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2 **PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION**
3 **PUBLIC HEARING HELD**
4 **March 10, 2009**
5
6

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

11
12 **FRANK SEVERINO, CHAIRMAN**
13 **GARY HUTTMANN, VICE CHAIRMAN**
14 **JIM RUSSELL, SECRETARY**
15 **TAVER CORNETT**
16 **JEFF GOVE – LATE 9:06 a.m.**
17 **STONY SIXMA**
18 **JAY YOUNG**
19

20 **STAFF PRESENT**

21
22 **MICHAEL DYER, Assistant County Attorney**
23 **BECKY MENDEZ, AICP, Senior Planner**
24 **SCOTT ASHLEY, AICP, Planning Manager**
25 **JOHN H. STOCKHAM, ASLA, Planner III**
26 **CHRISTIAN NAGLE, AICP, Planner II**
27 **YOLANDA SOMERS, Zoning Secretary**
28

29 **APPROVAL OF MINUTES**

30
31 **Approval of February 10, 2009 PLDRC Minutes**

32
33 Member Sixma **MOVED** for the **APPROVAL** of the Minutes. Member Young
34 **SECONDED** the motion. The motion **CARRIED** unanimously. Member Gove was not
35 present.
36

37 **PUBLIC HEARINGS ON SPECIAL EXCEPTION AND ZONING CASES**

38
39 **Chairman Severino** explained the procedure for forwarding the Commission's
40 decisions to the County Council and invited the public to speak for or against any of the
41 cases being heard.
42

43 **Michael Dyer, Assistant County Attorney**, explained that decisions by this body on
44 special exception cases and cases which rezone real property from one classification to
45 another pursuant to the Zoning Ordinance are recommendations only to the County
46 Council and do not constitute a final hearing. New evidence may be introduced at the
47 County Council public hearing. Decisions on variances made by this body constitute
48 final action, subject to an appeal to the County Council. What this means is that no new

1 evidence may be presented at the time of the County Council public hearing on appeal.
2 An aggrieved party that appeals such a decision is confined to the record made before
3 this body. Hearings by this body on rezoning, special exceptions and variances are
4 quasi-judicial in nature meaning that this body is acting more like a court and must take
5 into account all oral, written or demonstrative evidence presented. Their decisions on
6 these cases must be based on competent, substantial evidence in the record.
7 Competent, substantial evidence has been defined, as that evidence a reasonable mind
8 would accept to support a conclusion.

9 10 **Disclosure of Ex Parte Communications**

11 Members of the Volusia County Planning & Land Development Regulation Commission
12 Board are asked to please disclose, for the record, the substance of any ex parte
13 communications that have occurred before or during the public hearing at which a vote
14 is to be taken on any quasi-judicial matters.
15

- 16 • Jay Young stated none
- 17 • Taver Cornett stated none
- 18 • Jim Russell stated none
- 19 • Frank Severino stated none
- 20 • Stony Sixma stated none
- 21 • Jeff Gove not present.

22 23 **CONTINUED AND/OR WITHDRAWN ITEMS**

24
25 NONE

26 27 **CONSENT AGENDA**

28
29 NONE

30 31 **NEW BUSINESS**

32 NONE

33 34 **OLD BUSINESS**

35 NONE

36 37 **VARIANCE AND SPECIAL EXCEPTION APPLICATIONS**

38 **NEW BUSINESS**

39
40 **V-09-007** – Application of **Cynthia Rzepkowski, owner**, requesting a variance for a
41 west side yard setback from the required 5 ft. to 0 ft. and a variance for a rear yard
42 setback from the required 5 ft. to 1.2 ft. for an accessory storage shed and a variance to
43 Section 600.01 *Nonconforming Lots* to separate Lot 72 Roberta Heights from Lot 71
44 Roberta Heights on R-4 (Urban Single Family Residential) zoned property. The
45 property is located on the south side of Roberta Road, ±950 ft. west of its intersection

1 with State Road A1A, in the community of Ormond by the Sea; ± 5,500 sq. ft. (Nagle)
2 3234-01-00-0270 130 Roberta Road, Ormond Beach

3
4 **Becky Mendez, AICP, Senior Planning Manager**, stated this item could not be heard
5 at this hearing because Due Public Notice requirements had not been met, and asked
6 the Commission to continue the item until April 14, 2009 providing the applicant send
7 Due Public Notice again.

