

DRAFT

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
April 8, 2008**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Gary Huttman**, 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:

GARY HUTTMANN, Chairman
DARLA LIPKE, Vice-Chairman
TAVER CORNETT, Secretary
STONY SIXMA Arrived 9:04
JIM RUSSELL
FRANK SEVERINO
JAY YOUNG

STAFF PRESENT

MICHAEL DYER, Assistant County Attorney
MARY ROBINSON, Building and Zoning Director
SCOTT ASHLEY, Planning Manager
DAVID ZECHNOWITZ, Planner III
JOHN H. STOCKHAM, Planner III
CHRISTIAN NAGLE, Planner II
YOLANDA SOMERS, Zoning Secretary
MARCY CHAFFIN, Recording Secretary

APPROVAL OF MINUTES

Approval of March 11, 2008 Minutes

Member Lipke **MOVED** for **APPROVAL** of the Minutes. Member Cornett **SECONDED** the motion. The motion **CARRIED** unanimously.

PUBLIC HEARINGS ON SPECIAL EXCEPTION AND ZONING CASES

Chairman Huttman 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 rezonings, 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.

Mr. Dyer asked for disclosure of ex parte communications. He recommended that any Member who has had communications with a member of the public or the applicant on any agenda item, state so at this time with a brief comment.

- Member Cornett:
- Chairman Huttman:
- Member Severino:
- Member Lipke:
- Member Russell:
- Member Young:
- Member Sixma:

CONSENT AGENDA

NONE

CONTINUED ITEMS

Z-08-024 – Application of **Glenn Storch, Storch Morris & Harris, LLC, Attorney for Owner, K1J4, LLC, Owners**, requesting a **Rezoning** from the A-3 (Transitional Agriculture) zoning classification to the A-2 (Rural Agriculture) zoning classification. The property is located at the terminus of Airport Road, approximately ¼ mile north of CR 15-A, the property is the Bob Lee Airport; ± 33.23 acres (Zechnowitz) 6017-00-00-0050 **30-day continuance requested**

Member Sixma **MOVED** to continue case **Z-08-024** for 30 days. Member Severino **SECONDED** the motion. Motion **CARRIED** unanimously.

V-08-023 – Application of **Garrett Usina, Jr., Owner**, requesting a **Variance** to Section 806.02 to allow a fence height (6.5 ft. in lieu of the maximum allowed 4 ft.) in the front yard adjacent to Highbridge Road on RC (Resource Corridor) zoned property. The property is located on the south side of Highbridge Road, approximately ½ mile west from the intersection with John Anderson Drive, near the community of Ormond Beach; ± 11.5 acres (Stockham) 3205-00-00-0020 **30-day continuance requested**

Member Sixma **MOVED** to continue case **V-08-023** for 30 days. Member Lipke **SECONDED** the motion. Motion **CARRIED** unanimously.

S-08-025 – Application of **Glenn Storch, Storch Morris & Harris, LLC, Attorney for Owner, K1J4, LLC, Owners**, requesting a **Special Exception** for a Fixed-wing aircraft landing fields and helipads on the proposed A-2 (Rural Agriculture) zoned property. The property is located at the terminus of Airport Road, approximately ¼ mile north of CR 15-A, the property is the Bob Lee Airport; ± 33.23 acres (Zechnowitz) 6017-00-00-0050 **30-day continuance requested**

Member Severino **MOVED** to continue case **S-08-025** for 30 days. Member Russell **SECONDED** the motion. Motion **CARRIED** unanimously.

V-08-021 – Application of **William Shaw, Agent for Owners, Carlos and Deborah Fernandez, Owners**, requesting a **Variance** for side yard setbacks (18 ft. in lieu of the required 50 ft.) for a single-family dwelling and detached garage on RC (Resource Corridor) zoned property. The property is located on the west side of Sundance Trail, approximately 1,100 feet north from its intersection with Art Center Boulevard, near to the City of New Smyrna Beach; ± 35,000 sq. ft. (Nagle) 6335-01-04-0040

Member Sixma **MOVED** to continue case **V-08-021** for 30 days. Member Young **SECONDED** the motion. Motion **CARRIED** unanimously.

S-08-029 – Application of **Brian Hammer, Owner**, requesting a **Special Exception** for a Kennel on FR (Forestry Resource) zoned property. The property is located on the south side of Colony Road, approximately 1,340 feet west from its intersection with

Sadale Run in the community of New Smyrna Beach; ± 120 acres (Stockham) 8209-01-03-0010 and 8029-01-03-0030 **Tentatively schedule for the May 22, 2008 County Council at 2:00 p.m.**

Member Sixma **MOVED** to continue case **S-08-029** for 30 days. Member Severino **SECONDED** the motion. Motion **CARRIED** unanimously.

