

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
April 10, 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 left at 11:36 a.m.
STONY SIXMA not present
JOSEPH RUDOLPH
JEFF GOVE

STAFF PRESENT

JAMIE SEAMAN, 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
DARILYNN MARTIN, Recording Secretary

APPROVAL OF MINUTES

Approval of the March 13, 2007 Minutes

Member Rudolph **MOVED** to **APPROVE** the minutes for March 13, 2007. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

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.

Jamie Seaman, 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.

CONTINUED ITEMS

Z-07-026 – Application of **Jean Clinton and Scott Numbers, Applicants, Jean Clinton, Owner**, requesting a **Rezoning** from the MH-3 (Rural Mobile Home) zoning classification to the MH-4 (Rural Mobile Home) zoning classification. The property is located on the east side of Beacon Light Road, approximately 900 feet from its intersection with Volco Road in the community of Edgewater;±1.50 acres (Stockham) **Due Public Notice – 30 day continuance**

Member Lipke **MOVED** to continue case **Z-07-026** for 30 days. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

CONSENT AGENDA

Z-07-027 – Application of **Thomas and Dianna Bechtol, Owners**, requesting a **Rezoning** from the A-1 (Prime Agriculture) zoning classification to the A-2 (Rural Agriculture) zoning classification. The property is located on the east side of East Avenue, approximately 1,329 feet

south from its intersection with Spring Garden Ranch Road, in the community of DeLeon Springs; ± 5.07 acres (Stockham) **Tentatively scheduled for the May 24, 2007 County Council public hearing.**

Member Cornett **MOVED** to **FORWARD** consent agenda case **Z-07-027** to the County Council for **APPROVAL**. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

NEW BUSINESS

NONE

OLD BUSINESS

PUD-07-021 – Application of **Mark Dowst, P.E., Mark Dowst & Associates, Inc., Agent for Owner, Charles Strasser, Manager, WSF, LLC, Owner**, requesting a **Rezoning** from the A-2 (Rural Agriculture) zoning classification to the WSF BPUD (Business Planned Unit Development) zoning classification. The property is located on the west side of Destination Daytona Lane, approximately 1 mile from its intersection with U.S. Highway 1. The property is adjacent to Destination Daytona in the community of National Gardens, north of the City of Ormond Beach; ± 34.83 acres (Stockham) **Tentatively scheduled for the May 24, 2007 County Council public hearing.**

John Stockham, Planner III, stated there was an updated memo and Development Agreement (DA), which he handed out to the members. He then presented the Staff Report. He stated the proposal is for an off-street parking lot that will serve Destination Daytona and the Strasser MPUD site, and stated that the original proposal included a 6,000 square-foot warehouse. The subject property is situated in an area of agricultural land, various PUD's, residential land, and wetlands. The Plantation Bay RPUD is to the north, the Strasser MPUD is to the east, and the MH-4 zoned lands are to the west, and those will prospectively be rezoned to MPUD. The city limits of Ormond Beach are located to the south. With regard to land use considerations, he stated that the subject application for the BPUD is unique in the fact that the principal use proposed is a parking lot that will mainly be used for overflow parking. The proposed Development Agreement lists the existing communication towers and the 6,000 square-foot building as the structures that would be on the site. However, the original proposed use of a warehouse is typically found on Industrial or Heavy Commercial zoned lands, and would not normally be found in the Urban Low Intensity (ULI) Future Land Use, which is what this site is. Also, the proposed off-street parking use is not a typical use found on ULI. Some level of parking may be appropriate if the use is consistent with the intensity levels commonly found on ULI properties. A typical project scope that had a 4 unit per acre housing development would have a typical lot coverage of 40%, which would include the principal and accessory structures, as well as the impervious surface of the roadways and driveways. Therefore, the Comprehensive Planning office and Zoning office agree that a 40% impervious lot coverage would be proposed for this site. He stated that is why there is an updated memo, because as

originally submitted, this site was well over the 40% lot coverage. He stated 40% lot coverage would compute to about 12 acres of off-street parking, which is more consistent with the ULI land use category. With regard to Comprehensive Plan policies, he stated that floodplain acreage will be impacted by the proposed site plan, which is discouraged by the Comprehensive Plan. He explained that typically, the non-residential uses allowed by ULI would be neighborhood convenience stores or individual offices but not warehouses. That is why Staff recommended that the warehouses be taken out. If the applicant wanted to keep the plan as originally proposed, Staff would recommend that they go through a Future Land Use map change to Commercial from Urban Low Intensity. He then put the revised Master Development Plan on the overhead projector. He stated that comments from Traffic Engineering concluded there would not be Level of Service (LOS) problems on a regular basis, with this proposed use. He stated the applicant has told Staff that the overflow parking will mainly be during Bike Weeks, Speedweeks, Biketoberfests and other large special events that take place on the site, and would not be used on a weekly basis. He stated that the Environmental Management Division (EMD) requested that if this PUD is approved, that a condition be included that requires changes to the Development Agreement that address additional environmental considerations such as: the DA should state that all remaining wetlands and buffers be placed in a recorded conservation easement in order to ensure the protection of these wetlands in perpetuity. The Environmental Management Division (EMD) is concerned that there is no mention of specimen or other tree preservation requirements, and no mention of threatened or endangered species that may occupy the subject property. With regard to the DA, Staff has added language for the conservation easement and they would like to see the developer submit an environmental report with regard to listed species. He stated that Staff's original recommendation was for denial because they did not find the request consistent with the Comprehensive Plan due to the proposed warehouse use and the lot coverage being in excess of 40%. However, as stated in the updated memo, Staff finds that with the changes of materials, the revised lot coverage to 40%, and the elimination of the warehouse buildings, Staff can now recommend approval. He stated the lot coverage would be 11.87 acres of the 35-acre project. It would include paved parking which could have a hard surface of shell, crushed concrete, or asphalt, and areas of paved drive lanes further to the north. Also, all grass overflow would be up against a 30-foot buffer next to the Plantation Bay RPUD to the north. The areas that would have the paved drive lanes would have grass parking. There will also be stormwater ponds and two communication towers on the site. He stated the applicant is proposing to use trams or busses to transport the people who park there over to Destination Daytona and the other locations within the Love's / Having Fun BPUD and Strasser MPUD. Staff recommends **APPROVAL** of the request, subject to the recommended revisions to the proposed Development Agreement as well as the revised Preliminary Plan that is in the update packet.

Jim Morris, Storch, Morris & Harris, 420 S. Nova Road, Daytona Beach, here on behalf of Applicant Mark Dowst, stated the drawing being shown on the overhead projector shows this request in relation to Destination Daytona, the Love's / Having Fun BPUD, as well as the Strasser MPUD. He stated the only entry to this property will be via Destination Daytona Drive. Mr. Stockham pointed out the boundaries on the site plan (being shown on the overhead projector) while Mr. Morris explained them. Mr. Morris stated he and his clients are in agreement with Staff regarding putting conservation easements on the wetlands within that

