

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
December 11, 2007**

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 at 9:10 a.m.)
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

Continued to January 2008 hearing.

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: PUD-07-127
- Chairman Huttman: conflict on PUD-07-127
- Member Severino: PUD-07-127 and S-07-146

CONSENT AGENDA

Z-07-140 – Application of **Ty Harris, Storch Morris & Harris, LLC, Attorney for Owners, Albert and Anita Hutchinson, Owners**, requesting a **Rezoning** from the A-2 (Rural Agriculture) zoning classification to the RA (Rural Agriculture Estate) zoning classification. The property is located on the east side of Grand Avenue, approximately 700 feet south of its intersection with Turnbull Bay Road, near Sugar Mill Estates and the City of New Smyrna Beach; ± 5.74 acres (Ashley) 7303-00-02-0060 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Z-07-143 – Application of **Michael W. Howard & Sandra A. Griffitts, Owners**, requesting a **Rezoning** from the MH-3 (Rural Mobile Home) to the A-2 (Rural Agriculture) zoning classification. The property is located on the south side of Maytown Road at its intersection with Wright Grove Road, south of the City of Oak Hill; ± 6.5 acres (Stockham) 9412-00-00-0032 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Member Cornett **MOVED** to **FORWARD** cases **Z-07-140** and **Z-07-143** to the County Council with a recommendation of **APPROVAL**. **Case Z-07-128** to be stricken from the consent agenda and be heard with its companion case this date. Member Severino **SECONDED** the motion. Motion **CARRIED** unanimously.

CONTINUED ITEMS

Z-07-139 – Application of **Anthony W. Perricelli and Migdalia Perricelli, Owners**, requesting a **Rezoning** from the A-2 (Rural Agriculture) zoning classification to the A-4 (Transitional Agriculture) zoning classification. The property is located on the east side of Pineland Trail approximately 2,670 feet south of intersection with Harmony Avenue adjacent to the Ormond Beach Airport and I-95, abutting the City of Ormond Beach; ± 10 acres (Ashley) 4112-00-00-0120 and 4112-00-00-0121 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Chairman Huttman stated a request was made to continue the case for 60 days.

Member Sixma **MOVED** to continue case **Z-07-139** for 60 days. Member Severino **SECONDED** the motion. Motion **CARRIED** unanimously.

Z-07-063 - Application of **Karen & Richard Gilman, Owners**, requesting for a **Rezoning** from the A-1 (Prime Agriculture) zoning classification to the A-4 (Transitional Agriculture) zoning classification. The property is located on the north side of Duroc Drive, approximately 359 ft. west from its intersection with Yorkshire and Duroc Drive, near the City of Lake Helen; ± 9.76 acres (Stockham) **60-day continuance**

Member Lipke **MOVED** to continue case **Z-07-063** for 60 days. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

Z-07-076 – Application of **Glenn Storch, Storch Morris & Harris, LLC, Attorney for Owner, Hinrough LLC, Owner**, requesting a **Rezoning** from the A-2W (Rural Agriculture / Indian River Lagoon Surface Water Improvements and Management Overlay Zone) zoning classification to the A-3W (Transitional Agriculture / Indian River Lagoon Surface Water Improvements and Management Overlay Zone) zoning classification. The property is located on the east side of South US Highway 1 at its intersection with Kennedy Parkway, south of the City of Oak Hill; ±9.36 acres (Ashley) **30-day continuance requested**

Member Lipke **MOVED** to continue case **Z-07-076** for 30 days. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

Z-07-131 – Application of **Philip Cochran, Agent for Del Lago Ventures, Inc, Owner**, requesting a **Rezoning** from the R-4 (Urban Single-Family Residential) and B-4 (General Commercial) zoning classifications to the B-4 (General Commercial) zoning classification. The property is located on the east side of North Volusia Avenue, approximately 196 feet north from its intersection with New York Avenue, north of the City of Orange City; ± 1.76 acres (Zechnowitz) 8002-00-00-0330 **Cannot be heard – Due Public Notice**

Chairman Huttman stated this case was removed from the Consent Agenda.

Member Lipke **MOVED** to continue case **Z-07-131** for 30 days. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

PUD-07-032 – Application of **Carson Good, Contract Purchaser, Michael Marder, DeLand Hwy 44 Properties, LLC, Owners**, requesting a Rezoning from R-3C (Urban Single-Family Residential / Thoroughfare Overlay Zone) zoning classification to the DeLand Good Capital Group BPUDC (Business Planned Unit Development / Thoroughfare Overlay Zone) zoning classification. The property is located on the south side of State Road 44, at its intersection with South Kepler Road, north of the City of DeLand; ± 4.1 acres (Zechnowitz) **30 day continuance**

Member Lipke **MOVED** to continue case **PUD-07-032** for 30 days. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

V-07-142 – Application of **Rebecca Singleton, Agent for Owners, Eli and Bernie Fishpaw, Owners**, requesting a **Variance** to Section 600.01 *Nonconforming Lots* to separate parcel 7010-11-00-0110 from parcel 7010-11-00-0120 on R-3 (Urban Single Family Residential) zoned property. The property is located on the east side of Ewing Lane, approximately 133 feet south from its intersection with University Avenue, near the City of DeLand; ± 11,400 sq. ft. (Nagle) 7010-11-00-0110 and 7010-11-00-0120 **30-day continuance requested**

Member Lipke **MOVED** to continue case **V-07-142** for 30 days. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

V-07-121 – Application of **Bo Hawryluk, Agent for Owners, Corrado and Dominica DiPietro, Owners**, requesting a **Variance** to Section 801.01(a) for a swimming pool enclosure (2.5 ft. in lieu of the required 5 ft.) on R-4 (Urban Single-Family Residential) and R-6 (Urban Two-Family Residential) zoned property. The property located on the south side of North Ocean Aire Terrace, approximately 200 ft. west of its intersection with Ocean Shore Boulevard (State Road A-1-A), in the Ormond-by-the-Sea area; ± 6,750 sq. ft. (Zechnowitz) 3216-02-00-0340 **Cannot be heard – Due Public Notice**