NEW BUSINESS

PUD-08-005 – Application of **Mark Watts, Cobb & Cole, Attorney for Owner, The Pantry, Inc, Owner**, requesting a **Rezoning** from the A-3 (Transitional Agriculture) and B-4 (General Commercial) zoning classifications to the Kangaroo Express BPUD (Business Planned Unit Development) zoning classification. The property is located on the south side of State Road 40, at its intersection with U.S. Highway 17 in the community of Barberville; ± 8.59 acres (Stockham) 5917-01-02-0030, 5920-00-00-0080, 5920-00-00-0081, and 5920-02-11-0020 **Tentatively schedule for the May 22, 2008 County Council at 2:00 p.m.**

John Stockham Planner III, presented the Staff Report. The subject property is located in commercial, agricultural, residential and MPUD zoned areas located at the intersection of U.S.Highway 17 and State Road 40 in Barberville. The proposal is to redevelop an existing convenience store and gas station. This proposed BPUD can provide uses such as automobile service station type C, retail sales, storm water ponds, and other proposed uses from the B-4 and one from the B-2 Zoning Classifications. The proposed service station will have a convenience store about 5,000 square feet in size, eight fueling stations with two pumps each. The plan depicts two lots for development, one with the service station and the other to be developed with one of the other permitted uses. One of the storm ponds planned will be used potentially by FDOT as part of the road widening of the intersection. The site is located on lands that have the future land use of Rural located in the Rural Community of Barberville. He noted that the site plan will have to be modified with a 12 ft. by 40 ft. loading zone that will have to be added during the site plan review. Traffic Engineering found that U.S. 17 has adequate capacity to serve the new trips generated by the development. Environmental Management has concerns that can be addressed in the final site plan review process which include the protection of specimen and historic trees, the presence of gopher tortoises and the permitting process with FDEP. He stated it is recommended that a Phase I environmental assessment be done to determine if a Phase II assessment may be needed because of the existing use of the fueling station. The proposed BPUD conceptual plan does meet all eight criteria for a neighborhood convenience site, will be located at an intersection of major roads, and will serve the community of Barberville. The widening of U.S. 17 corridor will improve the traffic in the area including the ingress and egress to the site. Staff finds the BPUD will meet the requirements for amending the zoning map and it is consistent with the Rural future land use of the Rural Community guide lines of the Comprehensive Plan. Staff recommends **APPROVAL** subject to three conditions; 1. The staff recommended changes to the Master Development Plan shall be implemented; 2. A lot combination of the existing lots

shall be done through application with the Land Development office; 3. A petition to vacate the existing plat and right-of-ways shall be submitted to the Public Works department.

Member Severino asked staff to explain exhibit C of the Development Agreement, lines 14 & 17 that discuss exempt excavations and landfills as being acceptable uses for this land.

Mr. Stockham stated that it is typical language to allow the construction to occur with the cut and fill procedures that take place on site-cutting to excavate for the storm water ponds, filling to make a level pad for the building and to facilitate the construction of the other uses listed in the Development Agreement.

Chairman Huttman asked for clarification of the name as it is referred to by both Kangaroo or Pantry PUD.

Mark Watts, Law Firm of Cobb and Cole, 351 New York Ave, Suite 200, DeLand, attorney for owner. He stated he has representatives from the consulting firm, a civil engineer and a traffic engineer with him for any questions. He stated the name will be consistent and it should remain "The Pantry PUD". He continued that they are in agreement with the changes highlighted in the draft of the Development Agreement. He thanked Staff for their work in assisting them with the application process. He stated there are two principle reasons why this application is being processed at this time. One is the existing gas tanks are scheduled for removal and replacement under the state program in the fourth quarter of 2009. Second, DOT is looking at widening the U.S. 17 intersection as it heads into Barberville and it may run through part of the existing canopy up to 52 feet which will cause substantial reconstruction. Additional property was secured to enable the rebuilding of the store with the new canopy and outside the proposed DOT right-of-way.

Member Sixma asked if the client is agreeable with the conditions.

Mr. Watts stated yes.

Member Cornett **MOVED** to **FORWARD** Case **PUD-08-005** to the County Council with a recommendation of **APPROVAL** with conditions as presented by Staff. Member Sixma **SECONDED** the motion. The motion **CARRIED** unanimously.

OLD BUSINESS

NONE

VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

NEW BUSINESS

S-07-146 – Application of **James V. Alies, Agent for Owner, City of DeLand, Owner**, requesting a **Special Exception** for a Public Utility on A-2 (Rural Agriculture) zoned property. The subject property is located on the east side of Tomoka Drive North at its intersection with Loblolly Pine Drive, in the Tomoka Woods subdivision; ± 35.2 acres (Nagle) 6037-04-00-0010 & 6037-03-00-0041 **Tentatively schedule for the May 22, 2008 County Council at 2:00 p.m.**

Christian Nagle, Planner II, presented the Staff Report. The applicant is the City of DeLand for a new public water plant near the Tomoka Woods subdivision. The application was heard before the PLDRC in December 2007 and granted a continuance due to public concerns. Residents raised concerns about the location of the water plant, and the storage tank on the site. In response, the City of DeLand held a public meeting and chose to amend their application to add the additional 30 acre parcel to the site including the original 5.2 acres. The 5.2 site is a cleared parcel and the 30 acre parcel is heavily wooded. The neighbors expressed concerns over the location of the water plant and possible draw down affects to their private wells. The City of DeLand worked with the residents to address their concerns, including the revision of their conceptual site plan leaving the water plant on the original 5.2 acre parcel and moving the 1 million gallon above ground storage tank to the 30 acre parcel. The other changes made were to include landscape buffers, increased parking spaces to meet minimum required by the zoning ordinance, and increased height of the water tank from 25 feet to 40 feet. The Staff recommends the **APPROVAL** of the request subject to the eight conditions included in the Staff Report.

