

Volusia Growth Management Commission

MEETING MINUTES FOR  
Wednesday, May 24, 2006

County Council Chambers  
Thomas C. Kelly Administration Center  
123 W. Indiana Avenue  
DeLand, FL

MEMBERS PRESENT

Mark Rakowski, Chairman	
Gerald Brandon , Vice Chairman	
Joan Lee, Secretary	
Robert Pascoe	
Jay Erndl	Excused
Walter Smith	Absent
Rebecca Mendez	
Karen Hall	Excused
John Heaphy	
Ed Blackman	
Jiles Smith	Absent
James Kerr	
Deanna Bennett	Absent
Ann Caneer	
Donna Steinebach	Excused
Joan Spinney	Excused
Doug Weaver	
Rachel Sieg	
Tony Cole	
Suzanne Steiner	

REPRESENTING

New Smyrna Beach  
Ormond Beach  
Volusia County  
Daytona Beach Shores  
DeBary  
DeLand  
Deltona  
Edgewater  
Holly Hill  
Lake Helen  
Oak Hill  
Orange City  
Pierson  
Ponce Inlet  
Port Orange  
South Daytona  
Volusia County  
Volusia County  
Volusia County  
Volusia County

NON-VOTING MEMBERS

Peter Brown	(not present)
Sara Lee Morrissey	(not present)

REPRESENTING

SJRWMD  
Volusia Co. School Board

OTHERS PRESENT

Paul Chipok, GrayRobinson, P.A.  
Megan Wimer, MSCW  
Merry Chris Smith, VGMC Coordinator

CALL TO ORDER

Chairman Rakowski called the meeting to order at 7:03 p.m.

### ROLL CALL

Roll call was taken and it was determined there was a quorum present.

Chairman Rakowski announced that Kenneth Hooper has resigned from the VGMC and Karen Hall has replaced him as Edgewater's representative.

### APPROVAL OF MINUTES

Gerald Brandon moved to approve the minutes of the March 22, 2006 meeting; seconded by Ann Caneer. Motion carried unanimously.

### PUBLIC HEARING

- 1) Consideration of VGMC Application 05-075, Orange City Large Scale Amendment Request

Mr. Chipok advised that the City of Orange City has submitted a request to continue this item until the June meeting. He reported that several meetings have taken place and staff is awaiting additional information from the City.

James Kerr moved to approve the City's request to continue the public hearing until the June meeting of the VGMC; seconded by Gerald Brandon. Motion carried unanimously (see Exhibit A).

- 2) Consideration of VGMC Application 05-034B, Pinder Property, City of Deltona

Mr. Chipok read the statement of procedures into the record and also reviewed the consistency criteria.

VGMC Coordinator, Merry Chris Smith, administered the oath to all those present who intended to speak.

Ms. Wimer addressed the Commission and reviewed the proposed amendment. Ms. Wimer reminded the Commission that in their original report, staff recommended a density cap of one unit per acre, however, in response, the property owner requested a cap of 2.85 units per acre. She also reminded the Commission that a representative from Volusia County advised them at the prior meeting that they would have no objection to a 2.85 units per acre cap.

Ms. Wimer stated at the request of the Commission in the earlier meeting, additional supplemental information has been submitted, including a package from the property

owner's attorney Jason Searl, along with a revised traffic impact analysis prepared by Ghyabi and Associates specific to the Pinder property. Ms. Wimer stated that Volusia County planning staff has also reviewed the additional documentation. She also indicated the primary concerns raised by the Commission at their prior meeting dealt with traffic, environmental and land use issues.

Ms. Wimer reported that the revised traffic impact analysis indicated the Pinder amendment creates no additional adversely impacted links to the network compared to the current future land use designation. She stated there are traffic impacts indicated, however, all of the adversely impacted links are due to projected growth background traffic and not caused by the trips related to the Pinder amendment. She further added that it does not appear there are planned or programmed improvements for the road network, and therefore, staff is recommending a condition of approval which would require the developer to enter into an agreement with the City to pay their proportionate fair share of improvements to the impacted roadways.