8
9 Member **Young MOVED** to **CONTINUE** Variance case V-09-007 until April 14, 2009
10 subject to the following **CONDITION(S)**:

- 11
12 1. Due Public Notice requirements must be re-done.

13
14 Member **Russell SECONDED**. The motion **CARRIED** unanimously. Member Gove
15 was not present.

16 **PUBLIC ITEMS**

- 17
18 1. Comprehensive Plan Amendments Large Scale Cycle 09-1
19 a. CPA 09-1-1 Florida Black Bear Scenic Highway
20 b. CPA-09-1-2 School Concurrency Service Area Maps
21 c. CPA-09-1-3 Chapter 21, Administration and Interpretation Element
22 d. CPA-09-1-4 Chapter 1, Future Land Use Element
23 e. CPA 09-1-5 Osteen Local Plan
24Becky Mendez, Senior Planning Manager

25
26 **Becky Mendez, AICP, Senior Planning Manager**, presented the staff report which
27 consisted of 5 separate amendments. The first amendment is the Florida Black Bear
28 Scenic Highway. The County Council had passed a resolution of support for the scenic
29 highways and this is the third highway of that resolution to be added to the
30 Comprehensive Plan and Transportation Map. There are two more that will hopefully be
31 added in the 09-2 cycle. This amendment designates State Road 40 as a scenic
32 highway.

33
34 **Member Huttman** asked if this interferes with the FDOT’s plans for the development
35 of State road 40.

36
37 **Ms. Mendez** replied negatively and stated that the County was following the FDOT’s
38 process for designation of the scenic highway. This is the final administrative step in
39 the designation process.

40
41 **Ms. Mendez** continued with the second amendment, the school concurrency service
42 area maps. The public school facilities element was adopted in 2007-2008 and Volusia
43 County is the keeper of the concurrency service area maps. On the Elementary and
44 Middle school level the concurrency service area is determined by the attendance
45 boundary zones, so any time the attendance boundary zones change because of
46 opening or closing of a school, the map will need to be changed. Horizon Elementary
47 school is being advertised for attendance boundary changes and at adoption if the
48 boundaries change you will see a revised map for transmittal.

1
2 **Member Huttman** asked if the school board and Volusia County work together on the
3 attendance boundaries.

4
5 **Ms. Mendez** replied that the attendance boundaries go through the public hearing
6 process and as an affected party; the County receives notices and sends
7 representatives. The County is always a partner with the school board.

8
9 **Member Young** asked if the school board makes these changes or does the County.

10
11 **Ms. Mendez** replied that the school board facilitates the changes; the County just
12 updates the maps as a result of the school board's actions.

13
14 **Ms. Mendez** moved along to the third amendment of this cycle regarding Chapter 21.
15 This amendment is basically housekeeping and clarification to be consistent. The
16 biggest change is on page seven regarding the due public notice requirements for a
17 small scale amendments to the Comprehensive Plan. Instead of adding the due public
18 notice requirements for all possible amendments to the Plan, staff removed the
19 requirements and simply stated that all amendments must comply with state statute
20 requirements for due public notice.

21
22 **Member Russell** asked if the possible name change of the PLDRC would have any
23 impacts on this amendment.

24
25 **Ms. Mendez** replied that there was no status of the possible name change and it may
26 be necessary to have a text amendment to change the name throughout the entire
27 Comprehensive Plan.

28
29 **Ms. Mendez** went into the fourth amendment regarding the Future Land Use element;
30 the intent was to provide consistency and clarification of this element. There has been
31 a lot of discussion about Volusia County becoming a "Green" County.

32
33 **Member Cornett** asked if the County would be using LEEDs and if there is a time frame
34 of creating standards.

35
36 **Ms. Mendez** replied affirmatively and that this year is the goal for the standards.

37
38 **Ms. Mendez** continued with the presentation on this amendment, highlighting the
39 changes such as becoming consistent with the Future Land Use designations, clarifying
40 and organizing the NRMA and ECO overlays. Reference to lot sizes was removed from
41 the FLU designations which will help with clustering provisions. The zoning matrix was
42 amended, Planned Unit Developments were added in some designations as compatible
43 because a Planned Unit Development is negotiated and with negotiation most things
44 can be made compatible. Staff removed most of the redundant policies. By law all
45 elements must be consistent with all the other elements.