Member Cornett recused himself, saying he works part time for the City of DeLand.

Darren Elkind, 505 Deltona Boulevard, City of Deland Attorney. He stated he will show that the City of DeLand meets the requirements of the Special Exception criteria and are entitled the issuance of the Special Exception to build the water plant. One of the major concerns of the local residents is the plant's noise level and odors. He stated the City of DeLand engineer will explain the water facility.

Keith Riger, Engineer for City of Deland. He stated the issue of noise is from water pumps not being insulated, not located inside buildings, or in poor repair. The existing pump is probably audible at night to some neighbors but there have been no complaints until this hearing. The City of DeLand maintains about 9 to 10 water plants in the service area. The Brandywine water facility is very similar which has a pump house and ground storage tank. He stated the design of the proposed pump house will resemble a single family residential structure and it will contain walls that will attenuate the sound so that just a few feet away it will not be louder than an air conditioning unit. The city can stipulate that this would meet noise ordinances of the county. The water at Tomoka Woods is of exceptional quality and there have not been any sulfur odor problems in over the twenty years it has been there without any aeration. He stated that due to the need to stabilize the water for longer distance pumping an aerator will be placed on the ground storage tank. He stated that the odor control system is over a \$100,000 addition, but does not anticipate having to add one based on the well known chemistry

of the water. However, if it is a requirement, it could be stipulated that if in the future, odors were detected, legitimate odors, the odor control device could be added.

Mr. Elkind added one of the other concerns was the draw down of nearby wells. The St. Johns Water Management District consumption use application has determined there will be no affect on nearby residential wells. He continued there was an indication that the land where the pump house will be located was cleared without a permit. He explained that the clearing was after the 2004 Hurricanes which included removing piles of tree material. He stated that during the site plan process re-tree replanting will be addressed. He continued that there was no deliberate tree removal to gain any advantages. The evidence supports the granting of the Special Exception. He requested that public comments be directed to the criteria in the Special Exception to see how they apply.

James Dearing, 4730 N. Tomoka Drive. He stated that he lives diagonally across from where the tank was originally going to be placed. He stated he talked with Brad, the project consultant, and was told that the pump house was going to be moved to northwest corner of the 5 acres to place it away from the properties, so there is no sound and no smells. He stated that his concern is that there maybe smells or sounds and there is no noise or smells now and would like it to stay that way. He stated that he talked with Brad before the meeting and was told the pump house was not moving due to remaining trees. However, the land has been almost clear cut already.

Mr. Robert Barclay, 2425 Whooping Crane Drive, DeLeon Springs. He stated he built out there about 24 years ago. It was completely wooded and that was the reason he built there. He did not want to be part of the city area. This project is effectively making the area part of the City of DeLand. He understands that the City of DeLand bought 30 more acres and has agreed to move the water tank. He said if they can move the tank why can't they move the service building and replant the woods. They have destroyed the wild life habitat of gopher turtles and turkeys by bulldozing the area and wiping it out. He stated the project is no benefit to the people in the area.

Chairman Huttman replied the applicant will address the concerns about the pump house and the replanting.

David A. DePasqua, 2415 Whooping Crain Drive, DeLeon Springs. He stated he is located directly in front of where the pump house will be located. He stated the original plan was to place the pump house and tank on the 5 acre parcel because they did not have access to the 30 acres of woods. Apparently there is access now as they are putting the water tank on the 30 acres. He asked if the tank and pump house could be on 5 acres why can't they put them both on the 30 acres.

Mr. Elkind stated the tank, which is much less pleasing than the pump house was moved. He stated they still do not have legal access to relocate the tank, but a property owner has agreed to grant access. On the 5 acre parcel there is an existing well head and well. The purpose in moving the well house would be to address the noise and

odor issues which have been addressed as there will be no odor or sound outside of the building. Therefore, moving the building serves no purpose but would create engineering problems. This is part of the utility service area of the City of DeLand. The pump house has been moved as far as possible without taking any more trees out.

Mr. Blais stated that the new pump house will be where the old water tank was located. The parking lot is closer to the residences and they shifted the tank to the north and east. He stated that moving all of the new water plant into the 30 acres would require more clearing and more impact to the area. He stated that they did not want to use any of the 30 + acres but did move the water tank to satisfy the residents. The pump station will be an 1800 square foot masonry structure with 10 foot high walls, hip roof, insulated and it will resemble a single family residence. He stated they will work with any issues during the site plan review. The access to the water tank and wells will be a narrow shell roadway. The day to day activities requires a paved driveway and paved parking for the pump house.

Member Young asked if the water tank was a concrete prestressed ground level tank.

Mr. Blais answered yes with a fiberglass aerator on top enclosed style.

Member Young asked if the pipeline that is feeding the system have to be relocated.

Mr. Blais answered there is a 16 inch water main within the easement.

Chairman Huttman asked for a response as to the benefit of this to the residents.

Mr. Elkind stated it is a water supply that benefits the community at large by creating a reliable good water source. There is no direct benefit for someone with their own well.

Mr. Riger stated the Tomoka Woods subdivision is served by the existing water system and the new water system will serve the development and in addition it will serve as storage for fire protection, which is currently not provided.

