian Bay has commercial area and it has been available for five years and there have not been any requests. He agreed that a planning study is needed but it is not responsible to hold someone back that is trying to development because attempts that have been made to do a planning study have failed.

Member Russell moved to forward case CPMA-002-09 to County Council with a recommendation of approval. Member Sixma seconded. Motion carried 5 to 1 (Young).

PUD-09-004 – **Application of Rubin Sheldon, agent for RR FARMS LLC, owner** requesting a rezoning from the A-1 (Prime Agriculture) zoning classification to the BPUD (Business Planned Unit Development) zoning classification. The property is located at the northeast corner of the intersection of Airport Road and Pioneer Trail; ± 9.637-acre (Jackson) 7306-01-00-0170

Michael Dyer, Assistant County Attorney, suggested that the evidence and testimony from the previous (CPMA-002-09) case be made part of this record. He asked Mr. Riggio if that was acceptable to him.

Robert Riggio, attorney for RR Farms, LLC, replied he had no objections but would like time for rebuttal if necessary.

Becky Mendez, AICP, Senior Planning Manager, commented as a reminder that this item would be forwarded to County Council for final action once action on the comprehensive plan amendment has been received from the VGMC. She then presented highlights of the development agreement. She presented the land uses proposed, stated the limit of commercial for the whole property is 60,000 square feet, and that the FP&L easement was not included in the landscape buffer but was in addition to. The setback along Airport Road is being treated as a side street yard. All setbacks are measured from the proposed property lines after the dedication of right-of-way. Signs shall comply with the thoroughfare overlay standards and the architectural standards will comply with the City of Port Orange standards. Staff recommends approval of the rezoning subject to approval of the future land use map amendment and staff recommended changes to the development agreement.

See public participation from case CPMA-002-09.

Member Russell moved to forward case PUD-09-004 to County Council with a recommendation of approval with the modifications to the development agreement regarding paragraphs n, o, and p by staff. Member Cornett seconded. Motion carried 5 to 1 (Young)

Z-10-008 – **Application of Bonnie Strickland, owner**, requesting a rezoning from the RR (Rural Residential) zoning classification to the A-3 (Transitional Agriculture) zoning classification. The property is located on the north side of an unimproved portion of Taylor Road, at its western terminus near Kim Denise Court southwest of the City of DeLand; ± 10 acres

John H. Stockham, ASLA, Planner III, presented the staff report and site photos.

Bonnie Strickland, owner, stated she bought the farm in 2005 after moving from Georgia. It was purchased for investment however, the housing market failed and she was interested in farming crops with her family to spend time with them and supplement her income. She does not want to have animals since they have vet and feed bills. Does not want to increase traffic

Member Severino asked if there would be any employees.

Ms. Strickland replied that any assistance would come from family members and no huge machinery; she doesn't want the farm to be too big that her family could not manage themselves. She stated she did not want public access to her property and didn't anticipate any vehicles larger than the garbage truck or horse trailer that currently use the road.

Member Cornett asked what the requirements for commercial access are.

Becky Mendez, AICP, Senior Planning Manager, replied this is not commercial, the A-3 allows personal agriculture and agricultural products that are raised on premise to be sold.

Public Participation:

Ruth Ann Fay, 1790 Windham Court, DeLand, purchased property in 1992 for the peace and quiet. She stated that the Strickland property should be accessed by the north road and Kim Denise is accessed by the road to the south. Our homeowners' association maintains the road.

Frank Harnish, 1385 W. Taylor Road, DeLand, stated he has lived there since 1980. The neighborhood uses both the north and south roads for access and they are both dirt and one-car passable paths. He wanted to know if the County was going to maintain the road for her to have a commercial operation. Traffic is a concern. Pearl Street is where the fence was originally erected.

Member Severino asked staff if a site visit was conducted and if they could explain the road.

Mr. Stockham replied that during his site visit the road looks as if it is a two way dirt road with a tree median.

Member Severino asked how staff handles disputes regarding these roads.

Ms. Mendez stated since the road are not County maintained it would be a civil matter.