boundary. He stated he thought Staff's request had been to go outside the boundaries of the BPUD and place easements on wetlands that are outside the boundaries, and he and his clients do not agree with that. However, as far as the BPUD boundaries are concerned, they do agree that should be done. With regard to the floodplain issue, he stated that all development standards for floodplain construction will be met. He stated they would like the ability to keep the A-2 uses on the property, and added that the Development Agreement does not require that the property be paved. It could be used in such a way that it could have agricultural purposes the rest of the year. He then had Mr. Stockham put photos up on the overhead projector as he explained where Lot 10 is (for Daytona Int'l Speedway), which showed the signage marking the different parking areas, and also further down Bellevue Ave., to the west, where one of the main entry drives is. He stated what you see there is stabilized dirt and limestone, and that property is used for agricultural purposes for most of the year when it isn't being used for large events. He stated the property before the PLDRC this morning in the WSF BPUD is similarly situated in that regard. It is remote from Destination Daytona and the other uses for the normal loads, but when you have the larger trip generators during Bike Week especially, it will provide parking, but otherwise that won't be the case. He stated the bottom set of photographs are of the Flea Market, which has a use of 3 or 4 days per week. He explained that the Flea Market has paved drives and some trees planted along the way, but they don't have landscaped islands. From the standpoint of the Staff requirement to have landscaping, he stated they don't have disagreement with providing normal landscaped islands as normally provided in paved parking, but for those areas that are just grassed and stabilized, what they would like to do is not interrupt the area available for parking with landscaped islands. He had Mr. Stockham put the map of the Destination Daytona site as well as the parking area on the overhead projector. He stated they feel the exterior view of the site is effectively buffered by the existing communication tower, stormwater pond, wetlands, and the design of the property. He stated that Plantation Bay is immediately to the north, and there is property to the west that isn't developed yet, which has wetlands. There is also a preservation area in the Strasser MPUD to the east, so you have exterior buffering. He stated that by and large they are in agreement with Staff, however, they would like to preserve the A-2 uses, which tends to discourage paving the parking area. Also, with regard to having landscaped islands in the areas that are not paved, they think that hurts the efficiency of the use of the property, and it wouldn't serve a useful purpose when you consider that it's all open grassed-in area anyway, and that the exterior impact is virtually non-existent because of the situation of the property. So, with those modest differences of opinion, they agree with the Staff and they respectfully request a recommendation of approval with the changes he has suggested.

Chairman Huttman asked if the trams would be internal.

Mr. Morris replied yes, they will all be internal, and the tram will be similar to what the Speedway uses for their tours.

Member Rudolph asked Mr. Morris if he had any concerns with the revised Development Agreement.

Mr. Morris replied he had concerns with two things. The first one is the strike-through of the A-2 uses in the Permitted Uses category. The second one is the requirement to place landscaped

islands in the unpaved portions of the property. He stated that his client and Staff have had difficulty in finding the proper terminology to differentiate between paved parking surface and surface that is not paved. The reason for the difficulty is that the stormwater rules sometimes have different meanings for the same words used in the Land Development Code. He stated there is talk about hard surface and so on, but basically, there is some parking that could be paved, and there is other parking that would not be paved. His suggestion to the board is that the parking areas that aren't paved (that are basically open grassy fields) should not be required to have landscaped islands, and where they are paved (such as formal parking areas) the requirement for a landscaped island is appropriate.

Member Gove asked if the landscaped islands would have to be created.

Mr. Morris replied yes. He then had Mr. Stockham put an aerial photo of the site on overhead projector.

Member Rudolph wanted to know if there were any trees on the site.

Mr. Morris replied there is a mixture of pine trees, open area, and wetlands. He stated the wetlands would be preserved and there would be upland buffers as required by the Land Development Code.

Member Gove commented he assumed if landscaped islands were created they would also need irrigation.

Mr. Morris replied they would need irrigation.

Member Rudolph asked for confirmation that Mr. Morris' issues with the Development Agreement were with (d) on page 6, and (f) on page 7.

Mr. Morris replied that is correct.

Chairman Huttman asked if staff had a change of opinion on the landscape issue due to this discussion regarding it.

Mary Robinson, Building and Zoning Director, and Mr. Stockham, both replied no, Staff has no change of opinion on that.

Chairman Huttman commented that based on the language in the Development Agreement, it says that Section 808.03 of the Zoning Ordinance requires that off-street parking areas must be landscaped regardless of the surface material.

Mr. Stockham replied that is correct. He then stated that Staff is allowing some flexibility in the non-paved grass areas by allowing railroad ties to delineate the landscaped islands, which would typically have a 10-foot wide island with two canopied trees and possibly shrubs.

Member Lipke asked what Staff's reasoning was for requesting the landscaped planting areas.

Mr. Stockham replied the reasoning was to follow the Zoning Ordinance as well as provide shading. He stated the canopy trees would help mitigate the impact of dust and emissions that come from the cars.

Member Lipke asked if there were any other issues in terms of conservation or anything else.

Mr. Stockham replied those were the main conservation issues. He then put the photos back up that showed canopy trees in the grassed areas of the flea market and the speedway.

Mr. Morris commented they did not have the same issue with placing canopy trees as they do creating landscaped islands. He stated that the speedway photo does not have canopy trees in the parking area. The trees that are shown on the right are in a wetland area that has been preserved.

Ms. Robinson asked if that property was part of the City of Daytona Beach.

Mr. Morris replied he believes that property is in the city limits of Daytona Beach. However, his point was not to say what the jurisdictional issue is, but rather to show how it works when you have something that is not a formal parking lot, and is not used on a daily basis. He then asked Staff if they require landscaped islands in the overflow non-paved surface areas of Special Exception parking lots.

Mr. Stockham replied yes.

Mr. Morris commented that this request is for a PUD, and there is opportunity to not require landscaped islands. He reiterated that they will meet the requirements of the code for the paved areas, but his only issue is with the non-paved areas.

Member Gove asked about the issue with the A-2 uses.

Mr. Morris replied that they would like to maintain the option to use the property for agricultural uses.

Member Gove commented that some of the A-2 uses might not be compatible with a parking area.

Mr. Morris replied the agricultural uses they were interested in were passive activities such as cattle grazing that won't have any negative impact on the property or hurt its utility.

Member Gove suggested that perhaps the specific A-2 uses they were interested in could be listed prior to this case being heard by the County Council.

Mr. Morris replied the only A-2 uses they were interested in were cattle grazing and hay raising.

Ms. Robinson stated the applicant told her they wanted the Agricultural uses so they could apply for Agricultural Exemption, which Staff does not support.

Member Rudolph stated because it is a BPUD, he has no problem leaving Staff's recommendation to strike through uses permitted under the A-2 zoning classification. He commented he thought the landscape issue needed to be discussed in more detail.

Member Gove commented that trying to create landscaped islands in a grass overflow parking area might be a little extreme, if it's not for the purpose of saving existing trees.

Member Lipke asked if there was an alternative appropriate entranceway for having the landscaped island.

Mr. Stockham replied that they could possibly have some cypress trees at the entranceways and the stormwater ponds.

Ms. Robinson suggested that the PLDRC might want to consider increasing the caliper inch size of the trees in the impervious area on the interior, and in the perimeter buffer areas, if they were inclined to waive the landscaping requirement for the grassed areas.

Chairman Huttman asked what size caliper inch is typically required by Staff.

Mr. Stockham replied typically the size is 2.5 inches.

Mr. Morris asked why it matters if it fits all other code requirements. With regard to the suggestion of planting around the wetland areas, he stated they could do that.

Mr. Stockham clarified that the caliper requirements for canopy trees are 1.5-2.0 inches internal on parking lots, and 2.0-2.5 inches along the thoroughfares.

Chairman Huttman asked if that was an issue dealt with through the Development Agreement or during Site Plan Review.

Ms. Robinson replied the issue could be dealt with here or it could be dealt with during Site plan review.

Chairman Huttman replied it might be better to deal with that issue somewhere other than at this PLDRC hearing.

Ms. Robinson replied they could do that.

Mr. Morris had Mr. Stockham to put the drawing of Destination Daytona back up on the overhead projector. He then stated that his client's property is not on the thoroughfare. It is isolated from US 1. He stated it seems to him that the suggestion is more punitive in nature than it is in terms of goal oriented. He stated they are willing to plant cypress along the areas of the interior. He stated he did not think planting at the entry would help, but they could do that

too if needed. He commented they would like to make sense of what they are doing as opposed to just saying that is what is usually done, so do it. He stated this is a very unusual situation in that regard.