Member Lipke **MOVED** to continue case **V-07-121** for 30 days per Staff recommendation. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

PUD-07-127 – Application of **Greg Duggan for Jordan Development, Contractor Purchaser, William Koch, Jr. and W. L. Kirk and J. Scott Kirk, Owners**, requesting a **Rezoning** from the A-3C(2) (Transitional Agriculture / Thoroughfare Overlay Zone /Activity Center), A-3(2) (Transitional Agriculture / Activity Center), I-1C(2) (Light Industrial / Thoroughfare Overlay Zone / Activity Center), and I-1(2) (Light Industrial / Activity Center) zoning classifications to the Victoria Pointe BPUDC(2) (Business Planned Unit Development / Thoroughfare Overlay Zone / Activity Center) and BPUD(2)

(Business Planned Unit Development / Activity Center) zoning classifications. This property is located on the southeast corner of S.R. 472 and Kentucky Avenue (CR 4101) extending east to the S.R. 472 and Interstate 4 highway interchange, surrounded by the cities of Deltona, DeLand, and Orange City; ± 71.2 acres (Ashley) 8106-00-00-0132 and 8106-04-00-0180 **Tentatively schedule for the December 20, 2007 County Council at 2:00 p.m.**

Member Lipke **MOVED** to continue case **PUD-07-127** for 30 days per Staff recommendation. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

NEW BUSINESS

PUD-07-144 – Application of **County of Volusia, Owner**, requesting a **Rezoning** from the City of Daytona M-2 (Light Industry), City of Daytona RP (Residential, Professional), and City of Daytona M-3 (General Industry) zoning classifications to the County DBIA MPUD (Mixed Use Planned Unit Development) zoning classification. The property is located on the north side of Beville Road (SR 400), approximately ½ mile from its intersection with Williamson Boulevard. The property is near a Daytona Beach fire station in the City of Daytona Beach; ± 95 acres (Ashley) 5236-00-00-0020 and 5236-00-00-0050 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Scott Ashley, Planning Manager presented the Staff Report. He stated subject property has gone through a major Comprehensive Plan amendment and adjustment to the airport DRI to accommodate the subject 95 acre site and development of a high-tech office and light industry, with access to Beville Road and Bellevue Road. The subject property is currently undeveloped and heavily wooded and adjacent to undeveloped City of Daytona Beach properties to the east and west. There is some industrial and residential land use property to the south. He stated there is an interlocal agreement between the City of Daytona Beach and Volusia County that the County would regulate uses and development around the airport. There will be no new impacts from this DRI to the community. Reserve building square footage and trip allowances within the existing DRI were shifted from other properties in the DRI to the subject property. Development is limited to 608 sq. ft. of building space and an average daily traffic count of no more than 5,308 trips. The mixed high-tech development park would have access through a new road having leased parcels. The County will retain ownership of the property. Instead of subdividing to create the individual lots, it will be on an as-needed basis for the actual user of the site. The lots will have a minimum size of 1 acre, but will be increased based upon the need of the user. Staff recommends **APPROVAL** subject to the conditions outlined in the Staff Report.

Matthew West, Ivey Planning Group, 1349 S. International Parkway, Lake Mary, FL represented Volusia County. He stated this project is supported and identified by the County's Economic Strategic Plan to utilize airport property for commerce, job generation and economic development. Last year County Council approved the land

use change from City land uses to County land uses. He stated a team, including traffic engineers, has been assigned to this project to make sure it meets code.

Member Cornett asked for clarification on the change from City to County zoning.

Mr. West confirmed it was the land use that had changed from City to County. Today's hearing was for the zoning change.

Member Lipke asked if there were leads for the leased parcels.

Pedro Leon, Business Manager, Volusia County Department of Economic Development, replied yes, subject to an appropriate plan and the discretionary approvals of the community.

Chairman Huttman inquired about comments from Traffic Engineering

Mr. West replied there will be a requirement in the Development Agreement to do traffic studies.

Member Sixma **MOVED** to **FORWARD** case **PUD-07-144** to the County Council with a recommendation of **APPROVAL**. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously.

Z-07-128 – Application of **Kelly Spiros, Owner**, requesting a **Rezoning** from the R-3 (Urban Single Family Residential) zoning classification to the RR (Rural Residential) zoning classification. The property is located on the east side of Edgewater Canal Road, approximately ½ mile north from its intersection with Massey Road, west of the City of Edgewater; ± 2.86 acres (Zechnowitz) 7430-05-02-0470 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Dave Zechnowitz, Planner III, presented the Staff Report. He stated that the subject property is located in an area of mixed use patterns. Adjacent properties to the south are zoned A-3 (Agricultural) with small farms on 1 to 5-acre tracts. The area to the north is zoned R-3 (Residential) and developed with a house on 6 acres. Development to the east and west consists of a mixture of single family dwellings and mobile homes on smaller lots. The applicant is requesting the rezoning to be able to request a companion Special Exception for a kennel. He stated a kennel is not allowed in the current R-3 zoning classification. If the zoning change is allowed, the subject property will provide a transitional buffer between the agricultural uses to the south and the residential uses to the north. Staff recommends **APPROVAL**.

Kelly Spiros, 1765 Edgewater Canal Road, New Smyrna Beach, Owner indicated she had a copy of the Staff Report and had no further comments.