Ms. Wimer reported that according to the National Wetland Inventory (NWI), it appears there are wetlands on the site and the City is proposing to designate 25.3 acres as Conservation to protect the wetlands identified by the NWI. Ms. Wimer further reported that according to FEMA maps, the north portion of the property is in flood zone A which has no base flood elevation, however, until a flood study is completed, it is premature to assume there would be flooding on the property. Additionally, she stated pursuant to adopted regulations of FEMA and the St. Johns River Water Management District, any development on the property cannot create impacts such as flooding, which would all be handled at the zoning and site plan stage. As a result, Ms. Wimer stated staff believes the flood prone areas will be identified as part of the standard development process and, therefore, the proposed amendment will not cause impacts to natural resources that extend beyond the boundaries of the City of Deltona.

Ms. Wimer reviewed the surrounding land uses, noting that the property to the west is designated as City low density residential which allows up to six units per acre; Pine Ridge High School is located south and adjacent to the subject property; property to the northwest is reserved for a new elementary school; and the property to the north and east is primarily County forestry resources which allows one unit per 20 acres.

Ms. Wimer summarized the applicant's request of 2.85 units per acre which would equate to 334 dwelling units, including the 1 unit per acre allowed under the City's Conservation land use designation. Mr. Chipok added that the 2.85 units per acre is on the non-Conservation areas of the property. Ms. Wimer also stated that the 2.85 requested by the applicant is significantly lower than the 6 units per acre allowed under the City's low density residential land use category, and staff feels that 2.85 units per acre would create an appropriate transition from urban to rural. Ms. Wimer referred the Commission to several examples in the staff report depicting land use

designations on similar properties which surround high school sites. Ms. Wimer added that the transportation network within the City appears to have already met limitations on capacity. Therefore, she stated roadway capacities may not be available to service this property, however, all regulatory permits will be required during the rezoning process and concurrency will help prohibit development if the roadway capacity is not available.

With respect to consistency criteria #2, Ms. Wimer stated the proposal does not provide for regional transportation solutions, however, staff is recommending conditions of approval to address that.

Commissioner Brandon raised concern regarding the traffic impact on the proposed 2.85 dwelling units per acre. Commissioner Pascoe asked how density would be impacted if there are considerably more wetlands found to be on the property.

Mr. Chipok stated that currently there is a known quantity of wetlands which is being given a specific designation of Conservation and that area will not be developed. Through the site plan development process, if there are more wetlands discovered on site, the developer would be required to go through the normal permitting process through the water management district and the County to mitigate any wetland impacts. Mr. Chipok reminded the Commission that we are at the comprehensive planning stage and basically setting a ceiling on the maximum allowable units. He added it has not yet been determined whether or not that can be achieved on the property, and it would not be determined until the development process stage.

Commissioner Sieg commented if the existing roadways are already broken, why would we want to make it worse. Mr. Chipok responded that the traffic report shows the road system is challenged at this point in time, however, the Pinder property in and of itself will not significantly and adversely impact surrounding road systems. He added there is a recommended condition of approval would require the City and County to enter into an interlocal agreement to comprehensively address the road systems in both jurisdictions to determine what the fix is, not only for the trips generated by the Pinder property, but also the surrounding properties in the area that utilize the same road system.

Commissioner Steiner asked why staff originally recommended one dwelling unit per acre and now have increased that 2.85. Ms. Wimer responded that staff originally looked at the 1 to 6 acres allowed in the low density residential land use category and essentially utilized the lowest number allowed. She added that staff feels 2.85 dwelling units per acre is not inappropriate for the property and the County does not object to the proposed 2.85. Mr. Chipok added that staff's original recommendation of one unit per acre was not based on any scientific planning calculation, but rather in the absence of any better information available at the time, it was chosen as the lowest allowable in the density range.

Chairman Rakowski asked from a compatibility standpoint, is it better to have higher or lower densities around schools. Ms. Wimer responded that schools are an integral part of planning communities and promote walk-ability and connectivity which would be a positive aspect.