Chairman Huttman commented about the suggestion that the PLDRC finds the strike through of A-2 uses acceptable.

Member Rudolph **MOVED** to **FORWARD** case **PUD-07-021** to the County Council for **APPROVAL**, including that the Development Agreement revisions issued in the staff report remain the same, except for in the added paragraph (f) (that starts with interior landscaped areas and ends in may be used). Those last two sentences (with the double underline) are to be stricken from the Development Agreement and those issues are to be handled at Development Review or at another stage in the planning. Member Cornett **SECONDED** the motion.

Chairman Huttman commented he thought some of the wording should stay. He stated they could take care of the same intent by leaving the wording in that says “interior landscaped areas shall be required for all of the paved off-street parking areas”.

Mr. Stockham replied that would be a good clarification, so that there would still be interior landscaped islands within the areas that would be paved with either asphalt, the crushed shell, or possibly crushed concrete.

Member Rudolph replied that would be agreeable with the motion maker.

Ms. Robinson wanted clarification that they were leaving the wording in that says “interior landscaped areas shall be required for all of the paved off-street parking areas per Section 808.03” because Section 808.03 explains what needs to be planted.

Member Rudolph asked if the applicant had an issue with the terminology of paved.

Mr. Morris replied no, he feels that terminology addresses it. He stated there was some mix up with the terminology regarding stormwater but the intent is clear here. They understand that if they are rolling out asphalt and placing curbs et-cetera, that they would have to have landscaped islands also, and if they are not doing that, then that could be debated at site plan review.

Ms. Robinson commented that was a good point, and instead of using the wording “paved” it could say “ the impervious off-street parking areas” because they are not paving it, it will be a compacted area.

Member Rudolph **AMENDED** his motion to include the change of wording in the Development Agreement to read as follows: **Interior landscaped areas shall be required for all of the impervious off-street parking areas per Section 808.03**”. Member Cornett **SECONDED** the **AMENDED** motion.

Motion **CARRIED** unanimously. Member Sixma not present to vote.

PUD-07-022 – Application of **Mark Dowst, P.E., Mark Dowst & Associates, Inc., Agent for Owner, Destination Daytona LLC, Owner**, requesting an **Amendment** to the Love's Having Fun Business Planned Unit Development (BPUD) Resolution No. 2004-100 to amend the list of permitted uses, signage standards and architectural standards for Lot 3 of the BPUD. The property is located on the south side of Destination Daytona Lane, approximately ½ mile from its intersection with U.S. Highway 1. The property is near Destination Daytona, in the community of National Gardens, north of the City of Ormond Beach; ± 13.565 acres (Ashley) **Tentatively scheduled for the May 24, 2007 County Council public hearing.**

Scott Ashley, Planning Manager, presented the Staff Report. He stated this request is a proposed Major Amendment to the Love's Having Fun BPUD. The amendment would allow for the addition of new uses. Those new uses consist of an allowance of bars and liquor stores as permitted principal uses, as well as a new structure on the property which would be a covered special events pavilion. This pavilion would be located in an area identified on the concept plan as the Village Green area. The Village Green area is a large open grass area used by the applicants during special events. Typically this area is covered with a large tent. To alleviate the constant erecting of the tent for the special events the applicant has come forward with a proposed covered pavilion to make it a permanent facility on the site. In conjunction with that, there is special signage that would go on that building, which would cover it with the sponsorship of the pavilion which is the Coca Cola Company. He stated the applicant is requesting the allowance of 9 signs totaling 646 square feet of copy area that would be attached to the pavilion facility. What Staff is proposing in the course of this Major Amendment is to address an issue they are currently working on at the direction of County Council that deals with some changes to the Itinerant Merchant and Outdoor Entertainment Ordinance in the County. Staff is looking to provide a new Ordinance to give back to Council before June of this year, which would address some of their concerns dealing with noise, lighting, and special enforcement issues in case there are violations. Staff is proposing to add that to this PUD document when they are done so there is uniformity of compliance to all properties along the US 1 corridor. He stated that when this PUD was adopted in 2005, it was adopted with the then version of the Itinerant Merchant Ordinance and Outdoor Entertainment Ordinance as part of this PUD, therefore, not making it a part of any future amendment. He stated this is within an existing developed site. He stated the Destination Daytona facility is a large commercial facility at I-95 and US 1. It consists of a hotel, restaurant sites, retail outlet facilities, and a large Harley Davidson dealership. Adjacent uses include a truck stop to the south. The area around the I-95 and US 1 corridor include various tourist type uses such as hotels, gas stations, restaurants. He put the proposed site plan on the overhead projector and then put a floorplan diagram up on the overhead projector and explained the various businesses that would be located there. He then showed a drawing of the conceptual architecture of the pavilion structure. He stated the City of Ormond Beach supports the proposed change to the BPUD to provide for the new uses and the pavilion. Staff recommends **APPROVAL** of the request, subject to the Staff recommended changes to the written Development Agreement.

Chairman Huttman asked if what they were seeing was consistent with the discussion at the City of Ormond Beach.

Mr. Ashley replied yes, that is correct.

Jim Morris, Storch, Morris & Harris, 420 S. Nova Road, Daytona Beach, here on behalf of applicant Mark Dowst, had Mr. Ashley put the site plan on the overhead projector as he explained that this pavilion will not be seen from the highway and stated the City of Ormond Beach has voted to support this request. He stated that from the standpoint of the bar and liquor store, there are already restaurant uses that have liquor licenses, and there are also provisions within the hotel. Staff has interpreted the proposed use of a convenience store that could have package sales as a liquor store. He stated the code says bars and liquor stores, and that is the language they have to use in order to meet the definition, but he doesn't think it is what you would anticipate from a standpoint of use. In terms of the proposed changes to the Itinerant Merchant and Outdoor Entertainment Ordinance, he is more concerned with the itinerant vendors. He stated they haven't had any significant outdoor entertainment, and when you look at the site it doesn't really accommodate a large outdoor entertainment event. However, the Staff recommendation would make you think that itinerant vending happens on this site in the same form and fashion that it does all along the US 1 corridor, and that is not the case. He stated the PUD Development Agreement that is currently in place has a restriction that says nothing can come within 150 feet of the edge of right of way of US 1. He commented that they have everything internally buffered, which is what the City of Ormond Beach and the Volusia County Council wanted. He stated it was important to note that when the County Council adopted the original PUD agreement, they specifically had this question before them because the Staff objected to it and wanted to have the provision they are suggesting to the PLDRRC now. He stated the reason it is important for his client to keep it as it is, is because they have an established set of standards, and there is an annexation agreement executed with the City of Ormond Beach. He stated Ormond Beach does not allow any itinerant vending, so if you've got a floating control based on the County's rules now, because the County is the controlling jurisdiction, when they are annexed into Ormond Beach, conceivably itinerant vending on this site is prohibited, and that would destroy the entire business model of the development. That is why the itinerant vending is of great concern to his client. He commented that if you go to the site, you'll see there are vendors there within the parking areas, just as there would be at the speedway during an event et-cetera. However, it is not something that creates a hazard on US 1 because you have controlled access points. He stated a turn lane was constructed when Destination Daytona was developed that was done purely for traffic control of this development, and aside from the normal Bikeweek congestion, there is not a traffic problem. He stated that even though the County Council has spoken about the US 1 corridor, he does not think they have specifically focused on Destination Daytona because it does not operate under the same rules as far as where you can place vendors. It does operate under rules that were the same when the PUD was adopted. He concluded by saying there is not presently a new Itinerant Merchant Ordinance, and Staff is asking that the unknown proposed changes to that ordinance be a part of this Development Agreement, and he and his client object to that.