Member Cornett **MOVED** to **FORWARD** case **Z-07-128** to the County Council with a recommendation of **APPROVAL** based on the Staff Report. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

S-07-129 – Application of **Kelly Spiros, Owner**, requesting a **Special Exception** for a Kennel on proposed RR (Rural Residential) zoned property. The property is located on the east side of Edgewater Canal Road, approximately ½ mile north from its intersection with Massey Road, west of the City of Edgewater; ± 2.86 acres (Zechnowitz) 7430-05-02-0470 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Dave Zechnowitz, Planner III, presented the Staff Report. He stated this request is the companion case to Z-07-128, generated by a code enforcement complaint. He explained the applicant describes the Special Exception as a cage-free dog daycare operating from her home. The dogs are allowed outside for supervised exercise and playtime. They are primarily kept inside. Barking is minimized because the dogs are supervised and controlled while outside. The proposal is to accommodate a maximum of 15 dogs per day with limited overnight stay with prior arrangements. Planned hours of operation are by appointment only. There will be no signs other than a dog-shaped mailbox in front of the house. No changes are proposed for the site. It will remain residential in character. The entire perimeter of the property is triple-fenced and heavily wooded on three sides, visible only from the cow pasture to the south. He stated according to the County Traffic Engineer the proposed use will generate approximately six two-way trips per day at maximum capacity of 15 dogs. This will not cause level of service problems for the thoroughfares in the vicinity. Staff received letters of no objection from the applicant's three adjacent neighbors. Staff recommends **APPROVAL** subject to the conditions outlined in the Staff Report.

Mr. Dyer explained the need for a Special Exception because the zoning code defines a kennel as premises with 5 or more domesticated pets.

Chairman Huttman inquired about the applicant exceeding the maximum of 15 dogs.

Mr. Dyer replied Special Exceptions can be revoked.

Kelly Spiros, 1765 Edgewater Canal Rd., New Smyrna Beach, Owner stated she understands the conditions recommended by Staff.

Mr. Dyer suggested the Dog Dayz Inn brochure be added to the Staff Report.

Member Cornett **MOVED** to **FORWARD** case **S-07-129** to the County Council with a recommendation of **APPROVAL** based on the Staff Report. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

OLD BUSINESS

NONE

VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

NEW BUSINESS

S-07-133 – Application of **Timothy and Patricia Cole, Owners**, requesting a **Special Exception** for Mobile home on RC (Resource Corridor) zoned property. The property is located on the east side of Rainbow Lake Lane, approximately 1 mile west from its intersection with Buckles Road, south of the Town of Pierson; 55.91 acres (Zechnowtiz) 5905-00-00-0050 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Dave Zechnowitz, Planner III, presented the Staff Report. He stated the subject property is located in the Black Bear Ranch, 46-lot, unrecorded subdivision. The subdivision contains two zoning classifications; Forestry Resource and Resource Corridor. Mobile homes are permitted in the Forestry Resource classification, but only by Special Exception in the Resource Corridor classification. The area development pattern consists of a fairly even mixture of single family and mobile home dwellings. The applicant's site plan depicts a mobile home to be located exceeding the Resource Corridor setback requirements. He stated this request is compatible with the surrounding area and consistent with the Comprehensive Plan policy outlined in the Staff Report. Staff recommends **APPROVAL**.

Timothy & Patricia Cole, 880 SW 20 Ct., Delray Beach, FL, Owners stated they are in agreement with the Staff Report.

Member Lipke **MOVED** to **FORWARD** case **S-07-133** to the County Council with a recommendation of **APPROVAL** based on the Staff Report. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously.

V-07-137 – Application of **Kris Gray, Owner**, requesting a **Variance** for a south front yard setback (19 ft. in lieu of the required 25 ft.) on R-4 (Urban Single Family Residential) zoned property. The property is located on the east side of Elizabeth Street, approximately 560 feet north from its intersection with DeBary Avenue, in the community of Enterprise; ± 7,445 sq. ft. (Nagle) 9106-03-05-0010

Christian Nagle, Planner II presented the Staff Report. He stated this area has a mix of single family homes, vacant lands, the Florida United Methodist Children's Home, and Enterprise Elementary School. The applicant is requesting a variance to construct a two story single family dwelling. Staff found special conditions and circumstances exist in that the subject lot is nonconforming in both area and width and the lot is a corner lot. These circumstances are not the result of the actions of the applicant. Literal interpretation of the provisions of the zoning ordinance would impose an unnecessary and undo hardship on the applicant and deprive him of rights commonly enjoyed by other properties in the same zoning classification. The requested variance is the minimum variance needed to make reasonable use of the property. Granting the variance is in harmony with the general intent of the purpose of the zoning ordinance

and should not be injurious to the immediate area. Staff recommends **APPROVAL** subject to two conditions. The first condition is the dwelling is a standard single family dwelling. The second condition is the proposed single family dwelling is constructed to face the front and Elizabeth Street, not the right of way of Livingston Avenue

Kris Gray, Owner, 1440 West Hartley Circle, Deltona, stated he understands the Staff Report and has no questions. He is trying to conform to a road from the 1800's, which is making it hard.

Member Cornett **MOVED** that case **V-07-137** be **APPROVED** based on recommendation of the staff. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

V-07-141 – Application of **Roger O. Davis, Owner**, requesting a **Variance** to Section 806.02 *Fences, walls and hedges* for a fence height (4' 11" in lieu of the maximum allowed 4 ft.) and (7' 11" in lieu of the maximum allowed 4 ft.) for the fence posts with lanterns on RR (Rural Residential) zoned property. The property is located on the West side of North Kepler Road approximately ¼ mile north from its intersection with State Road 44. The property is near the City of DeLand. ± 2 acres (Stockham) 7011-11-06-0041

John Stockham, Planner III, presented the Staff Report. He stated the property is surrounded by acre size single family homes that are part of the Lake Winnemissett Park rural subdivision with Lake Hammock frontage. Across Kepler Road to the northeast, is a house of worship, directly across from this site is Lake Charles Road which has access to an urban residential classification area. The City of DeLand was notified and had no comments. An expired fence permit was discovered when a neighboring property had a similar fence issue and research was done on the status of the permits for this property. He described the timeline of events between Code Enforcement and the owner. The setback requirement states that the existing columns, of which 2 have lights, shall be either demolished or physically lowered in height. The columns were constructed without a permit and against the regulation of the setback ordinance with regard to Section 806.02. The applicant has a self imposed hardship which is not a reason for a variance to be granted. Staff recommends **DENIAL** of both variance requests.

Mr. Dyer commented that each case stands on its own. Neighboring properties can be considered in relation to a right that is being commonly enjoyed by others in the same Zoning Classification.