46
47 **Member Huttman** asked if there was any issue with this amendment including
48 language regarding something that has not been adopted or that is being challenged as
49 part of the 08-2 cycle.

1
2 **Ms. Mendez** replied that it is not believed so but we will have to deal with any conflicts
3 should any arise from the Department of Community Affairs.
4

5 **Chairman Severino** asked about the lot sizes and eliminating them from the land use
6 designations effectiveness on the zoning requirements for clustering and would the
7 zoning classification inhibit the clustering.
8

9 **Ms. Mendez** replied that it will be addressed in the changes to the Uniform Land
10 Development Code; however the Comprehensive Plan has to be changed first. The
11 FLU can conflict with the Zoning but the Zoning cannot conflict with the Comprehensive
12 Plan.
13

14 **Member Cornett** asked if the County was going to work with the Cities to conform the
15 zoning classification to be consistent whether the property is in the County or City.
16

17 **Ms. Mendez** stated that the County is always willing to collaborate but we would have to
18 see when those changes are brought forward.
19

20 **Ms. Mendez** presented the fifth amendment of this cycle by stating the Osteen (JPA)
21 Local Plan started in 2006, The City of Deltona and The County had joint meetings to
22 negotiate common land uses in the 4,000 acre area and on December 5, 2008 agreed
23 to the Local Plan language. There are seven new land use designations. She
24 explained the map and where the new land use areas are located. In some of the
25 residential land areas the density was frozen to current standards, clustering is required
26 and more environmental standards are required. The development is being capped and
27 this is truly a long range plan for the area.
28

29 **Member Gove** asked about the current Skip's property.
30

31 **Ms. Mendez** stated that if the Skip's property were to be abandoned or expanded they
32 would have to comply with this element but it may continue to operate and appear as it
33 does today.
34

35 **Member Cornett** asked about the Floor Area Ratio limits and whether impervious
36 surfaces were included in those limits.
37

38 **Ms. Mendez** replied that it was to force the height; it counts the floor area of all stories
39 not just the footprint and not impervious area.
40

41 **Member Huttman** asked if the capping language was because there was not a Traffic
42 Study performed.
43

44 **Ms. Mendez** stated it was to assist in the creating the Traffic Study.
45

46 **Darryl Cunningham, GEB Planners**, the reason for the capping of development was to
47 show a reduction of net trips and financial responsibility in the CIE of the County and the
48 City of Deltona.
49

1 **Ms. Mendez** presented the Development Tables within the staff report to assist
2 explaining the capping of the development.
3

4 **Member Severino** asked how the Land Use designations will effect any special
5 exceptions in the area.
6

7 **Ms. Mendez** replied that the zoning is still in effect. The special area rezoning has not
8 been done yet. We will have to look at the request the same way as we would do right
9 now. The Comprehensive Plan trumps the zoning and if the zoning allows it today and
10 the new land use may conflict then a case by case basis will have to be done until the
11 rezoning is effective.
12

13 **Michael Dyer, Assistant County Attorney**, stated that there is a state law that
14 requires land development regulations be adopted within 12 months.
15

16 **Betty O’Laughlin, Volusia Flagler Sierra Committee**, commented that it looks like a
17 good plan but personally feel that Osteen will disappear into Deltona. The Sierra Club
18 however opposes any of these changes to the area; we would like to see a historic
19 district which is not in this plan. The intentions are good but lawyers and a lot of money
20 can override the comprehensive plan.
21

22 Member **Cornett MOVED to FOWARD** the Comprehensive Plan Cycle 09-1-1 through
23 09-1-5 to County Council with a recommendation of **APPROVAL TO TRANSMIT** to the
24 Department of Community Affairs with the Trip Tables to be included in the County
25 Council presentation. Member **Sixma SECONDED** the motion. Motion **CARRIED**
26 unanimously.
27

28 STAFF ITEMS

29 NONE
30

31 COMMISSION COMMENTS

32
33
34 **Member Sixma** asked if there was anything going on in the Southwest Activity Center.
35

36 **Ms. Mendez** replied not at this time.

37 PRESS AND CITIZEN COMMENTS

38
39 NONE

40 ADJOURNMENT

41
42 Having no further comments from the public, staff or commissioners, Chairman
43 Severino thanked everyone and adjourned the meeting at 10:36 a.m.
44