Jamie Seaman, Assistant County Attorney, replied that the County Council has changed its policy on itinerant merchant and outdoor entertainment licenses and Staff is preparing to do a brand new ordinance. Staff has gone through workshops with vendors and property owners throughout Volusia County. She stated the proposed ordinance would be going to County

Council next month. She stated it is a complete overhaul of the system, how it is calculated and the way it is implemented and places the responsibility on the property owner to ensure that the itinerant merchants follow the rules. She stated that one of the biggest problems with itinerant merchant enforcement has been that they are fly by night, and when you take them to code board, the violation has already occurred and there is no one to hold accountable. The County Council has stated they want to change that policy and they are going to hold the land owners responsible from now on. If this PUD is left the way it is, this property owner would be the only one in Volusia County exempted from the changed ordinance. She stated it would not be appropriate to give them an exemption that no one else would have.

Mr. Morris responded by saying this is the only property owner like itself in Volusia County. He stated they are concerned because they don't know what the ordinance will say because it is not adopted yet. He stated this business development already has an adopted set of rules and regulations that they have conformed to, and they do not come within 150 feet of the right of way of US 1, which is a restriction that no one else has. With regard to holding the property owner accountable, Destination Daytona was cited and brought to the Code Board, and the Code Board dismissed it. He stated his point is that the property owner was held accountable, they appeared before the Code Board, and the Code Board heard the arguments and dismissed the case.

Ms. Seaman replied she disagreed with Mr. Morris' evaluation of the situation. She stated that Mr. Hood (a principal of this property) stopped the County Council from adopting the ordinance so he could have input, so he has read the ordinance, given specific input, and he and his co-investors have provided comments to the County Attorney's office, and the ordinance has been amended to meet their criteria. She stated the primary issue is does Volusia County allow one property owner to be different and held to a lower standard than all other property owners.

Mr. Morris wanted to know how his client would be protected by Staff's suggestion because ultimately, they will be annexed into Ormond Beach.

Ms. Seaman replied that all businesses are subject to governmental regulation changes on a daily basis.

A discussion ensued between Mr. Morris and Ms. Seaman regarding governmental regulations, and about the future annexation of the property into the City of Ormond Beach.

Mr. Morris then explained that when a property is annexed into a city, the zoning that is in effect when you annex in stays in place, so it is administratively amended. However, when you annex a BPUD into a city, it is a bi-lateral (two-party) agreement that cannot be amended unilaterally by the government. He stated that if the government could do that, the County Council or County Staff would have already amended this PUD because the County Staff has never liked the fact that the PUD had fixed rules as it related to itinerant vending. He stated the reason his client wanted it then, and wants to keep it now is because you know what you've got for a use.

Chairman Huttman wanted to know if the applicant could continue to operate the itinerant merchants as they do now, even after annexing into the City, if the PUD is kept the way it is now.

Mr. Morris replied that under annexation law, the Development Agreement would stay in place, and while they would amend their Comprehensive Plan because it is a PUD, it is not something that they could administratively rezone. He stated that if the County could do that, he thinks the County Staff would have already requested an administrative rezoning to change this provision. He commented that if you look at general regulatory power to zone, you know the County can do administrative rezonings, but he has never seen an administrative change of a PUD of any kind, to go back to some sort of general zoning. It is not seen, and the reason for that is that it is a bi-lateral agreement, and in administrative rezonings the government, through its police power, is able to do what it wants to do without the permission or consent of the property owner. In a PUD, the government can require the property owner to do certain things over and above what someone with standard zoning would do. That is the distinction here, they are not the same.

Ms. Seaman replied she disagreed because the PUD restricts police powers, and you cannot restrict Ormond Beach's police powers through a PUD with Volusia County.

Chairman Huttman asked Staff if the Itinerant Merchant Ordinance would be coming before the PLDRC.

Ms. Seaman replied no, because it is a police power, not a land use regulation.

Chairman Huttman wanted to know if the County Council knew what the changes in the ordinance would be.

Ms. Seaman replied the County Council directed the changes in the ordinance. She stated that the argument before the PLDRC today is, do they allow a property owner in Volusia County to have a set of laws frozen as of a certain date in their PUD. She stated that Staff's response to that is that it would be bad policy, and that everyone should be held to whatever changes in law the governmental entity puts into place. She stated this is not a zoning question; in fact, they are injecting a police power regulation into a zoning contract. She stated she did not know how it got in there in the first place, but it is in there now, and Staff is requesting the opportunity to take it out. She stated they ordinarily hold people to the law as amended in any of their contract situations, and that is what they are asking to be done.

Chairman Huttman asked if Staff had any idea of how the new regulations would change.

Ms. Seaman replied the changes have nothing to do with setbacks. The regulations deal with the facts that they must come in for a license once a year, they must pay a flat fee once a year, and if they violate the operational guidelines under which they are suppose to function, they can lose their license, and can be suspended. They would then go before a hearing officer who would determine whether they violated the rules, and that hearing officer could suspend their license for up to a year.

Chairman Huttman wanted to know if applying those new standards to the applicant would mean that the applicant is accountable for all of the vendors within their property.

Ms. Seaman replied that is correct.

Mr. Morris replied that is what is proposed, but that isn't what the law is. He added that all zoning regulations are based on police power of the government.

Member Cornett asked Ms. Seaman when the County Council would be addressing the Itinerant Merchant Ordinance and when this PUD request would be heard by the County Council.

Ms. Seaman replied they would both be heard at the second meeting in May.

Member Rudolph commented if they move this to the County Council for approval based on Staff's recommendations as they are now, it essentially puts this whole discussion in the laps of the County Council, which is probably where it belongs.

Member Cornett **MOVED** to **FORWARD** case **PUD-07-022** to the County Council for **APPROVAL** with the conditions recommended by Staff. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

NEW BUSINESS

V-07-024 – Application of **West Volusia Habitat for Humanity, Contract Purchaser, Captain Mark Dooley, Representative for The Salvation Army, Owner**, requesting a **Variance** for a Front yard setback on Rich Avenue (12 ft. 3 in. in lieu of the required 25 ft.) to construct a single-family dwelling on R-4 (Urban Single Family Residential) zoned property. The property is located on the east side of Miller Road, approximately 600 feet north from its intersection with New York Avenue East, adjacent to the City DeLand; ± 5,550 sq.ft. (Nagle)

Christian Nagle, Planner II, presented the Staff Report. He stated the subject property fronts on Miller Road adjacent to the City of Deland. The applicant is requesting the variance to construct a single-family home for their client. The property is located in an area with single-family dwellings, a church, and vacant properties. He stated the subject property is a corner lot with two front yards and two side yards. It is non-conforming due to its small size (50.4 ft. wide x 111 ft. deep). He showed the boundaries of the lot and the footprint of the proposed home on the plot plan he showed on the overhead projector. The proposed driveway to the dwelling connects to Miller Road approximately 15 ft. south of its intersection with Rich Avenue East. Comments from Alan Cole, Traffic Engineering, suggest that the proposed driveway should be moved further south to increase traffic safety. Staff finds there are special circumstances and conditions that are peculiar to this land. The subject property does not conform to the minimum

lot area requirement of its classification, and it is a corner lot with two front yards. Without granting a variance the structure could only be 17 ft. in width due to the R-4 setback requirements. He stated that these conditions are not the result of the actions of the applicant. Without the granting of a north front yard setback variance, literal interpretation of the Zoning Ordinance would prohibit the development of the property. However, Staff finds that the proposed variance is not the minimum variance necessary. The proposed home could be shifted on the lot so that there would be a minimum 8 ft. setback along its south side property line. This proposed change would reduce the requested north front yard setback to 14 ft. instead of the required 25 ft.. Staff finds with this proposed change that the variance request would be consistent with the Comprehensive Plan and the Zoning Ordinance. Staff recommends **APPROVAL** of the request subject to the two conditions listed in the staff report.