Member Lipke asked when the utility service boundaries were created.

Mr. Elkin stated the utility service agreement was about 1989 and redone in about 1993-94.

Member Lipke asked if the residents in the area were notified when the agreement was done.

Mr. Elkind responded technically it was a public record and they were probably notified.

Mr. Dyer stated that is was not legally required. The interlocal hearing would be considered at public hearing where the public is invited to attend but there are no additional notice requirements for neighboring properties.

Mr. Elkind explained it is not just a utility service area for Tomoka Woods. It goes as far as State Road 472 in the southern direction, past State Road 15A on the west and past Daytona Park Estates subdivision on the east.

Mr. Dyer commented that there are 9 reasons for the Commission to deny a Special Exception, none of which would be that a Special Exception would not benefit a neighboring property. If there was a basis to demonstrate that this would adversely impact the surrounding neighborhoods that could be considered, as part of review of the Special Exception application.

Chairman Huttman clarified that the pump house has been flipped and it is where it is to decrease anymore disruption to the area and that it is going to remain on the 5 acres. Then he asked Staff if the statement on the tree replacement is a condition or part of the site plan requirements.

Mr. Nagle answered they will have to comply with the tree replacement requirement as it is part of the Land Development Code. They will also have to provide 50 foot landscape buffers around the perimeters of both properties.

Member Sixma asked will this produce anymore traffic in the area or larger trucks usage.

Mr. Riger stated the current water plant is serviced on the average of once a day. It is connected by a computer system that monitors it continuously. The new water plant will be the same, a once a day visit in a pick up truck which is similar to what is done now.

Member Young asked if the site will have on site emergency power generation.

Mr. Riger stated the current site has one, and the new plant will also.

Member Young stated in his experience the electric generators are the biggest noise generator in the plant.

Mr. Riger stated normally they negotiate with the neighbors as to when to exercise the generator.

Mr. Dyer stated that based on previous comments to County Staff, the City of DeLand has no problem with the 8 recommendations in the Staff report.

Member Russell **MOVED** to **FORWARD** Case **S-07-146** to the County Council with **APPROVAL** of conditions as defined in the Staff Report. Member Lipke **SECONDED** the motion. The motion **CARRIED** unanimously. Member Cornett abstained.

OLD BUSINESS

S-08-010 – Application of **Santiago Meliams, Agent for Owners, Florida Power & Light, Company, Owners**, requesting a **Special Exception** for a Public utility uses and structures on A-2 (Rural Agriculture) zoned property. The property is located on the west side of Old Mission Road, approximately one mile from its intersection with SR 442 near the City of Edgewater; ± 21.45 acres (Stockham) 8438-01-00-0970 **Tentatively schedule for the May 22, 2008 County Council at 2:00 p.m.**

John Stockham, Planner III, presented the Staff Report. He stated the property is located east of Interstate 95 in an area of forested land, single family homes, and a mobile home park. The proposed development will contain an electrical switching substation and a neighborhood electrical distribution substation. The applicant stated it is standard practice to combine the two facilities into one equipment yard, however, in an effort by FP&L to minimize impacts to the on-site wetlands, the site plan shows there will be two proposed equipment yards. The site is located next to a major FP&L electrical transmission corridor that runs northwest to southeast. The Comprehensive Plan does not have specific policies related to this type of use, however, the following land use guidelines apply to this request for public utilities and structures. One, is that they maximize the efficiency of the services provided. Two, is that they minimize their cost. Three, is they minimize the impacts on the natural environment. Four, is to provide a designated level of service. The applicant has stated that the neighborhood distribution of the facility will provide the electricity needs for the existing and future customers in the immediate area. The purpose of the transmission switching station is to strengthen the reliability of the entire electrical transmission grid in the northern half of Volusia County. The site plan shows two equipment yards, phase 1, which is the larger site and phase 2, which is the smaller site located on a 22 acre property. The concrete relay volts will be 15 feet high and a 7 foot high chain link fence topped with 6 strands of barbwire will be around each site for a total fence height of 8 feet. The transmission corridor will be used as the access road coming off Old Mission Road. (County road 4147). The station yards are setback at least 50 feet from the surrounding property lines. It will be within 135 feet of the 500 KV transmission line corridor trying to utilize uplands. (a map was displayed) The property is nearly all jurisdictional wetlands. Staff received comments from the Environmental Management Division expressing concerns about the impact to the wetlands as well as eight historic trees on the site. (a map was displayed). Staff has found concerns with criteria item numbers 2, 4, 6, and 8 used for Special Exception requests. He stated Ginger Adair from the Environmental Management office is present and she will be able to explain the Volusia County Wetland Ordinance which has more restrictions than FDEP permitting and Army Corp of Engineers' wetland requirements. The site plan indicates where the equipment yards will be located but it does not address potential impact from storm water treatment ponds that could be an additional two acres. The specific Comprehensive Plan policies related to wetland protection, several polices under 12.2.3 guide development near wetland to eliminate any net loss of wetlands and prevent the functionality of wetlands from being degraded as a result of land development decisions. Policy 12.2.3.3. discusses the maintenance of stands of mature, forested areas of vegetation as well as

providing an overall wetlands management plan that addresses water quality and ability to attract wildlife. The subject property has a system of wetlands that are on and off site as well as mature trees, some which are historic Live Oak trees that will be impacted. The applicant has made an attempt to minimize the impacts, however, one of the historic trees is slated for removal and there will be an overall net loss of the wetlands. Other mature vegetation will be impacted and other impacts are not known as the stormwater management plan has not been submitted. The ecological integrity of this oak hammock area will be negatively impacted by the proposal, therefore it will be contrary to policies in the Comprehensive Plan that deal with wetland and natural resources protection. Staff finds the proposal not consistent with the purpose and intent of the Comprehensive Plan. Staff does not have the authority to recommend the approval for removal of historic trees. Finally, the proposal for this site will adversely affect the natural resources. Staff recommends **DENIAL**. (photos of the site were shown and locations indicated).