Mr. Stockham showed the permit application for June 2, 2004 showing the fence line 4 ft. limitation.

Roger O. Davis, 280 N. Kepler Road, DeLand, Florida, Owner, explained he hired a contractor and expected them to do their job. He thought it was 4 ft. for the fence line. Then after 30 ft. he thought he could have a 6 ft. section. He had the lights placed on

the posts. The contractor for the fence pulled the permits and he did not do any of the work, the contractor did it all.

Member Cornett inquired he understands the fence structure is 4 ft. tall and part is sitting on a berm that is lower.

Mr. Davis answered as it goes down hill the fence is just over 4 feet.

Ms. Lipke inquired of staff how is it that we got to this point with a three year-old-fence and asked if a complaint was filed.

Mr. Stockham clarified this case is about the fence height and column height. The case came up when Code Enforcement went out to see the property to the north, they were made aware of this property. The permit was obtained in 2004. The final inspection was not performed, therefore the fence permit was cancelled. It did not come to the Code Enforcement as a compliant.

Member Severino asked if the fence itself was 4 ft. high, how are we getting from 4 ft. to 4 ft. 11 inches for the variance request.

Mr. Davis stated where the columns are the fence measures 4 ft. It is the berm where it goes over 4 ft.

Mr. Stockham answered it deals with the columns or posts exceeding the 4 ft. height but the fence is at the 4 ft. height. The road columns are 4 ft. 11 inches at the grade, the second columns closer to the house are 7 ft. 11 inches measured from the grade to the top of the lantern.

Member Severino asked if the variances, 4'11" and 7' 11" apply to the posts.

Mr. Stockham replied yes.

Mr. Dyer commented if the commission is inclined to grant the variance and to deviate from the staff report, relate the findings to the applicable five criteria.

Member Lipke added if denied, we would be denying him reasonable rights based on the other property owners in the area. He would have to tear it down and start over. There is reasonable judgment to make an exception. It would create an inappropriate burden to the home owner to reconstruct.

Member Russell asked if other properties in the Zoning Classification are enjoying these exceptions to the provisions.

Mr. Stockham answered he could conduct further research but could not comment at this time.

Member Russell said the diagram shows 31 ft. between the two columns front to back, and it was indicated there was a 40 ft. setback back off the right away required of a structure in excess of 4 ft. so he's about 35 ft. back. If he moved the rear columns another 5 ft. back, would he be in the area to construct at a higher height.

Roger Davis commented he put the light on the posts, he had understood the setback back was 30 ft.

Mr. Stockham stated the setback back is 40 ft. For fences, walls and hedges the rear and side yard height limit is 6 ft., the front yard limit is 4 ft.

Roger Davis added his neighbor has a fence similar to his but higher and he has a variance. He would appreciate the approval.

Ms. Robinson explained if the columns were back 40 ft. out of the front yard setback back, then they could be 6 or 7 ft.

Member Lipke asked if we deny the variance, what can the homeowner do.

Ms. Robinson answered he can appeal it to the County Council or lower the columns and added if the Commission makes a motion for approval, include the reactivation of the permit and obtaining a final inspection.

Member Cornett **MOVED** that case **V-07-141** be **APPROVED** based on hardship determinations of 4B, D, & E and the applicant reactivate the building permit for purposes of inspection. Member Sixma **SECONDED** the motion.

The applicant was then instructed how to reactivate the cancelled permit.

Motion **CARRIED** with a vote of 6 to 1. Member Severino opposed.

V-07-145 – Application of **Sunil Panchal, Applicant, Sunil Panchal and Swati Panchal, Owners**, requesting a **Variance** to Section 821.04, *Landscape Buffer Requirements*, to permit the required buffer yard along a thoroughfare overlay zone street to start at a point 40 feet from the centerline of Spring Garden Avenue in lieu of the required 70 feet starting point on B-4C (General Commercial, Thoroughfare Overlay Zone) and B-4 (General Commercial) zoned property. The subject property is located on the west side of SR 15-A (Spring Garden Avenue), in-between the intersections of Stevens Avenue and Talton Avenue, south of the City of DeLand; ± 1.12 acres (Stockham) 7018-14-03-0010, 7018-14-03-0040, 7018-14-03-0780

John Stockham, Planner III, presented the Staff Report. The subject property is currently undeveloped and contains specimen trees close to the roadways. The character of the area can be defined as a transportation and commercial business corridor that runs in a north/south direction with residential areas to the east and west. The criteria for determining and granting a variance regarding Zoning Ordinance 821.04

is the site is shallow measuring 175 feet in depth compared to most commercial properties that have a greater depth along thoroughfare roadways. This depth with required landscape buffers severely restricts the amount of developable area. Literal interpretation of the provisions of this ordinance would prevent the reasonable development of the building site that consists of parcels being combined to make one developable site. Increasing the overall width of the landscape buffer along 15A to 65 feet would severely restrict the site and make it difficult to fit other requirements such as the off-street parking, storm water management, etc. The variance, if granted would be the minimum variance that would make reasonable use of this land based on the site plan that has been submitted to the Land Development office. This need for the variance was discovered during the site plan review process. The granting of the variance will be in harmony with the intent and purpose of the zoning ordinance and Comprehensive Plan because the requirements of the thoroughfare overlay zone are set up to insure that there is unimpeded traffic flow as well as scenic and substantial landscape buffers. There is going to be a deep enough buffer of 35 feet. (Illustration Shown) The buffer will be wider than the 30 feet that the City of DeLand requires per the City's redevelopment gateway district. This site is subject to the redevelopment gateway district since it is on a thoroughfare, it is non residential and within a mile of the city limits. The intent of the County regulations and the City of DeLand requirements will still be met for the overall landscape buffer. The staff recommends **APPROVAL** of the variance with the following conditions:

1) The parcels that comprise the subject property shall be combined into one parcel through application to the land development office.

2) Approval of the variance plan is for illustrative purposes only, for location of the thoroughfare overlay zone landscape buffer. This does not approve or imply approval of the applicant's final site plan.