Paul Morris, West Volusia Habitat for Humanity, 604 S. Spring Garden Avenue, DeLand, Owner, stated they have spoken with Mr. Nagle and are in agreement with Staff's recommendations.

Member Rudolph **MOVED** to **APPROVE** case **V-07-024** with the Staff recommended conditions. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

V-07-025 – Application of **James and Laura Williams, Owners**, requesting a **Variance** for a front yard setback on Beresford Avenue (5 ft. in lieu of the required 30 ft.) and a **Variance** for an east side yard (5 in. in lieu of the required 10 ft.) to reconstruct a pole barn on I-1 (light Industrial) and RC (Resource Corridor) zoned property. The property is located on the north side of West Beresford Road, approximately 100 ft. northwest from its intersection with South Beresford Road, adjacent to the City of DeLand; ± 2.5 acres (Ashley)

Scott Ashley, Planning Manager, presented the Staff Report. He stated the variance request is to allow for construction of a new industrial building. The subject building is approximately 7,600 square feet and is located in the right of way of West Beresford Road, and has been in that location since 1920. He stated the applicants have been using the building primarily for personal storage. He explained that the tornado that came through in February of this year damaged the building. The applicant has requested the reconstruction of the building to be a 6,900 square-foot building that would only be 5 feet from the front property line and 5 inches from the railroad tracks. Staff does not support the request. Staff feels that the building has been damaged to the point where it has to be replaced, and according to the Ordinance, all buildings to be replaced must be consistent or comply with the requirements of the current regulations. In this case, the I-1 zoning has 10-ft. side yard and 30-ft. front yard setback requirements. These standards are applicable to all I-1 zoning classifications if there is new construction or reconstruction of a non-conforming structure. Staff feels the building could be reduced in size or located on the property elsewhere to accommodate a comparable size building. Also, any new building would have to go through Site Plan review process, so other factors would come into play such as driveway location, stormwater, parking et-cetera. Staff finds this request is not consistent with those provisions of the code and there is no hardship on the applicant where they would not have reasonable use of the property if it were located somewhere else. Therefore, Staff recommends **DENIAL** of the request.

Member Gove asked about the signs on the existing buildings. He wanted to know if that business had anything to do with this request.

Mr. Ashley replied no.

Mark Watts, Cobb & Cole, 351 E. New York Avenue, DeLand, here on behalf of owners, stated he brought a couple of photos of the property, and Mr. Ashley put the photos on the overhead projector. Mr. Watts stated this parcel is the old “boatworks” parcel at the end of Beresford. He stated the subject building was damaged from the February 2007 tornado, and the owners are trying to rebuild so they can regain the use of that building. The building currently sits on Beresford Road. What the owners are proposing is to reconstruct the building and move the building back, off of the public right of way, and use the existing foundation. They are proposing to reconstruct the building on the existing foundation to eliminate a substantial cost they would incur if they had to replace the foundation. He stated this property is an isolated I-1 zoned property that is surrounded by RC zoned properties that would not experience any significant development in the foreseeable future. He explained that the purpose of setbacks is to separate uses and provide open space between them. What they are asking for is a variance from the CSX railroad tracks that would let the building be constructed very close to the property line there, but you have a separation of 100 ft. with the right of way for the railroad tracks that runs past the property, and then you’ve got the right of way for Beresford Avenue on top of that. So there is a substantial setback that is provided by the right of ways that are already in place. He stated there is also a substantial distance between the building and the property to the south. He stated he feels the likelihood of anything being developed around this property is very slight. Some of the difficulties the owners are facing with regard to placing the building elsewhere on the property are: the existing well is located just to the north, and if the building were relocated it would impact the well, so the well would also have to be moved. Also, if they were to move this building 30 feet from east to west with this footprint of the building it would put the building closer to the floodplain areas and sensitive areas closer to the lake. He stated they are trying to reconstruct the building and correct the issue of the building extending into the right of way, and they think the request complies with the overall intent of the Zoning Ordinance and the provision of requirements for setbacks because there is significant separation of this building from any other uses around it.

James Williams, 1895 W. Beresford Road, DeLand, Owner, stated what they were doing is basically just a roof system. He stated they plan on reusing the sheet metal from the walls to save on costs. He explained that if they moved the building to a different location there would be a problem with the wetlands.

Mr. Watts stated that one of the comments in the staff report (from the Environmental Management Division) states there is a 50-ft. setback where the wetland line runs, so there is another setback that would be pressuring from the west as well.

Chairman Huttman asked about downsizing of the building. He wanted to know if the reason for the downsizing was to get the building out of the right of way.

Mr. Williams replied yes. He also stated there is a 4-foot retaining wall that goes north to south that holds the railroad track off of his property, and if he moved the building to the west, it could create a hazard because right now the building acts as a fence so no one falls over that, and if the building were moved he might have to put a fence up.

Member Rudolph asked if there was a slab in there, and if they planned to save that slab as well as the foundation.

Mr. Watts replied yes.

Member Rudolph commented about the rule of thumb of 50% value in regards to whether or not the building would be considered all new construction or remodeling. He asked if they had done any estimations of the cost to replace the building versus reconstructing it. He wanted to know if they were close to the 50% value.

Mr. Watts replied they have done some estimations, and they are just below 50%.

Mr. Ashley stated that under Section 600 of the Zoning Ordinance when dealing with a non-conforming structure, if the structure were replaced or if it has damage that exceeds 75% of the assessed value by the property appraiser, you must conform to the ordinance. He stated that his understanding of what was being proposed by the owner, other than saving the foundation, was that the building would be demolished and rebuilt, and the question is about rebuilding in the same location. He stated the standards of the code require them to comply with the current regulations, and that is where the 30-ft. front yard setback comes into play and also the 10-ft. side yard setback.

Member Rudolph replied he understood that, but he thinks the argument is whether or not it actually loses its non-conforming status based on the percentage of repair.

Ms. Seaman replied that the actual language in the code is 600.03 (b) which states: if it is damaged in excess of 75% as assessed by the property appraiser.

Mr. Watts replied that is where the difference comes in. He stated he believes the Comprehensive Plan language says it's the replacement value, based on what was quoted in the memo from Ron Paradise, Planner III. He stated the provision in the Land Development Code says assessed value, and that is when you start looking at the depreciated value that the taxes assessed are based on.

Member Rudolph commented that there is a point of discussion there, in regards to value.

Chairman Huttman concurred with Member Rudolph. He stated when he heard the applicant mention that he thought he could save the sheet metal from the sides of the building, and that most of the value was in the slab and that he was really just putting a new roof on.

Mr. Williams replied there is also a lot of wood from the existing building that he could use.

Chairman Huttman asked if there was an urgency here, because it sounds like the owner needs to speak with Staff further regarding the value.

Ms. Seaman explained that the Comprehensive Plan language coordinates with section 826 of the Code. Section 826 is for hurricane damage within the coastal high hazard area, if it less than 50% of the replacement value.

Member Cornett replied they are not dealing with a hurricane.

Ms. Seaman replied that is correct, so the reference in Mr. Paradise's memo regarding the Comprehensive Plan is applicable to the hurricane damage in the coastal areas and not to the tornado damage that happened on this property.

Mark Watts wanted clarification of Huttman's question about urgency. He stated if the PLDR would prefer for he and the owners to work this through with Staff more that they would do that.

Chairman Huttman replied yes.

Member Rudolph commented for the record that one might think that saving the foundation and slab can't be anywhere near 50% of the value of the building, but what we are talking about is a pole barn, so it very well could be near 50% of the value of the building. He commented he would tend to accept the numbers that the applicant has given in regards to value, and it appears there is a very good chance that it may be less than 50%.