Pete Seguinot, 1520 Rambling Oaks Lane, DeLand, read his letter of opposition into the record.

Member Sixma commented that this would not increase traffic and is not commercial and everyone keeps saying commercial. There is A-3 zoning right next door.

Robert Bodnar, 1765 Kim Denise Court, DeLand, presented package of evidence. He commented that he could see her property from his front door and his property is number 12 of the evidence packet presented. We have a quiet neighborhood and the

A-3 zoned properties do not have access from our roadways, it is accessed from the Fatio Road. Growing crops require commercial and pesticides and our area is solely on wells therefore, the commercials could contaminate our water supply. He commented that having agricultural property would not improve the surrounding area. The deed restrictions prohibit commercial operations in our subdivision.

Fifteen minute recess to review all evidence submitted concerning this case.

Member Cornett asked what the access requirements for commercial.

Ms. Mendez replied that there are no requirements for permitted principal uses and the request is not for commercial but to agricultural.

Member Young asked if the applicant could use the road (Barrell Springs) behind the property.

Ms. Strickland replied she has not used it before however, didn't see why she couldn't.

A discussion about the access from West Taylor Road and the southern parallel road; and if there was an alternative such as a special exception within the current zoning classification to allow this pursuit.

The commission discussed the evidence, request and the testimony given.

Member Gove moved to forward case Z-10-008 to County Council with a recommendation of Denial based on Section 72-414(e)(2),(5), and (7). Member Russell seconded the motion. Motion failed for lack of majority vote. (Members Young, Sixma and Severino opposed)

Case is forwarded to County Council without a recommendation from the PLDRC.

S-09-076 – Application of Hung Mai, MCL Engineering & Construction, agent for BSB Properties, LLC, owner, requesting a special exception for a junkyard on I-1(1) (Light Industrial / Low Impact Urban) and I-1C(1) (Light Industrial / Thoroughfare Overlay Zone / Low Impact Urban) zoned property. The property is located on the south side of U.S. Highway 92, ±330 ft. west of its intersection with Frances Drive, adjacent to the City of Daytona Beach; ± 12 acres (Nagle) 5233-00-00-0030

Christian Nagle, AICP, Planner II, presented the staff report.

Hung Mai, MCL Engineering & Construction, agreed to all the conditions and would like to request a 48 hour notice be given to the property owners for property access.

No public participation

Member Cornett moved to case S-09-076 to county Council with a recommendation of approval with modified conditions:

- 1. Denial of the applicant's requested waiver to the off-street parking requirements of Section 72-286. The current pre-existing parking area is acceptable in its current location and layout, except as noted in (below) condition number two. However, any future property improvement or**

redevelopment affecting the applicable requirements of Section 72-286 shall be addressed according to the code.

2. Approval of a waiver to *Landscape Buffer Area requirements* of Section 72-284(2) and a waiver to Section 72-284(3) *Landscaping of Off-Street Parking Areas* of the Zoning Ordinance are granted for the existing junkyard only, subject to the following conditions:
 - a. Existing parking spaces along the north property line shall be removed and replaced with a minimum 20 feet irrigated landscape buffer and separate 20 ft. accessible fire lane by the property owner along the complete northern property line (except for driveway(s)). The landscape buffer shall include a minimum of 8 Group B trees per 100 lineal feet or fraction thereof and a continuous, minimum 4 ft. high hedge (capable of growing to a height of 6 ft. within two years of planting), consistent with the requirements of Section 72-284, Table I, 21a-21-d of the Zoning Ordinance. The required landscape buffer shall be irrigated and located along the north property line of the subject property. The fire lane shall not be used for off-street parking purposes, except as permitted by applicable State or County Codes. These required improvements shall be maintained in good condition and appearance by the property owner and successors, as determined by Zoning Enforcement Official or designee.
 - b. Customer and employee parking spaces, loading spaces, vehicle use areas, junk salvage/car dismantling areas, the car storage (junk) area, and the above 20 ft. fire lane near the north property line shall be visually screened from view from International Speedway Boulevard and the east, west and south property lines, by installation and maintenance of irrigated continuous minimum 4 ft. high hedges. In cases, where hedges cannot provide the required visual screen(s), opaque fencing or opaque fence slats (for chain link fences) shall be used and maintained to provide the required visual screening.
 - c. Opaque fence slats shall be installed as needed and maintained within the existing nonconforming 10-ft. chain link fence(s) along the east, west and south property lines of the subject junkyard, as shown on the applicant's property survey, by Upham Inc. dated September 21, 2009. The purpose of the slats is to provide complete visual screening of any junk, machinery, or materials used for the storage, processing, or sales of junk stored outdoors on the subject property.
3. No junk shall be stored on the property to be visible from or across the right-of-way of International Speedway Boulevard or from abutting or adjacent properties along the east, west and south property lines of the subject property.
4. The property owner or authorized agent shall submit a revised variance/special exception plan and related information, to the Growth and