One phone call came in from a neighbor Jon Davies of 1440 Stevens Avenue, DeLand, who stated he was opposed to the variance.

Daniel Johns, 5889 South Williamson Blvd, the project engineer, stated he understands the Staff Report and has no questions. He added they are not asking for any variances for the building area or impervious areas only for something reasonable for the owner to be able to develop this site. There are not many vacant parcels left along 15-A.

Bob Sowers, 1004 West Talton Avenue, DeLand, stated he owns the property just behind the subject property which is zoned commercial and has been redeveloped. This is the first notice he has received. It appears it will be set back far enough that it will interfere with access into his property front and rear, from Talton and Stevens. He would like to have the opportunity to review the plans. On the overhead he indicated where his office and warehouse sits on his property behind the proposed property. The driveway radius coming out of the property may cause driveway access problems to his property.

Chairman Huttman clarified that the site plan may affect his access but the requested variance will not affect his access.

Mr. Sowers stated he has not had the opportunity to review the plans.

Mr. Stockham commented that driveway access is a traffic engineering item with the turning radiuses for the driveways and suggested that traffic engineering be contacted to determine how the driveway accesses will impact his property.

Ms. Robinson asked if the final site plan has been approved.

Mr. Stockham replied no site plan has been approved and this variance is part of the process.

Ms. Robinson added you can track the final site plan review through the Land Development office and the contact person is Palmer Panton. She added perhaps Mr. Sowers could get with Mr. Johns.

Chairman Huttman asked for clarification that Mr. Sower's concern is for the location of the driveway.

Mr. Sowers replied he may have other concerns also, but he is concerned with crowding the property line with the setbacks.

Ms. Robinson explained that these items need to be taken up with the engineer.

Mr. Johns commented that these concerns were brought up at the site plan initial review meeting about the location of the driveways and they are placed the minimum distance away from the highway that the county allows. The site plan review committee did realize that there will need to be adjustments when the variance to the landscape buffer in front is approved.

Member Severino **MOVED** to **APPROVE** case **V-07-145** subject to staff's conditions. Member Sixma **SECONDED** the motion. Motion **CARRIED** unanimously.

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; ± 5.2 acres (Nagle) 6037-04-00-0010 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

Member Cornett recused himself from this case because of a contractual relationship with the applicant.

Christian Nagle, Planner II, presented the Staff Report. He stated the property is located in a rural residential area with single family dwellings, vacant, and agricultural lands in the immediate area. The subject property currently includes public water supply wells, a small water treatment plant, a 2,000 gal. water storage tank and accessory structures, owned and operated by the City of DeLand. The Special Exception is requested to allow the replacement and expansion of current facilities for City of DeLand water customers. According to the applicant, improvements will also allow interconnection of public water supplies and provide a potential connection point and water blend site for possible future alternative water supply sources. He noted the subject property has been cleared without the proper Tree Removal Permit and if the request is approved the applicant will be responsible for compliance with tree replacement and protection requirements of the Land Development Code. He stated this request does comply with the applicable Comprehensive Plan policies. He displayed and discussed the proposed site plan, using the overhead monitor. The proposed setbacks exceed the requirements of the A-2 Classification. If this request is approved, landscape buffers will also be required on the site perimeters. Fire Department comments indicated site access will also need to be improved. He stated the Special Exception request is consistent with the purpose and intent of the Zoning Ordinance and Comprehensive Plan. With adherence to Land Development Code and Zoning Ordinance requirements, granting the variance with staff's recommended conditions should not adversely affect the public interest, create undue traffic congestion, or create a public nuisance or public hazard. It should not materially alter the character of the immediate area. Imposition of appropriate Special Exception conditions will help to protect and improve the site's scenic appearance and land use compatibility. Staff recommends **APPROVAL** subject to seven recommended conditions outlined in the Staff Report..

Brad Blais, Quentin Hampton Associates Inc, Agent for City of Deland, stated no objection to Staff Report. He commented the water quality testing showed an absence of hydrogen sulfide in the water source. However, he stated the importance of building the water tank structure with the aerator. It is difficult to retro-fit an aerator in the future. He stated no proposed chemicals stored on site will present a public hazard. The water pump stations will be insulated, enclosed and air-conditioned, with no noise impact. There may be some noise associated with the emergency generator should it be in use.

Member Lipke asked for clarification on the high-pitch whining associated with the water pump station.

Mr. Blais explained the pumps will be completely enclosed and insulated within the new structure, meeting standard residential noise limits. The new proposed construction, replacing the original 1970's structures, will meet all current standards.

Member Young asked how lighting will affect adjacent property owners.

Mr. Blais replied lighting will be kept at a minimum. It's an unmanned facility, with maybe one truck per day to check on things. It will be monitored with cameras, telemetry, and intrusion alarms. He clarified there will be no water filtration at this site.

Mr. Nagle mentioned the Staff-recommended Condition #4 addresses the site lighting.

Member Young asked for clarification whether the facility would actually be a water treatment plant or a water supply plant.

Mr. Blais replied the nomenclature is water plant for a facility where chemicals are injected and aeration is employed. This facility will be storing and injecting chlorine within enclosed buildings and in accordance with applicable rules and regulations. The amount of chlorine on site will be under EPA thresholds.

Jim Dearing, 4730 N. Tomoka Dr., DeLeon Springs owns the property diagonally across from the subject property. He stated his opposition, citing noise, wildlife, traffic, child safety and security issues. He also felt property values will be lowered in his opinion. This project will change a rural residential area into an industrial area. He objected to the clearing and tree removal which makes the existing water plant very visible.

Russell Fuss, 4738 N. Tomoka Dr., DeLeon Springs lives directly across the street. He stated his opposition, citing the intent of Rural A-2 zoning and concerns with paving, lighting, effect on residential wells and natural springs, sinkholes, noise, odors and visibility. He suggested the vacant 30-acre site to the north as a better location for the water plant.

Chairman Huttman asked Mr. Fuss if he was on city water.

Mr. Fuss replied no. He has a well.