Member Young asked for zoning of property across the street.

Mr. Stockham stated it was zoned A-2 property and RA (Rural Agriculture)

Member Severino stated the Massey Company owns the parcel.

Mr. Stockham stated it was owned by the Massey Ranch as an unrecorded subdivision. Access would need to be provided for some of the unrecorded sites to the west and to vacate an old plat for the site.

Member Severino inquired how the borrow pits got permitted in the wetlands.

Mr. Stockham stated there was not immediate information on the borrow pits.

Member Young asked if there was any future development for the lands across the street.

Mr. Stockham stated for A-2, home sites must be 5 acres and RA, 2 ½ acres per home site is needed, making it a lower density area with the exception of the mobile home community.

Chairman Huttman asked if when the storm water management plan is completed would it take away the concern for condition 8.

Mr. Stockham answered he does not know and that Staff has asked the applicant if they could provide a conceptual stormwater plan but the applicant indicated they ask for the use first then will work with site plan issues. He stated that if the use is approved, then it must pass all the requirements of the local ordinances, land development code and wetlands ordinance.

Ginger Adair from Environmental Management. She stated they provide only factual information of the site. It is almost entirely jurisdictional wetland, very wet, a swamp with standing water. It would be hard to develop anything on the site without impacts to the wetlands or the buffers. The ordinance states that any development shall: 1. You shall attempt to avoid any impacts to wetlands. In this case it is nearly impossible to do, as the entire site is almost wet. 2. Can you minimize the impacts. Then size is considered for the service provided, are there ways to shrink the development footprint. 3. If you can get past the first two, then you provide mitigation for the impacts. In this case it will be difficult for the applicant to get through the permitting process because of the avoidance and minimization criteria of the ordinance and the type of the development that is planned. There is only a limited amount of ability to change the site around.

Bob Coleman, 425 N. Williamson Blvd, Daytona Beach, for the owner. He stated this is a major transmission switching station and secondarily it will have a neighborhood distribution station. This is part of a critical infrastructure plan to strengthen the eastern grid of Volusia County with four projects. You place a strategic location based on where there are other transmissions lines, which limits where the transmission switching stations can be placed. The County recently approved the "Gaco" major transmission switching station which is to the west. Most of the comments brought up today are about issues that will be dealt with at the site plan review. The facility without the storm water will only take up about 3 acres of the 22 acres. The stormwater will take up about 2 acres so it will be occupying only about 23% of the total site. This is a minimum impact which is less than a quarter compared to other activities that could be allowed in the zoning classification. He stated the site does have extensive wetlands and we have placed the facilities to avoid the wetlands the best we can. Normally, the facilities are enclosed into one area, but we have split them apart to try to minimize the impact on the wetlands. The solid piece of uplands is where the main, larger switching transmission station has been placed. We will go to mitigation and in the county's wetland permitting it is recognized that it will be at the time of the final site plan review, which will include the stormwater management plan. There won't be a net loss of wetlands as we will mitigate them through the Cape Atlantic Mitigation Area and or through the County's Improvement Trust Fund. The 17 acres that won't be occupied will be placed under a conservation easement. The area photos shown are to the east and not areas that will be developed. He stated, in summary, the focus should be the use of the property and is it appropriate. We have to risk going forward at the time of final site plan approval as there are a lot of hurdles. He stated he is an electrical engineer and he has Greg with him to address environmental issues.

Member Cornett asked what is the range for locating the transmission switching stations.

Mr. Coleman stated the first criteria will be where the voltage is located. The system is like an interstate system, state and local system. "Gaco" is located at the 500 KV 240 volt network located about 4 or 5 miles to the west which is like the interstate system. Then we have state-road-like systems which is this one, which is 115 KV. The

advantage to this area is that there are several lines that transverse east and west going into Edgewater.

Member Young stated he does not see the growth necessary to build another substation in the area.

Mr. Coleman answered that they try to be there ahead of the growth. The closest substation is in Edgewater down by the railroad tracks and highway 442. There is still growth in the area and in-service for the facility is 2012.

Member Young asked where the nearest 115 KV system is located from this proposed station.

Mr. Coleman answered Port Orange area and the "GACO" facility will bring in 230KV from it down to Pioneer, another one of the four, and that will strengthen our 115 KV, that are like local roads that run up and down the coast. The 115 KV network is what provides service to the customer.

Mr. Russell asked if these are the minimum sizes that can be used for the yards.

Mr. Coleman answered yes because of the electrical voltage there are national standards. We do try to make them as small as possible due to costs to build. We have altered the configuration to get it as tight as possible.