Resource Management Department, showing how the subject property will be improved consistent with the approved zoning variance and the related special exception application (S-09-076) and applicable County Code requirements. This revised plan shall be generally based on the applicant's initial variance/special exception plan prepared by MCL Engineering and Construction, dated October 2009 (attached). The revised plan shall be submitted within 90 days of the date of special exception (S-09-076) rendition, unless the applicant requests and is granted an extension to submit the required revised plan by the Zoning Enforcement Official or designee.

5. The subject property, including junk, materials, substances, machinery, vehicles, vehicle parts and/or components on the property, shall be stored and maintained in a neat and orderly appearance, especially as viewed the right-of-way of International Speedway Boulevard and/or from abutting or adjacent properties along the east, west, and south property lines of the subject property. The subject property shall be maintained in a neat and orderly appearance by the property owner and successors, as determined by Zoning Enforcement Official or designee.
6. The junkyard and subject property shall be maintained and operated in compliance with the FDEP *Florida Automotive Recyclers Manual*, dated November 2006, as amended, which outlines the best management practices for operating a junkyard.
7. The property owner or authorized agent with 48 hours of prior notice shall provide reasonable access to the subject property and buildings, by representatives of the ~~Health Department, Fire Services, Sheriff's Department, Traffic Engineering, Environmental Permitting and the Growth and Resource Management Department to enable reasonable monitoring and assist with enforcement of these special exception conditions and/or applicable State and County statutes, ordinances or regulations.~~
8. The property owner or authorized agent shall obtain all required development permits and complete all required inspections, as required by the County Code of Ordinances and/or applicable State statute.

Member Young seconded the motion. Motion carried unanimously (Member Sixma not present)

V-09-077 – Application of Hung Mai, MCL Engineering and Construction Corporation, agent for BSB Properties LLC, owner, requesting a variance to Section 72-293(10)(a) for a east side yard setback from the required 50 feet to 10 feet for a proposed accessory structure (car crusher canopy) on I-1(1) (Light Industrial / Low Impact Urban) and I-1C(1) (Light Industrial / Thoroughfare Overlay Zone / Low Impact Urban) zoned property. The property is located on the south side of U.S. Highway 92, ±330 ft. west of its intersection with Frances Drive, adjacent to the City of Daytona Beach; ± 12 acres (Nagle) 5233-00-00-0030

Christian Nagle, AICP, Planner II, presented the staff report.

Hung Mai, MCL Engineering & Construction, agreed to all the conditions.