Member Young asked for an aerial view on overhead to ascertain Mr. Fuss' residence in reference to the subject property which Mr. Nagle displayed on the overhead.

Discussion ensued to point out the vacant 30 acres mentioned by Mr. Fuss.

Pauline Payne, 2415 Whooping Crane Dr., DeLeon Springs stated her opposition in agreement with previous speakers. She feels the project is not suitable for the neighborhood.

Joyce Barclay, 2425 Whooping Crane Dr., DeLeon Springs pointed out she suffers with the current noise from the existing water pumps. She agrees with previous speakers and is already experiencing sulfur in her water. If the request is approved she said it will severely and negatively affect her quality of life.

Mr. Blais addressed the public's concerns by stating the City intends to maintain the character and quality of the area. For that reason, the City will not impact the 30 acre site to the north. There will be no additional traffic after construction. The new facilities will actually decrease the noise. He stated again no hydrogen sulfide has been detected in water testing. If present in the future, the proposed aerator can address it with carbon treatment. The dirt access road can remain if the County allows. Additional parking is not needed, unless the County requires it. Height of the proposed water tank can possibly be lowered. The site plan and buffers can possibly be modified with neighbors in mind. Residents in Tomoka Woods are already on City water and the City of DeLand water main already exists to this site.

Member Young asked about the effect on nearby wells.

Mr. Blais replied the proposed water withdrawals will not cause adverse impacts to existing water users. The level of water draw down is subject to Water Management District restrictions. Extensive ground water modeling has been performed for the entire region in association with the City's consumptive water use permit from SJRWMD.

Chairman Huttman asked if a meeting was held with the homeowners.

Mr. Blais replied not yet. A neighborhood meeting would be planned for the future, at the site plan development point. He restated the position that relocating the proposed water plant to the 30 acres would have much more of an environmental impact on the neighbors and objection by the County's Environmental staff.

Chairman Huttman suggested a continuance to allow the applicant to meet with neighbors. He raised the question about the lack of environmental review on the proposed site.

Mr. Nagle pointed out if the Special Exception is approved, site plan review will involve an environmental review. Also, some of the Land Development Code requirements may be waived or modified by the Development Review Committee, as part of the final site plan approval.

Mr. Dyer reminded the PLDRC they have the authority to impose reasonable conditions on granting any Special Exception, however there is a process in place to deal with Land Development and Zoning codes. The conditions outlined in the Staff Report have been crafted not to conflict with any existing provisions. Site plan issues will be dealt with at a later stage, if the special exception is approved.

Chairman Huttman, Member Severino and Member Russell agreed a 30-day continuance would be appropriate to allow the applicant to meet with concerned neighbors.

Ms. Robinson asked for Mr. Nagle to be invited to such a meeting and reminded the applicant such a meeting would need to occur quickly. She also offered to provide meeting space in the Building & Zoning office.

Member Russell suggested a 60-day continuance and suggested the applicant look at relocating the project further away from residential development.

Mr. Blais replied the 30-acre site is environmentally sensitive, while the existing water plant site has less impact than building two homes on the property. He stated he would prefer a 30-day continuance.

Member Young **MOVED** to **CONTINUE** case **S-07-146** for 30 days. Member Severino **SECONDED** the motion. Motion **CARRIED 5-1**. Member Lipke opposed. Member Cornett abstained.

Mr. Dearing complained to the PLDRC that notification was not given to everyone in the subdivision.

Ms. Robinson explained that the Zoning Ordinance requires notification only to adjacent property owners. The property was posted with a large, orange sign and the meeting information was listed in the newspaper.

OLD BUSINESS

S-07-098 – Application of **Florence Ridley & Steve Scheurer, Agents for Owner, Marilyn Ford, Owner**, requesting for a **Special Exception** for a Farm Worker Living Facility on the MH-3 (Rural Mobile Home) portion of the MH-3 (Rural Mobile Home) and RC (Resource Corridor) zoned property. The property located on the west side of Volco Road, 1.6 Miles from the intersection with U.S. Highway 1, located south of the City of Edgewater; ± 5.1 acres (Stockham) 8423-00-00-0010 **Tentatively schedule for the January 17, 2008 County Council at 2:00 p.m.**

John Stockham, Planner III, presented the Staff Report. The subject property is a nonconforming lot because the MH-3 portion contains less than required 5 acres. The site is developed with multiple buildings and structures including a single family log home, 3 barns, and mobile home. The land pattern of the surrounding area consists of agriculturally zoned parcels, mobile home zoned parcels, and environmental system corridor lands. The applicant is requesting a Special Exception for a Farm Worker Living Facility on the MH-3 portion of the property. The owner is seeking this use to help operate and maintain a horse, goat and chicken farm. There is a companion case V-07-124 to address the 100 ft. setbacks and the 2.31 acre site instead of the 5 acre requirement of the MH-3. The property has been cited by the Code Enforcement Board for construction of the Farm Worker Facility without permits. The mobile home is the subject of this Special Exception. The City of Edgewater was notified and has no comment. The Environmental Management Division was notified and reported that the new mobile home on the site appears to encroach into a required 50 ft. upland buffer.

Any approvals may require the mobile home to be relocated in order to comply with the county wetland avoidance and minimization requirements and possibly require a wetland alteration permit in order to keep the facility in the current location. Staff recommends **APPROVAL** subject to the conditions listed for the farm worker living facility.

- 1) Companion variance case V-07-124 must be approved.
- 2) This exception is only effective as long as the property maintains the Agriculture Exception as determined by the Property Appraisers office.
- 3) The applicant shall operate and maintain the proposed use in accordance with the requirements of section 817 Farmer Worker Living Facility of Zoning Ordinance 80-8, as amended.
- 4) The applicant shall obtain all applicable building permits for the mobile home dwelling including any wetland alteration permits
- 5) The Farm Worker Living Facility is limited to the existing mobile home. If the mobile home is demolished or removed from the property then a maximum 900 sq. ft. comparable modular or mobile home dwelling shall be the only type of structure eligible to replace it.
- 6) Since existing vegetation is not adequate on the site to screen the facility from the north, per the county plant list a ratio of, 4 group A trees, 4 group B trees, and 27 group C or D plants per 100 linear ft. shall be added in a landscape buffer of at least 10 ft. wide. The buffer shall be installed along the open portion of the northern property line.