Member Rudolph **MOVED** to **CONTINUE** case **V-07-025** for 30 days. Member Lipke **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

V-07-028 – Application of **Maurice and Mary Bridges, Owners**, requesting a **Variance** to Section 801.05 to construct a boat dock and boathouse (10 ft. in lieu of the required 15 ft.) on MH-5 (Urban Mobile Home Subdivision) zoned property. The subject property is located on the east side of Bass Avenue, approximately 1,100 ft. south from its intersection with Bream Drive, in the community of the Pine Island Rural Recreational area located adjacent to Lake George; ± 5,000 sq.ft. (Stockham)

John Stockham, Planner III, presented the Staff Report. He stated that after the adoption of uniform Zoning Ordinance in July of 1980, the property was zoned MH-5, and at that time the setbacks were established that require that boat docks or boat houses be set back 15 ft. from the side lot lines or their extension into the waterway. He stated the owners have 2 boats and have stated they need about 30 ft. for a dock and boathouse. To construct this docking facility will leave only 10 ft. of distance from each side of the proposed boat dock to the side lot lines. This puts the property in violation of Section 801.05. He stated the Environmental Management Division has provided comments that the proposed structure does not adequately address the Volusia County Wetland Protection Ordinance provisions, which requires minimization to impacts to wetlands and surface waters, and any action that approval of this variance request may allow, does not absolve the applicant's responsibility to comply with other applicable County ordinance requirements. The applicant is proposing to construct the boat dock to

contain 2 boat slips. He stated that conditions exist that are unique to this area. The lots along the canal are only 50 ft. wide and other homes on the same canal have had similar requests. Staff finds this is the minimum variance and is consistent with the intent and purpose of Comprehensive Plan. Therefore, Staff recommends **APPROVAL** of the request, subject to the following 3 conditions as listed in the Staff Report.

1. Approval is subject to the applicants' submitted site plan and engineering plans, as they may be modified during building permit review to meet the Code of Ordinances.
2. The requested boathouse plans shall eliminate the one (1) ft. roof overhang that is found on both sides.
3. Prior to construction, the applicants shall obtain all applicable permits for construction as well as comply with all applicable Federal, State and County regulations with regard to boat docks, boat slips and boathouses.

Mr. Stockham then put a drawing on the overhead projector which showed the roof overhang, and showed photos of the area docks.

Maurice Bridges, 1647 Bass Avenue, Seville, Owner, stated he has read and agrees with the staff report.

Robert Hoffman, 1644 Bream Drive, Seville, neighbor, stated he was in support of the request.

Thomas Mills, 1648 Bream Drive, neighbor, stated he was in support of the request.

James Holsapple, 1629 Bass Avenue, neighbor, stated he was in support of the request.

Member Cornett **MOVED** to **APPROVE** case **V-07-028** based on the Staff Report. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously.

V-07-029 – Application of **Christopher and Tammy Jaques, Owners**, requesting a **Variance** to Section 600.01 *Nonconforming Lots*; **Variance** for a west side yard (5 ft. in lieu of the required 50 ft.) for a 2,686 sq.ft. pole barn, and a **Variance** for a west side yard setback (17.4 ft. in lieu of the required 50 ft.) for a 2,714 sq.ft. pole barn on A-1 (Prime Agriculture) zoned property. The property is located on the north side of Ryefield Road, approximately 500 ft. east from its intersection with Ranch Road, near the City of Deltona; ± 5 acres (Ashley)

Scott Ashley, Planning Manager, presented the Staff Report. He stated this property is part of the Hansel-Sapp unrecorded which was approved in January 1984. In March of 1984 the A-1 zoning classification was modified to go from a 5-acre minimum lot size to a 10-acre minimum lot size requirement. At the time the ordinance changed there was a land owner who owned the north 3 lots of the unrecorded. Two of those lots are 5-acres in size and one is 6 acres. He stated they were not sized to meet the A-1 requirements individually. That

land owner sold off the center property in 1985, and that center property has gone through several ownerships prior to the applicants purchasing it in 2002. He stated the applicants wish to build a single-family home on the property. There is currently a mobile home on the property, as well as several agricultural pole barn structures that were added over the years by previous land owners. Staff feels there are unique and special circumstances related to this site because the applicants cannot address the issue of the acreage by purchasing additional land because the adjacent property is either developed or would make other properties non-conforming if they were added to it. Staff finds this is the minimum variance that would make reasonable use and allow for the property as it is today, which is a 5-acre lot. He stated that the the pole barn structures on the west side of the property are required to meet a 50-ft. setback under the A-1 zoning. However, they were built at a time prior to the County's more detailed review of agricultural structures, which occurred in the mid 90's. Therefore, Staff recommends **APPROVAL** of the request due to the circumstances related in the staff report and also given the condition of the pole barns, and the time table in which they were built, as opposed to the time table that the County started requiring a permit review of those type of structures. He stated Staff would modify their recommendation to eliminate condition #1 [Building permits will be submitted for review and approval for the three on-site pole barns] as those buildings were existing and the approval would justify the lot and the setback standards for those buildings.

Chairman Huttman asked for clarification about the variance that recognizes a separate parcel as listed in the staff report. He wanted to know if they would be creating a separate parcel by a variance action.

Mr. Ashley replied that section 600.01 says if someone owns two or more properties that are contiguous that by themselves do not meet the standard of the zoning, they have to remain in common ownership. What has happened here is that a previous owner, back in 1985, sold off one of three lots that she owns, therefore, creating the scenario you have today, where you have a non-conforming 5-acre lot. He stated the applicants tried to obtain a building permit, but because they did not meet the 10-acre requirement they were required to submit a non-conforming lot letter, which had to go back to the date when the A-1 zoning was changed in March of 1984. They were not able to get a non-conforming lot letter because the records show the owner at that time also owned the adjacent properties, and should not have sold off the center property. In doing so, an "illegal non-conforming lot" was created. With an approval of the variance to section 600.01, you would be recognizing this parcel as being "separated" from those other lots.

Christopher and Tammy Jaques, 2650 Ryefield Road, Lake Helen, Owners, stated they have read and agree with the staff report, which now includes the elimination of condition #1 as stated by Staff today.

Member Cornett **MOVED** to **APPROVE** case **V-07-029** based on the report presented by Staff this morning, which includes the elimination of condition #1. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

V-07-031 – Application of **Kirk T. Bauer, Bauer & Associates, Attorney for Owner, David MacDonald, Owner**, requesting a **Variance** for a minimum lot width (25 ft. in lieu of the required 85 ft.), and a **Variance** to Section 600.01 to allow a substandard lot width (25 ft. in lieu of the minimum 50 ft.) on R-3 (Urban Single Family Residential) zoned property. The property is located on the north side of Glenwood Road, approximately 250 feet south from its intersection with Azalea Drive, in the community of Glenwood, north of the City of DeLand; ± 1.05 acres (Ashley)

Scott Ashley, Planning Manager, presented the Staff Report. He stated the request is for a variance to address a single-family lot that was created in 1976 as a flag lot. It is a flag lot because the main body of the lot is connected to a public street (Glenwood Road) by a narrow strip of land. When the parcel was created, the connecting strip was 30-ft. in width. Due to the actions of a previous property owner, that strip has been reduced to a 25-ft. width, which has changed the non-conforming status of the property. He stated the lot is a sub-standard lot because it is less than 50-ft. in width. Also, it does not meet the R-3 standard for a minimum lot width. He stated the property owner is unable to obtain or purchase any additional property to correct this because it would make other properties adjacent to it non-conforming or sub-standard in doing so. He stated that the current regulations are different than they were in 1976. Therefore, Staff recommends **APPROVAL** subject to the condition listed in the staff report.