Mr. Russell asked how many feeders will be in this sub station.

Mr. Coleman answered there may be four feeders.

Member Severino asked if they would be able to move to save the historic tree.

Jack McNeil, 700 University Blvd, Juno Beach, Site Project Manager for Possum Station. He stated that they must locate the station on the upland area to comply with the minimization of the wetland permitting. He stated of the 8 historic trees they are impacting one, but the others will be placed under conservation easements for perpetuity.

Member Severino asked Mr. Coleman what would be the affects if the request does not go forward from the PLDRRC.

Mr. Coleman answered it does increase the probably of system outages as one place on the grid could impact another, an example was after the hurricanes. There is no good place on the eastern side to place this type of switching station other than along this corridor. A similar project is being done in New Smyrna Beach just north of Highway 44. We run contingencies and probabilities of what can happen and what the impact would be. He stated from an engineering point it needs to be in this location in the next 3 to 4 years.

Member Severino asked if FP& L purchased the property in 2007 and if this does not go through, would you have to purchase another parcel somewhere else.

Mr. Coleman answered it was purchased about that time and it needs to be along this corridor in the network.

Member Lipke asked if there were any other sites that have been located on wetlands and would like to hear from Staff some comparisons

Mr. Coleman stated “Gaco” was approved about last October, November time and the impact there was considerably greater.

Mr. McNeil stated the impact of not having this station could be considerable. The shorter line sections are easier to restore due to hurricanes or outage conditions. If you have very long lines, the potential is there for extended outages for many thousands of people. The “GACO” site, that was approved in September 2007, has a considerable amount of wetlands. There is the need for large parcels of property for these types of facilities and there is not much left in Volusia County that is dry. The environmental review for “GACO” recognized that there were wetlands and tree impacts and that they would be addressed at the final site plan approval and it was recommended for the Special Exception use.

Mr. Stockham stated the “GACO” site only impacted a small percent of the 200 acres. That facility will be located in a pine forest area of the site.

Mr. McNeil stated they have applied for the final site approval for the “GACO” site and there are considerable wetlands on the property. He stated they do have the ability to mitigate the impacts for wetlands and have never been denied for any of the wetland mitigation plans.

Mr. Huttman stated he understood that Volusia County regulations were more stringent than the State’s.

Ms. Adair replied the avoidance and minimization for the County are more strict than the State’s. She stated typically the County accepts what the State accepts in terms of mitigation once it determined what level of impacts is acceptable. There have been no permitting for the “GACO” substation and not all the information was available at the time of the Special Exception, which is a difference between the two. The 9 acre wetlands impact is new information for “GACO”. Environmental Management does not make recommendations in terms of a Special Exceptions and provides only the facts of the site. The recommendation is based on the 8 criteria of the Zoning Code and Comprehensive Plan.

Mr. Dyer stated the approval of an application for use is limited to the nine criteria. No site plans or wetlands are dealt with at this time.

Mr. Huttman asked what the objections are to #2 and #6. It seems this may be in the public's interest as opposed to adversely affecting the public interest. He stated he will accept conditions #4 and #8 and seems they are willing to work with the site plan.

Mr. Stockham stated that the applicant has stated they will try to mitigate and that could address #2 regarding the Comprehensive Plan. He stated that it is up to their engineers to prove the stormwater can be handled at the site and not impact the manufactured home community to the south and if that is proven then it would satisfy #6.

Chairman Huttman stated then it would be #4 and #8 left to work with and the applicant is willing to take the chance.

Member Young stated that one of the exceptions is it is necessary for the public good and I find the growth in the area does not justify a substation in the area now or in the near future.

Mr. Coleman answered that they are in the business to make money and they would not spend the money on a neighborhood system unless the load is there. The transmission network does not result in additional revenue. It is strictly for reliability and a strengthened network.

Chairman Huttman stated there is growth to the south, the Restoration DRI. He asked if the substation is needed if they have a station by road 442.

Mr. Coleman answered for the area south of 442 they are bringing up a circuit called Scottsmore on U.S.1 and coming back into Edgewater. The distribution substation will have no impact on that, it will serve residential and businesses in the Edgewater area. The transmission switching station is a part of the eventual tying of 442 down to Scottsmore, in Brevard County, south of Mims.

Member Young asked if the proposed neighborhood substation would not be necessary without Restoration, the 6,000 acre subdivision which is north of 442.

Mr. Coleman answered that whatever subdivision was proposed will drive the need in the immediate area for the distribution substation. They would have to consider what was planned.

Member Severino clarified that Phase I is the transmission switching station which is the necessity and Phase II is separated because it may not be needed or it may be delayed so there does not need to be all the impact at once.

Mr. Coleman answered that the necessity for Phase II is driven by the growth in the area.

Member Russell inquired if the approval process can be split. He stated approve the transmission and hold off on the neighborhood.

Member Young asked if there are any other distributions hanging off this section.

Mr. McNeil stated 115KV network goes to Edgewater and goes north/south past Possum, goes through New Smyrna Beach and to Port Orange area.

Member Young asked if they sectionalize this piece, how many persons would be out if this transmission station was not there.

Mr. McNeil answered, they are sectionalizing in the middle to shorten the line length of the transmission. Under certain conditions there could be overloads on other line sections that could cause the line to trip causing outages to thousands of people because there are a number of distribution substations hanging off this network.