Don Sikorski, Interim Development Services Director, asked what the final staff recommendation is. Ms. Wimer confirmed that the conditions of approval outlined in the May 24, 2006 communication is the final staff recommendation.

Referring to a map on the overhead projector depicting the County's proposed urban growth boundary considered in 2004, Mr. Sikorski pointed out that the Pinder property is totally encompassed within the urban growth boundary area, and the lowest density would allow up to four units per acre. As a result, Mr. Sikorski stated that 2.85 dwelling units per acre is consistent with what the County was proposing.

Mr. Sikorski asked the Commission to consider eliminating recommended condition #1 as the City feels it is redundant of #3. Additionally, he stated with senate bill 360, all jurisdictions will be required to enter into proportionate fair share agreements. For the record, Mr. Sikorski reminded the Commission they are reviewing the request to determine if there are adverse impacts on adjacent jurisdictions. He added that Mr. Paradise specifically advised the Commission at the last meeting that the County has no objections to the 2.85 dwelling units per acre.

Chairman Rakowski asked why the City objects to condition #1 if it would be covered in other conditions. Mr. Sikorski responded that it would require additional paperwork.

Jason Searl, 1518 Mt. Vernon Street, Orlando, representing the property owner, addressed the Commission. Mr. Searl stated he concurs with the staff report, but also reiterated the City's objection to condition #1. He also stated he does not feel there is a need for condition #3 since the traffic analysis indicates the adversely impacted links were due to the background traffic and not trips related to the Pinder amendment.

Commissioner Steiner asked staff for their opinion on the redundancy of conditions with the presence of senate bill 360. Ms. Wimer responded it is primarily for insurance that this happens at the local level.

Commissioner Lee commented that it appears the report is acknowledging the roads stand for improvement and the recommended conditions are sequential in order to address that.

Commissioner Mendez stated there appears to be many questions relating to traffic and suggested the Commission hear from Ghyabi & Associates who prepared the traffic analysis.

Shawn Collins of Ghyabi & Associates addressed the Commission. Commissioner Mendez stated there is a difference in scope of impact utilized in performing a comprehensive plan traffic analysis as opposed to a site plan analysis. Referring to page three of the staff report which discusses adversely impacted links, Ms. Mendez asked Mr. Collins to identify those links and advise what portion of the attributable impacts are related to the Pinder amendment.

Mr. Collins referred the Commission to the last table in the traffic analysis, specifically SR 415 from SR 44 to Fort Smith Boulevard. He explained that in order for a roadway to be considered significantly impacted, the project impact at the adopted LOS must be 5% or more. In this instance, the project impact is .27%. Mr. Collins also discussed LOS and commented generally regarding the proposed amendment.

Chairman Rakowski asked if there was anyone present wishing to speak in opposition of the amendment.

Cheryl Bowling, a property owner residing at the southwest corner of Osteen-Cemetery Road and Trade Street, spoke in opposition of the proposed amendment. Ms. Bowling stated she recently sent a letter to the Mayor of Deltona, her district Commissioner and the City Manager outlining traffic concerns. She also questioned how the project will be accessed.

Sandra Walters, 480 Warrior Trail, Enterprise spoke in opposition of the proposed amendment and also displayed several items on the overhead projector. Ms. Walters raised concern relating to affirmation that the City is designating 25 acres of the property as conservation. She also discussed soils maps and a FEMA map of the subject property. Additional concerns raised by Ms. Walters included property access, traffic, density and environmental issues.

Wanda VanDam, 932 Indian Hammock Drive, Osteen, spoke in opposition of the proposed amendment. Ms. VanDam advised that a good portion of this property is located in the NRMA and asked the Commission to keep that in mind. She also discussed surrounding land uses and raised concern with compatibility of the proposed amendment.

Roy Walters, 480 Warrior Trail, Enterprise spoke in opposition of the proposed amendment. Mr. Walters suggested the Commission consider accepting only those traffic studies which are sealed by a professional engineer.

Mark Rapp, 880 Osteen-Cemetery Road, advised he owns the property that abuts the subject property to the south. He stated he was not necessarily opposed to the amendment, however, would like more information relating to access to the property.