No public participation

Member Cornett moved to approve case V-09-077 with the following conditions:

- 1. The approved variance to Section 72-293(10)(a) for a east side yard setback from the required 50 feet to 10 feet for a proposed accessory structure (car crusher canopy) is subject to final approval of the related separate special exception application (S-09-076) for a junkyard on the subject property. Denial of the related special exception application shall cause the approved variance to immediately become invalid.**
- 2. The property owner or authorized agent shall submit a revised variance/special exception plan and related information, to the Growth and Resource Management Department, showing how the subject property will be improved consistent with the approved zoning variance and the related special exception application (S-09-076) and applicable County Code requirements. This revised plan shall be generally based on the applicant's initial variance/special exception plan prepared by MCL Engineering and Construction, dated October 2009. The revised plan shall be submitted within 90 days of the date of special exception (S-09-076) rendition, unless the applicant requests and is granted an extension to submit the required revised plan by the Zoning Enforcement Official or designee.**
- 3. Variance approval for a 10 foot east side yard setback shall be limited to the proposed 5,000 sq. ft. "car crusher" canopy accessory structure and accessory use as shown on the applicant's variance/special exception plan from MCL Engineering and Construction, dated October 2009. No existing buildings or structures located on the subject property, or the proposed 5,000 square foot "car crusher" canopy accessory structure, shall be moved, enlarged or extended to occupy a greater "foot print" area or to encroach further into any required minimum yard without approval of separate zoning variance(s).**

Member Russell seconded the motion. Motion carried unanimously.

V-10-009 – Application of James De Michael, DeMichael Construction Co. LLC, agent for Olga Gretchyn, John Miles and Michael and Elena Klasing, owners, requesting a variance to Section 72-206(1) *Nonconforming Lots* to separate parcel 4832-02-00-0170 from parcel 4832-02-00-0180 on RC (Resource Corridor) zoned property. The property is located at 140 and 150 Belle Fountaine Avenue, west of Pierson; ± 20 acres combined (Nagle) 4832-02-00-0170 and 4832-02-00-0180

Christina Nagle, AICP, Planner II, presented the staff report.

James De Michael, applicant, was presented but did not speak regarding this application.

No public participation.

Member Cornett moved to approve case V-10-009 as presented. Member Young seconded the motion. Motion carried unanimously. (Member Sixma not present)

PUBLIC HEARING ON ADMINISTRATIVE OR COUNTY REQUESTS

Z-10-005 – Application of Douglas Weaver, Land Acquisition and Management, agent for County of Volusia, owner, requesting a rezoning from the A-1 (Prime Agriculture) and RC (Resource Corridor) zoning classifications to the C (Conservation) zoning classification. The subject property is located south of Rudman Road and adjacent to the eastern end of Prideaux Road, southeast of Lake Ashby; ± 10.30 acres (Ashley)

Scott Ashley, AICP, Planning Manager, presented the staff report.

No public participation.

Member Russell moved to forward case Z-10-005 to County Council with a recommendation of approval. Member Young seconded the motion. Motion carried unanimously. (Member Sixma not present)

Z-10-006 – Application of Douglas Weaver, Land Acquisition and Management, agent for County of Volusia, owner, requesting a rezoning from the RC (Resource Corridor) and FR (Forestry Resource) zoning classifications to the C (Conservation) zoning classification. The subject property is located northwest of Lonesome Dove Trail, between Rudman Road and Lopez Road, southeast of Lake Ashby; ± 20.46 acres (Ashley)

Scott Ashley, AICP, Planning Manager, presented the staff report.

No public participation.

Member Cornett moved to forward case Z-10-006 to County Council with a recommendation of approval. Member Russell seconded the motion. Motion carried unanimously. (Member Sixma not present)

Z-10-007 – Application of Douglas Weaver, Land Acquisition and Management, agent for County of Volusia and St. Johns River Water Management District, owners, requesting a rezoning from the FR (Forestry Resource) and RC (Resource Corridor) zoning classifications to the C (Conservation) zoning classification. The property is located on the south side of Lafayette Landing road approximately two miles east of State Road 11, near Lake Dias in the community of DeLeon Springs; ± 1,095 acres (Ashley)

Item could not be heard because Due Public Notice was incorrect.

STAFF ITEMS

There was discussion regarding the agenda format, and removing the Consent section of the agenda.

Presented the Commission with the summary of the County Council's action upon PLDRC recommendations as requested. Member Severino spoke about coordinating the agenda between staff and the Chairman of the commission.

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 4:07 p.m.

Frank Severino, Chair

Date

James Russell, Secretary

Date