Mr. Dyer stated that the applicant does not have the burden to demonstrate that there is public need for the utility use they are seeking approval for. There are 9 reasons that can be used to deny the Special Exception that are articulated in the Staff Report.

Member Sixma commented there are not a lot of places where they can locate this site and they sure do not want to wait ten years up the road when there is strong need for and it ends up in the middle of a neighborhood with more to deal with. He commended FP&L for the foresight to see the need in advance.

Member Severino stated in the Public Utilities Outline in Chapter One of the Comprehensive Plan, section #3 states they should minimize their impact on the natural environment without specifics so it appears it was intended that best judgment should be used. He stated he believes the applicant has taken the best case scenario and they are aware of the risks.

Member Lipke recommended approval.

Member Severino seconded.

Mr. Dyer stated there is a Staff Recommendation for denial. Staff does have a proposed set of conditions if approval is recommended.

Mr. Stockham read the set of proposed eight conditions to go along with an approval.

Chairman Huttman asked if Mr. Coleman was aware of these conditions.

Mr. Coleman replied he was not aware of the conditions.

Mr. Dyer suggested a brief recess for review of the eight conditions.

Mr. Stockham commented that some of the eight conditions came from the “GACO” project and some were added as the hearing progressed today.

Mr. Coleman stated that some of the conditions are related to code requirements and they were applicable to the “GACO” project. All the eight conditions are agreeable with the exception of the engineer review letter that is requiring paving of what is essentially a transmission patrol road. The road is an easement from Mr. Massey so it is not FP&L’s property. However, they would pave the entrance in the right-of-way of Old Mission Road and asked if that condition could be modified or removed.

Mr. Stockham clarified it was referring to the just the driveway apron onto Old Mission Road.

Mr. Coleman stated then they were good with all the conditions.

Member Russell asked if Staff would recommend approval if the conditions were agreed to.

Mr. Ashley, Zoning Planning Manager clarified that the Commission has a recommendation for approval on the floor. Staff does have reservations concerning approval and added these appropriate conditions to go with an approval. He asked for clarification from the Commission whether they were going to support both or only one of the sites.

Chairman Huttman stated that the applicant has agreed to the condition.

Mr. McNeil stated the distribution substations due, to State legislation that was passed recently, are a permitted use in all zoning classifications. When the station is needed and they come back to get the station approved, we will go through final site plan approval.

Mr. Coleman asked for three years instead of the 12 months to start construction.

Mr. Ashley stated Staff had no problem with the three years.

Short Recess

Mr. Stockham clarified some of the conditions, one being that the approval is limited to the electrical transmission switching substation and its location. Modifications to the plan are permitted in order to meet requirements. The paving is referring to the driveway apron onto Old Mission Road (County Road 4137) and it should be improved to current County standards. There may need to be County permits.

Member Lipke **MOVED** to **FORWARD** Case **S-08-010** to the County Council with a recommendation of **APPROVAL** with the 9 (nine) amended conditions. Member Severino **SECONDED** the motion. The motion **CARRIED** unanimously.

V-08-018 – Application of **John and Kathy Welch, Owners**, requesting a **Variance** for a front yard setback (17 ft. in lieu of the required 25 ft.) on R-4 (Urban Single-Family Residential) zoned property. The property is located on the west side of Grayson Street, approximately 152 feet north from its intersection with Minnesota Avenue; ±18,997 sq. ft. (Stockham) 7033-00-00-0200

Member Severino stated he has concerns that all the elements of the public notice requirements may not have been met. He stated on Saturday, he made an on site visit to the location and there was no sign posted as required for public notice.

Chairman Huttman inquired if that is an applicant responsibility or Staff.

Mr. Ashley, Zoning Planning Manger. He stated it was the applicant's responsibility. A poster is prepared with the request outlined, date and time indicated and then given to the applicant to post on their property.

John Welch, Owner. He stated he does have the sign on his front porch. It did come down just recently. He stated that there was an extension on the variance. He stated he has letters from the neighbors complementing him on the front porch and they would like to see it stay there.

Discussion continued as to where the sign is located.

Mr. Dyer stated that the due public notice requirements, requires the owner to post a sign at least 10 days prior to the date of each public hearing, a notice provided by the zoning enforcement official in a conspicuous place or places on or around such lot, parcel, or track of land that may be involved in a hearing and it shall remain in place until the final hearing. That would be today as it is a variance. The concern is that it was moved to the porch and technically the requirement has not been satisfied for the posting. This will cause a continuation. To avoid this again, restore the sign to where it would be in front of the property easily viewed by the public.

Chairman Huttman asked the applicant if he understood he needs to put the sign back up.

Mr. Welch answered yes he did.

Member Cornett stated that the applicant said he had letters from the neighbors stating they liked the porch and they wanted him to keep it. He inquired if Mr. Welch had letters from all the pieces of property that adjoin his property.

Mr. Welch answered that he does not as one is a rental from down south.

Member Severino stated that the public could challenge a decision made by the Commission by saying public notice had not been met and then it would put the applicant back into a hardship so this is a protection for the applicant.

Mr. Welch stated he sent certified letters with the notice of the hearing.