Elsie Hoover, a resident of Osteen-Cemetery Road addressed the Commission. Ms. Hoover raised concern with access to the property and stated she feels the roads should be improved before development takes place.

There was no one else present wishing to speak in opposition of the amendment.

Jason Searl addressed the Commission in response to concerns raised by those who spoke in opposition. Mr. Searl advised that Trade Street is located significantly south of the subject site. He also stated that City maps show Osteen Cemetery Road stopping short of the Pinder property. He added that it is neither their desire or right to access the property from Osteen Cemetery Road, and they plan to use Howland Boulevard to the west for access.

Mr. Searl stated that the designation of 25 acres as conservation came in response to DCA and will not be adopted by the City until after action is taken by the VGMC. With respect to drainage issues, he stated that level of scientific analysis is not within the scope of the VGMC, although they have consultants present if the Commission wishes to address that further. Mr. Searl deferred the Commission to the staff report and examples which address land use compatibility. He also stated the traffic analysis completed and entered into record by Mr. Collins should be considered as competent and substantial evidence. As far as the environmental concerns raised, Mr. Searl stated this is standardly addressed during the development process.

Chairman Rakowski raised questions concerning the findings that traffic is currently failing and commented if a bad situation exists, why make it worse. Mr. Collins responded the only way to improve the current traffic situation would be to place a moratorium on development in Volusia County. He further added that approval of the proposed amendment would provide no better or worse traffic impact than development under the existing land use designation.

Commissioner Mendez commented that the Leahy amendment which was approved by VGMC last month utilizes the same traffic links as the Pinder amendment and involved approximately 300,000 square feet of retail. Ms. Mendez added that if the methodology was sufficient for the Leahy property, then why shouldn't it be adequate for the Pinder property.

General discussion ensued regarding the modeling and analysis utilized in the traffic study and the resulting trip generation.

Rebecca Mendez made a motion to certify VGMC Resolution 2006-04 as drafted, with the omission of Condition #1 in Section #2; seconded by James Kerr.

Commissioner Sieg stated she has concerns with traffic and environmental impacts, as well as land use compatibility. Commissioner Lee commented in agreement with Commissioner Sieg, adding that condition #1 needs to be included if approved.

Commissioner Brandon also raised concern with traffic impacts as well as floodplain issues. He added that he would like to see the 2.85 units per acre reduced, and also agreed that condition #1 should remain.

Commissioner Pascoe commented with concern relating to soils and felt that the density should be limited to developable acres. Robert Pascoe made a motion to amend the motion on the floor, adding "developable" acres to the maximum density in condition #5 of the Resolution draft; Suzanne Steiner seconded the motion. The Commission discussed whether "upland" or "non-wetland" would be a more appropriate term.

Commissioner Lee raised a question regarding the original motion which included eliminating condition #1. Commissioner Mendez commented that if it is the general consensus of the Commission to leave #1 as a condition of approval, she would amend her original motion to leave that condition in. Ms. Mendez further added if this condition is imposed on this amendment, then the Commission needs to be consistent with future approvals on amendments submitted by other jurisdictions with like findings.

Following general discussion, it was determined that the appropriate term for Commissioner Pascoe's motion would be "non-wetland" property. Mr. Chipok confirmed that the Commission would first vote on the motion made by Mr. Pascoe to amend the main motion adding a modification to condition #5 to read "...a maximum density of 2.85 du/acre on those portions of the property being non-wetland property." Motion carried with a 12-1 vote; Commissioner Weaver voted in opposition. (See Exhibit B)

Suzanne Steiner made a motion to amend the main motion on the floor to add condition #1 back as a condition of approval; Joan Lee seconded the motion. A vote was taken and there was some confusion regarding the motion which was voted upon. Mr. Chipok suggested a roll call vote be performed to clarify the previous vote of which the intent was to add condition #1 back into the main motion. Motion carried 11-2; Commissioners Mendez and Kerr voted in opposition. (See Exhibit C)

Based on the amended motions to the main motion, Mr. Chipok clarified that the main motion currently on the floor is to approve Resolution #2006-04 as



recommended by staff, with a change to condition #5 stating a maximum density of 2.85 du/acre on those portions of the property being non-wetland property.