Steve Scheuer, 1045 Lemon Blvd, DeLand, Agent for the Owner, stated he understands the Staff Report and has no questions.

Member Cornett **MOVED** to **APPROVE** case **S-07-098** based on the Staff Report. Member Russell **SECONDED** the motion. Motion **CARRIED** unanimously.

S-07-122 – Application of **Michael Whaley and Sully Ferritto, Owners**, requesting a **Special Exception** for a Temporary Campsites for 3 days before, during, and 3 days after any regularly scheduled racing event at the Daytona International Speedway for Speedweeks, Biktobberfest, the Pepsi 400, and Bike Week on A-2 (Rural Agriculture) zoned property. The property is located on the north side of U. S. Highway 1, ± 3,200 feet west of its intersection with the Interstate Highway 95, near the City of Ormond Beach; ± 2.6 acres (Nagle) 3126-00-00-0150

Christian Nagle, Planner II, presented the Staff Report. He stated the surrounding area contains vacant land, industrial land and a mobile home park. The Special Exception is to obtain a 5-year permit for temporary campsites and vendor spaces for related events, with security, portable toilets, garbage disposal and potable water provided. The applicant has proposed 39 vendor spaces on the property and 12 camping spaces. He displayed a conceptual site plan on the overhead and discussed the proposed layout. Zoning Ordinance 80-8, as amended, is clear that temporary campsites must be the primary use of the property and sales are allowed as part of the

Special Exception, if approved. Staff found the primary purpose of this application to be retail sales by vendors, and not a temporary campground. The conceptual site plan indicates only 25% of the property devoted to campsites. The A-2 zoning classification does not allow retail sales as a permitted or Special Exception use. He stated this application is not consistent and is contrary to the intent of the A-2 zoning classification. It is also contrary to the requested Special Exception use. According to the Comprehensive Plan, lands in this urban low-intensity land use designation are designed to be used primarily for low-density residential units and, with proper zoning, for neighborhood commercial convenience uses. The requested Special Exception does not provide for these. He stated the Staff Report also addresses the applicable policies of the Comprehensive Plan. Staff finds the request inconsistent with these policies. He elaborated on other inconsistencies. He stated County Traffic Engineer, John Cheney commented the proposed use may generate 1,347 additional net daily trips on US-1 and a Transportation Impact Analysis will be required. His comments further stated without the review of a TIA his office cannot support the request due to potential traffic volume and safety concerns. Captain Norris, with the Volusia County Sheriff's Office, expressed safety and parking concerns in his comments with regard to this request. Various Volusia County departments had concerns about wetland buffers on the site, specific driveway requirements and traffic flow within the site. After reviewing the criteria set forth in Section 1104.00(h) of the Zoning Ordinance and for all the reasons mentioned in the Staff Report, Staff recommends **DENIAL** of this application.

Jim Morris, Storch, Morris & Harris, LLC, Agent for Owner, asked for a copy of the A-2 Zoning language to be displayed on the overhead. He expressed opposition to Staff's interpretation of the Ordinance regarding proportional balance between campsites and vendors. He contended Staff's interpretation is not supported by the language of the zoning code. He mentioned another temporary campground site with an approved Special Exception between the proposed site and Destination Daytona. He pointed out no objection was received from the City of Ormond Beach. He stated the applicant has no objection to a Traffic Impact Analysis. He pointed out a median break on U.S. Highway 1 just north of the proposed site that can be utilized for U-turns. He contended Sheriff Dept. and Traffic Engineering comments refer to a U-turn site even further to the north. He contended Volusia County Environmental Dept. did not actually object to the application. He stated in their comments, the Health Dept., Emergency Services, Development Engineering, and Land Development had no objection. Staff's comments regarding the site plan do not supersede the requirement to actually go through a site plan review. He stated if the Special Exception is approved, the applicant is tasked with a Traffic Impact Analysis and site plan review. Mr. Morris stated staff's report addresses Comprehensive Plan policies which apply to permanent land uses, not temporary uses. He contended the request does conform to the Special Exception criteria of Section 1104.00(h) of the Zoning Ordinance.

Chairman Huttman asked Staff if approval of the Special Exception is approval of the use for temporary campsites, not necessarily approval of 39 vendor sites and 12 campsites.

Ms. Robinson explained that on previous temporary campground Special Exception applications that are recommended for approval, the Commission recommends the number of campsites in the Special Exception and accompanying 17 to 20 conditions and a site plan. There is an inventory of temporary campsites out there that are approved for X-number of campsites that must conform to that plan. Minor modifications can be made during site plan process, but the conceptual plan, at final stages, is to conform substantially to the Special Exception Plan.

Further discussion ensued about the rear yard setback issues, the interpretation of A-2 zoning and intended use of the proposed site.

Mr. Dyer clarified the authority of the County Council, to grant a Special Exception, reiterated definitions and the four reasons staff is recommending for denial for denial of this request.

- 1) It is inconsistent with the purpose intended of the ordinance, which would be the Zoning Code.
- 2) Inconsistent with the Comprehensive Plan.
- 3) It will adversely affect public interest.
- 4) The applicant will not be able to meet the requirements imposed by the County Government referring to the Zoning Code

Ms. Robinson recommended the Sheriff's Dept. and Traffic Engineering representatives speak on this request and their written comments.

John Cheney, Volusia County Traffic Engineer, presented aerial photos and stated the proposed traffic signal at Love's Travel Plaza has not yet been resolved with DOT. He stated there are various issues with pedestrian crossings, traffic patterns and U-turns in the area of Love's & Destination Daytona which will adversely affect the public interest and generate undue traffic congestion.

Chairman Huttman asked if the Traffic Impact Analysis would consider peak traffic characteristics or average daily.