Mr. Dyer stated that is in addition to the sign posting. There is a defect with the notice that needs to be corrected for the next hearing.

Member Cornett inquired if there were any additional fees other than the applicant missing work.

Mr. Dyer stated the hearing would be continued to a date certain which is May 13, 2008 and no new notice would be required.

Member Lipke asked the applicant if he had seen the Staff Report that recommends denial.

Mr. Welch stated he has seen the Staff Report.

Member Lipke stated that the applicant may now have additional time, if needed.

Mr. Dyer stated that the sign needs to be reposted with the date of May 13, 2008, the notice mailing does not have to be repeated.

Member Severino **MOVED** to **CONTINUE** case **V-08-018** to May 13, 2007 PLDRC meeting. Member Sixma **SECONDED** the motion. The motion **CARRIED** Unanimously

PUBLIC ITEMS

NONE

STAFF ITEMS

Election of PLDRC Officers

Member Sigma nominated Member Severino for Chairman.

Chairman Huttman nominated Member Lipke for Chairman.

Member Lipke stated she would be interested and would like to continue to have Member Severino's contributions because as the Chair there is not the opportunity to contribute to the content. She stated that in terms of the dynamics of the Commission she considered Member Severino qualified to look at the detailed issues.

Member Severino stated he would accept the nomination if asked.

Member Cornett commented that officers are elected every year and historically have used the three positions as stepping stones in moving up, but it does not have to be that way. He stated he believes the members are an excellent group, thinking through issues and all are qualified to be Chair. However, when you are Chair, you lose some of the opportunity to participate in the content due to overseeing of the proceedings.

Mr. Dyer clarified that terms are for one year under the by laws. The officers can not serve for more that two consecutive one year terms.

Discussion continued in reference to the date to elect members to positions.

Member Huttman **MOVED** to nominate Member Lipke as Chairman and Member Severino as Vice Chairman and Member Russell as Secretary.

Mr. Dyer explained that this could be treated as a motion and would then be seconded and then voted. If it does not carry, it would reopen the floor for another nomination. There is no requirement to nominate a slate of individuals.

Member Russell stated he appreciates the nomination but preferred to have one more year not in an office even as the Secretary.

Member Lipke suggested that Member Sixma hold the office of Secretary.

Member Russell inquired if Chairman Huttman could move to the Secretary position.

Mr. Dyer stated it is a different position so it could be done.

Member Huttman recinds his motion.

Member Cornett **MOVED** to nominate Member Lipke for Chairman, Member Severino as Vice Chairman and Member Huttman as Secretary.

Member Sixma **SECONDED** the motion. The motion **CARRIED** unanimously.

COMMISSION COMMENTS

Member Russell stated that it does not happen often, but suggested that in the future when a situation occurs where conditions are brought up as a backup, as the eight conditions were today, if voted to approve, that Staff share the conditions with the Board members before the meeting. (Case S-08-010)

Chairman Huttman stated that sometimes there is a recommended of denial of the requested variance but approval for an alternative.

Scott Ashley, Zoning Planning Manager, stated there were no Staff recommendations for the case today due to the site conditions and environmental issues. He stated that in the case today, Staff provided alternatives for the case that Staff could support and John had the forethought to have conditions ready in case there was going to be an approval. However, there is no way to know until the hearing what the Commission will decide in the case. If denied, there would be no need to bring up the conditions. Since the case was going toward some type of approval, these were conditions Staff thought should be on the record to address the use to protect the integrity of the code and address issues in the future if the case goes through the Council for the site plan review process. He stated it addressed limitations on improvements and environmental aspects with the conservation easement. He stated that conditions of the property made this an unusual situation with it having 90% wetlands.

Mr. Dyer suggested if staff has a back up set of conditions, then have these ready to hand out if needed.

Member Cornett stated that if staff is going to present plan A and plan B to the applicant, then Staff needs to justify them to the applicant. However, it may not work well with the applicants.

Member Young stated that Staff did get the conditions out to the Board in a short amount of time. But it may not be a good presentation to the applicant.

Member Russell stated that if Staff had an alternate plan, it should be presented to the applicant before meeting and come to some resolution.

Member Young stated that some conditions were done during the meeting as Phase I instead of both Phases.

Mr. Dyer commented that he sees Staff's concerns, that if Staff is going to recommend denial, it does not become customary that Staff have an alternative plan. In this case Staff did know it could be a hard case, and Staff did prepare alternate criteria.

Mr. Ashley stated Staff did have discussions with the applicant prior to the meeting and they did do some map plan changes, but not to the significant level the Staff was looking for as it still had the two sites and did not show the amount of impact. Staff did not see the whole impact of the wetlands on the site from the applicant. The elimination of a site was not finalized until the meeting today. Staff considers similar cases from before and they did use a previous public utility case that involved FP&L and tailored the conditions to this particular property site and made additions from the meeting.

Member Cornett stated that the applicant made a comment about a State change in reference to Phase 2 concerning mandated utilities in any category.

Mr. Ashley stated he did not have that information.

Member Russell stated he understood the applicant to say that Phase 2 would be a done deal.

PRESS AND CITIZEN COMMENTS

NONE

ADJOURNMENT

Having no further comments from the public, staff or Commissioners, Chairman Huttman thanked everyone and adjourned the meeting at 11:29 a.m.