Commissioner Kerr pointed out a correction in dates needed on page 2, item #5 of the Resolution. Mr. Chipok confirmed that in the first sentence where it states "...to be considered at the May 26<sup>th</sup> VGMC Public Hearing", the date should be corrected to May 24<sup>th</sup>. Additionally, in the second sentence where it reads "...to reiterate the agreements made at the May 26<sup>th</sup> hearing", the date should be corrected to April 26<sup>th</sup>. It was a consensus of the Commission to make those clerical changes.

A roll call vote was taken on the main motion to approve Resolution #2006-04 as recommended by staff, with a change to condition #5 stating a maximum density of 2.85 du/acre on those portions of the property being non-wetland property. Motion failed 6-7 with 23.39% of the weighted vote in favor of and 35.48% opposed. (See Exhibit D)

Mr. Chipok advised that an affirmative vote on how to act on the application is necessary and asked if there were any alternative motions to be made.

Joan Lee made a motion to approve Resolution 2006-04 as recommended, changing condition #5 to decrease the maximum density to 1 (one) dwelling unit per acre, and modify the language to reflect non-wetland property; seconded by Rachel Sieg. Motion carried 11-2; Commissioners Mendez and Kerr voted in opposition. (See Exhibit E)

#### REMARKS OF INTERESTED CITIZENS

None

#### REPORTS OF OFFICERS

Commissioner Brandon reported that he attended the Smart Growth Implementation Commission final report meeting this past Monday. He advised there appears to be three recommendations under consideration for the VGMC: 1) eliminate the VGMC; 2) replace it with a seven member Smart Growth Committee; or 3) modify the existing VGMC. Mr. Brandon reported that several of the primary concerns raised at the meeting were: 1) the School Board should be a voting member of the Commission; 2) elimination of the weighted vote; and 3) no governmental plan staff should be allowed on the Commission. Mr. Brandon & Chairman Rakowski encouraged all of the VGMC members to get with their local elected officials and City staff.

Commissioner Weaver commented there seems to be an ideal that the VGMC hasn't lived up to expectations, adding that the VGMC has been somewhat successful and has probably reduced litigation.

Chairman Rakowski commented that the Commission has had quorum issues recently and attempts to secure an appointment from Daytona Beach have gone unanswered. Mr. Chipok suggested that each of the members get with their elected officials to notify them of this situation and perhaps they could contact the City of Daytona Beach to advise representation from all jurisdictions is necessary in order for this to work.

#### REPORTS FROM CONSULTANTS

Ms. Wimer reported the cities of DeLand and New Smyrna Beach each have a large scale amendment application which may come before the Commission over the next couple of months.

#### REPORTS OF COMMITTEES

Budget Committee Chair Joan Lee reported that the 2006-07 VGMC submitted budget has been reviewed by the County's budget analyst. The budget analyst's recommendation is only \$900 less than we submitted, and is currently in the County Manager's office for consideration. Ms. Lee reported that the Budget Committee met prior to this meeting and are recommending in the form of a motion and a second to accept the budget analyst's recommendation. Motion carried unanimously.

Ms. Lee also reported that MSCW has advised us that once the current planning budget is exhausted, an estimated \$30,000 in additional planning funds will be necessary to complete the balance of the fiscal year. She further noted that we originally requested a planning budget of \$145,000 last year, however, the County only approved \$130,000. Ms. Lee advised the Commission it will be necessary to go before the County Council to request the additional funding and we are currently looking at scheduling that.

#### UNFINISHED BUSINESS

None

#### NEW BUSINESS

None

#### REPORTS AND REQUESTS OF COMMISSION MEMBERS

Joan Lee wished a happy birthday to member John Heaphy.

Suzanne Steiner complimented Ms. Wimer on her presentation.

REPORTS AND REQUEST OF COMMISSION CHAIR

Nothing further.

ADJOURNMENT

The meeting was adjourned at 9:50 p.m.

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Attest:

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Chairman