Mr. Cheney replied the Traffic Impact Analysis would be done under the conditions of a Bike Week, Special Event, etc.

Captain Rocky Norris, Sherriff's Dept. Special Services Unit, agreed with Mr. Cheney. He explained various efforts to keep traffic flowing north on US Highway 1 and on Highway I-95 during special events so I-95 doesn't back up.

Mr. Cheney mentioned the Ormond Crossings DRI has been approved. They have a Development Order and he asked for the project to be considered in the Traffic Impact Analysis he recommended that the applicant perform a Special Exception for the temporary campsite.

Chairman Huttman asked if they are looking at a new applicant or a renewal?

Mr. Morris asked the PLDRC to look at neighboring Moonshine temporary Campground. They are approved, but the applicant has a better site for a temporary campground. He stated the applicant would consider a Special Exception Approval for less than the 5 years requested.

Member Young and **Mr. Morris** discussed the definition of campground, from the Zoning Ordinance as amended.

Mr. Dyer pointed out it is appropriate to ask for 39 proposed vendors as part of the Special Exception request.

Chairman Huttman stated the existence of 39 vendors on the property would cause the traffic problems.

Mr. Morris replied he would consider approval of the Special Exception with fewer vendors.

Ms. Robinson clarified temporary campgrounds are not subject to final site plan review. She cited other temporary campgrounds patterns of number of camping sites vs. number of vendors. She stated the zoning code refers to temporary camping, not temporary vending or sales. She has concerns about recommending the Special Exception to County Council without the traffic study, and suggested a 90-day continuance of the application.

Discussion ensued regarding Land Development Manager Palmer Panton's comment memo and any proposed permanent improvements to the site.

Captain Norris elaborated on the danger of traffic backups in the area. The I-95 interchange was built in 1965 and is already dangerously outdated for dealing with the volume of cars, trucks, motorcycles and pedestrians. He suggested the proposed site would need its own access road and egress road to promote safety in this area of US-1.

Member Severino asked if a site plan review can be a condition imposed by the Board.

Ms. Robinson replied yes, as well as limiting the number of campsites and vendors.

Member Cornett elaborated on the history of temporary campgrounds, the reason for them and the process of approval. Historically, when permitted, it is for an initial one-year period. He stated the amount of vendors in this request is taking County policy in a different direction.

Mr. Dyer stated his opinion that the number of vendor sites on the site plan needs to be addressed by the PLDRC.

Mr. Morris at this point asked for a 30-day continuance to confer with Zoning Staff on the site plan and obtain the traffic study.

Member Severino **MOVED** to **CONTINUE** case **S-07-122** for 30 days. Member Lipke **SECONDED** the motion. Motion **CARRIED** 6-1. Member Cornett opposed.

V-07-124 - Application of **Florence Ridley & Steve Scheurer, Agents for Owner, Marilyn Ford, Owner**, requesting a **Variance** to Section 817.00(k)(3) *Special Exceptions. Farm Worker Living Facility* for a north side yard setback (35.9 ft. in lieu of the required 100 ft.) and a south side yard setback (88 ft. in lieu of the required 100 ft.) and to Section 817(k)(9) for size of the MH-3 portion (2.31 acres in lieu of the required minimum 5 acres) on the MH-3 portion of the MH-3 (Rural Mobile Home) and RC (Resource Corridor) zoned property. The property located on the west side of Volco Road, 1.6 Miles from the intersection with U.S. Highway 1, located south of the City of Edgewater; ± 5.1 acres (Stockham) 8423-00-00-0010

John Stockham, Planner III, presented the staff report. This case deals with setbacks. The hardships of the property are that it is narrow and that makes the setbacks difficult and the Resource Corridor has the wet land soils. Staff recommends **APPROVAL** subject to the approval and conditions in Case S-07-098.

Steve Scheuer, 1045 Lemon Blvd, Deland, Agent for the Owner, stated he had no questions and that Ms. Ford will comply with the tree buffer requirement and will maintain the farm worker facility as it is designed.

Member Lipke **MOVED** to **APPROVE** Case **Z-07-124** including the conditions and based the Staff Report. Member Russell **SECONDED** the motion. Motion **CARRIED** unanimously.

PUBLIC ITEMS

NONE

STAFF ITEMS

NONE

COMMISSION COMMENTS

Chairman Huffmann raised the question as to the difficulty of changing a definition in the Zoning Ordinance for Special Exceptions.

Ms. Robinson replied Section 817 of the Zoning Ordinance has standards for different special exception uses and there may need to be a higher standard of review.

Mr. Dyer commented there may be a need to interrupt the Zoning Code. The fact that the Special Exceptions for the A-2 Zoning District specifically provides for an approval as part of the Special Exception process for sales indicates there is clarity. The County Council has the authority to approve sales on a case by case basis applying the criteria for Special Exceptions. It can be amended further. The commission does have the authority, parameters and the discretion to use to address the issue of sales.

Member Russell asked if using the word majority would insinuate that is the majority of the operation.

Mr. Dyer replied that there is the option of amending.

Member Severino asked referring to Member Lipke's question concerning what is the process for amending the code regarding fences?

Mr. Dyer answered the County Council can amend the zoning ordinance. Staff can initiate changes to the zoning code.

Ms. Robinson stated that you must be careful about the outcome of changing a the fence ordinance that could allow for example a 6 foot stockade fence in a front yard and that could potentially create other problems such as visibility for neighbors or traffic. Unintended consequences can arise from a zoning change.

Member Young stated it could also create safety hazard.

Mr. Dyer added the excuses heard from homeowners is that they paid a contractor to do a job and they did it wrong. Professionals are suppose to build a structure in accordance with the code and did not. The owner has the remedy to pursue the contractor to make it right. Instead they are coming to the county to ask for a variance to make it right. The problem may not be the code, but the structure not being built in accordance with the code.

Member Russell added the mistake did benefit the owner.

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 1:05 p.m.



Gary Huttman, Chairman



Taver Cornett, Secretary

4/8/08

Date

4/8/08

Date