Kirk Bauer, 223 S. Woodland Boulevard, DeLand, Attorney for Owner, stated they have read and agree with the staff report.

Member Rudolph **MOVED** to **APPROVE** case **V-07-031** as presented by Staff. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

V-07-033 – Application of **Joseph Avery, Agent for Owner, Linda Avery, Owner**, requesting a **Variance** for a front yard setback (32.7 ft. in lieu of the required 40 ft.) and a **Variance** to the east side yard setback (5 ft. in lieu of the required 15 ft.) for an addition to a single-family dwelling on RR (Rural Residential) zoned property. The property is located on the north side of Ridgewood Street ± 750 ft. west of its intersection with Kendrick Avenue, in the community of Glenwood; ± 27,000 sq.ft. (Nagle)

Christian Nagle, Planner II, presented the Staff Report. He stated the subject property includes a single-family home built in 1980 and several accessory structures. The immediate area consists of single-family dwellings and scattered vacant lots. This property is non-conforming due to its 27,000 square-foot area because the minimum lot area requirement in the RR zoning classification is 1 acre. The property became non-conforming due to the County Council's administrative rezoning of the property in 1994, which changed the zoning from R-1 (Urban Single-Family Residential) to RR (Rural Residential). The applicant is requesting the variances to build 2 additions to the home. He put the applicant's plot plan on the overhead projector, which shows the existing home plus the 2 proposed additions. He stated one of the proposed additions is a 26' x 33' three-car garage that will be located on the east side of the dwelling. The second proposed addition is a 20' x 29' living quarter addition for the applicant's

ill parents that will be located to the rear of the garage. He stated that both of the proposed additions would be attached to the single-family dwelling. If the front yard variance is granted, it will allow the proposed garage to be constructed even with the front line of the home. The proposed additions are designed to allow easy access to the home, which includes an exterior east side yard door, and a 5-ft. walkway to enter the garage and to take advantage of an existing side entry door that goes into the home there. When the home was constructed in 1980 the required front yard setback was 30 ft. and the side yards had to have a total of 20 ft. in combination with any one side yard being a minimum of 8 ft. He stated that according to the applicant, there are numerous improvements on the property that would make it difficult to construct the proposed additions in the west side yard of the property. He then put the survey of the property on the overhead projector. He noted that the lot is 200 ft. in width. However, the home is placed on the eastern portion of the property. Staff has looked at the possibility of constructing the proposed additions on the west side of the home, but according to the applicant, there is a septic tank, drain field, above-ground swimming pool, drainage swale, and a play area that would make it difficult to construct the proposed additions in the west side yard. He stated the applicant has said that constructing detached structures would not fit his needs or the needs of his ill parents. Staff has also looked at the possibility of constructing the proposed additions to the rear of the home, but there is a water well and a large oak tree in the rear yard, which would make it difficult for the applicant to build the addition on the rear of the home. Staff finds that there are special conditions and circumstances peculiar to this property. The subject property is non-conforming due to its minimum lot area being less than 1 acre; it was administratively rezoned by the County Council which changed its zoning; and the property contains features and constraints which make it difficult to construct the proposed additions without the requested variances. However, the requested variances are not the minimum variances to allow the reasonable use of the property because the applicant already has reasonable use of the property and can continue use of the property without the granting of the requested variances. Also, the proposed additions could be downsized or relocated to meet the minimum yard requirements. However, Staff is of the opinion that the granting of the requested front yard variance would recognize and legitimize a front yard setback that was legally established in 1980, and would allow the proposed garage to be built even with the front line of the existing home. Therefore, Staff recommends **APPROVAL** of the variance for a front yard setback (32.7 ft. in lieu of the required 40 ft.) subject to the 3 conditions listed in the staff report, but recommends **DENIAL** of the variance to the east side yard setback (5 ft. in lieu of the required 15 ft.) because it does not appear to meet all of the requirements of section 1003.01 of the Zoning Ordinance.

Mr. Nagle showed a photo of the home on the overhead projector while Mr. Avery spoke.

Joseph Avery, 1501 Ridgewood Street, DeLand, Agent for Owner, stated he has spoken with Mr. Nagle regarding the side yard setback issue, and Mr. Nagle told him that Staff might go along with recognizing the older 8-ft. setback. He stated he could do something along those lines. He explained that his need for the living quarter addition was for his ill parents, and that he needs additional space in his garage for small projects, to bring some income in because he could no longer be an electrician due to an accident that left him permanently disabled. He stated they wanted the additions to be attached to the home for fire protection and also easy access for his parents who are in wheelchairs.

Chairman Huttman asked Staff about a possible 8-foot setback.

Mr. Nagle replied that Mr. Avery was referring to setback requirements for his property if it still had the R-1 zoning. If the property was zoned R-1 instead of RR the side yard setback requirement would be 8-ft. instead of 15-ft. He stated he believes Mr. Avery was suggesting that in lieu of the requested variances Mr. Avery might be willing to compromise and ask for a variance for an 8-ft. side yard setback instead of a 15-ft. side yard setback.

Chairman Huttman replied he thought Mr. Avery had said he had spoken with Mr. Nagle about it and that Mr. Nagle suggested that Staff might go along with it.

Mr. Nagle replied that Mr. Avery had asked him if the PLDRC had the authority to consider the granting of a lesser variance, and he told Mr. Avery that the PLDRC does have that authority.

Member Rudolph asked Mr. Nagle to show the site plan on the overhead projector [which Mr. Nagle did]. He then asked Mr. Avery about the space between the proposed garage and the home. He wanted to know if that was a hallway that would have an outside door, which would allow his parents to get to the back as well as allow him to get to the main house.

Mr. Avery replied yes. What they are proposing is a covered concrete ramp that would have a full roof covering from the front of the home, but it would be open on the front, with an existing door (18 ft. in) which enters the side of the home. He stated he did not want to block that door because it is the only egress on that end of the home.

Member Rudolph asked how wide the ramp was.

Mr. Avery replied it is 5-ft wide.

Member Rudolph suggested moving the garage and attaching it directly to the home, thus eliminating that ramp to get an additional 5 ft. that would get him closer to the 8 or 9 ft. setback that the PLDRC might consider allowing.

A discussion ensued between Member Rudolph, Mr. Avery, and Mr. Nagle regarding the side yard setback issue and possible solutions to it.

Member Rudolph stated he was pursuing allowing a 9-ft. setback, and that way the applicant only needs to move the garage over to get at least a 9-ft. setback there, and then the 9-ft. setback will work in the back as proposed by Mr. Avery.

Mr. Avery replied he would be willing to work with that, and that he appreciated that.

Member Rudolph **MOVED** to **APPROVE** case **V-07-033** for a variance to the east side yard setback (9-ft in lieu of required 15 ft), and a variance for a front yard setback (32.7 ft. in lieu of the required 40 ft.) including the 3 conditions recommended by Staff in the staff report. Member Cornett **SECONDED** the motion.

Mr. Avery wanted clarification of the conditions regarding the removal of 2 smaller storage structures that are on the side of the property where the new structure is to be built.

Mr. Nagle replied the third condition pertains to the brown enclosed truck storage box, not the 2 sheds.

Mr. Avery replied he understood.

Motion **CARRIED** unanimously. Member Sixma not present to vote.

V-07-035 – Application of **J & A Builders, Agent for Owner, Samantha Mitchell, Owner**, requesting a **Variance** for a north front yard setback on Jefferson Street (22 ft. in lieu of the required 40 ft. from the edge of pavement) on R-4 (Urban Single Family Residential) zoned property. The property is located on the west side of Oak Street, at its intersection with Jefferson Street, near the City of New Smyrna Beach; ± 6, 250 sq.ft. (Zechnowitz)

Dave Zechnowitz, Planner III, presented the Staff Report. He stated the subject property is zoned R-4, which requires a minimum lot size of 7,500 square feet. This lot is non-conforming because it contains only 6,250 square feet. Also, it is a corner lot, which requires two front yard setbacks. He stated that Jefferson Street is a substandard right of way, which requires a 40-ft. setback from the edge of the pavement. Since the lot is only 50-ft. wide, application of the R-4 setbacks would result in a building footprint of only 12-ft. wide. He stated the applicant is requesting this variance to build a ± 1,400 square-foot one-story house on the property. The special conditions and circumstances just stated create a hardship for development of the lot, but they were not caused by the actions of the applicant. Therefore, Staff recommends **APPROVAL** of the request.

John Ohare, J & A Builders, 4605 Wellfield, Port Orange, Agent for Owner, stated they have read and agree with the staff report.

LaLang Pride, 306 Sheldon Street, New Smyrna Beach, here on behalf of her mom [adjacent property owner] wanted clarification on the property line.

Mr. Ohare clarified the property line and explained that Ms. Mitchell had no intentions of making Ms. Pride's mother move her fence (which is on Ms. Mitchell's property).

Member Gove asked if there was no provision in R-4 zoning for a corner lot having a lesser setback on one of the streets.

Mr. Zechnowitz replied no, but because it's only 50-ft. wide the south side yard setback is reduced to 7-ft. as opposed to the 8-ft. normally required. He stated there is no provision like there is in R-5 and R-9 zoning.

Chairman Huttman stated there was a letter of opposition sent in by T. Butler.

Member Rudolph **MOVED** to **APPROVE** case **V-07-035** as presented. Member Gove **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

S-07-036 – Application of **Peter Denunzio, Contract Purchaser, Marcia Berman and Leslie Michael Gibb, Owners**, requesting a **Special Exception** for Only one single-family dwelling for the owner or manager of an existing permitted principal use on B-4C (General Commercial / Thoroughfare Overlay Zone) zoned property. The property is located on the east side of State Road 15A, adjacent to its intersection with Gayle Drive, adjacent to the City of DeLand; ± 4 acres (Stockham) **Tentatively scheduled for the May 24, 2007 County Council public hearing.**

John Stockham, Planner III, presented the Staff Report. He stated the request is for a single-family dwelling for the owner or manager of a proposed 610 unit mini-warehouse facility that was recently approved by County Council as case S-06-130. The approved mini-warehouse special exception proposal includes the development of a two-story 2,400 square-foot building. The first floor is intended to be occupied by the rental office, and the second floor will be the living quarters for the owner or manager who would also provide security. He stated the City of DeLand has been notified about this addition for the owner/manager residence and they have no comment. Staff recommends **APPROVAL** of the request, subject to the condition listed in the staff report, as it is compatible with current and potential land uses in the area, consistent with the Future Land Use Element of the Comprehensive Plan, and it meets the criteria of Section 1104.00(h) of the Zoning Ordinance as presented in the staff report.

Member Gove commented that according to the staff report, this came before the PLDRC before as a previous Special Exception and at that time the part of the Special Exception regarding the residence was deferred. He stated he could not recollect the reasoning for the deferral and asked Staff if they recalled why it was deferred.

Mr. Stockham replied that per the Zoning Ordinance a separate application was needed for this item since it is listed as a separate Special Exception in the B-4 zoning classification. At the time the other Special Exception was heard, they only had the one application for the mini-warehouses. This is the follow-up application to complete the applicant's request to have the owner/manager residence.

Mark Neiman, CSI Engineering, 605C W. New York Avenue, DeLand, Engineer for Applicant, stated they had read and agree with the staff report. He commented that the applicant tried several times to get this part of the process in the original Special Exception. He stated it seems redundant and causes extra cost and time for the applicant to have to do a separate Special Exception. However, the way the Code is worded, it is required that you first have to get approval of the mini-warehouse use, and then you can get the Special Exception for the residence. He stated they feel it would be better for everyone and more expeditious if the County were to consider changing the wording to allow both of those to occur under the same Special Exception process.

Member Gove commented that Mr. Neiman's suggestion made sense.

Member Rudolph **MOVED** to **FORWARD** case **S-07-036** to the County Council for **APPROVAL** based on Staff's recommendation. Member Cornett **SECONDED** the motion. Motion **CARRIED** unanimously. Member Sixma not present to vote.

Chairman Huttman called for a 5-minute break at 11:36 a.m.

Meeting reconvened at 11:41 p.m.

S-07-037 –Application of **Michael Ciocchetti, Doran, Wolfe, Ansay & Kundid Attorneys at law, Attorney for Owners, Kenneth and Lorayne Carberry, Owners**, requesting a **Special Exception** for a Single-family dwelling on B-8 (Tourist) zoned property. The property is located on the south side of Sea Shore Drive, approximately 500 feet east from its intersection with Ocean Shore Boulevard (State Road A1A) near Breezeway Drive, north of the City of Ormond Beach; ± 6,700 sq.ft. (Zechnowitz) **Tentatively scheduled for the May 24, 2007 County Council public hearing.**

Dave Zechowitz, Planner III, presented the Staff Report. He stated this property is an oceanfront lot on the Ormond Beach north peninsula and is developed with a single-family dwelling built in 1957. He stated it is zoned B-8, which does not allow single-family dwellings as a permitted use, but only as a special exception. This dwelling has been expanded beyond its original footprint without building permits, and the owners are attempting to obtain permits and inspections. Since a non-conforming structure cannot be expanded the applicant is requesting the special exception to allow the single-family use of the property. Staff recommends **APPROVAL** of the request because it will legitimize a use that is 50 years old and will enable the structure to be enlarged in accordance with the B-8 regulations or an approved variance. He stated the next case that would be heard was a variance request related to this property also.

Michael Ciocchetti, Attorney for Owner, stated they have read and agree with the staff report regarding this special exception request.

Member Rudolph **MOVED** to **FORWARD** case **S-07-037** to the County Council for **APPROVAL** as submitted in the staff report. Member Lipke **SECONDED** the motion. Motion **CARRIED** unanimously. Members Sixma and Cornett not present to vote.

V-07-038 – Application of **Michael Ciocchetti, Doran, Wolfe, Ansay & Kundid Attorneys at law, Attorney for Owners, Kenneth and Lorayne Carberry, Owners**, requesting a **A Variance** for a west side yard setback (1.9 ft. in lieu of the required 15 ft.) for an existing carport; and a **Variance** for a rear yard setback (3.5 ft. in lieu of the required 20 ft.)for an addition on B-8 (Tourist) zoned property. The property is located on the south side of Sea Shore Drive, approximately 500 feet east from its intersection with Ocean Shore Boulevard (State Road A1A) near Breezeway Drive, north of the City of Ormond Beach; ± 6,700 sq.ft. (Zechnowitz)

Dave Zechowitz, Planner III, presented the Staff Report. He stated that according to the property appraiser's records, the applicants purchased the subject property in 1996. In late March of 2006 the Code Compliance division received a complaint that doors and windows

were being replaced in the structure without permits. On April 12, 2006, during an on-site inspection, it was determined that a porch was also being added and the owners were sent a citation. In November 2006, after receiving another complaint, a building inspector observed construction of a roof over an unpermitted addition on the site. A stop work order was issued and the owner was advised to have his contractor work with a plans examiner to try to resolve the complaint. During Staff's review of the permit and tax records, it was discovered that a utility room and a porch were added to the rear of the dwelling, and a carport was added to the west side. These were all added without permits. These additions encroach into the rear and side yard setback areas. On February 21, 2007 the Code Enforcement Board found the owners in non-compliance for construction without permits and inspections, and granted them 90 days to come into compliance. The home was originally built in 1957 with a 14.9 ft. west side yard setback and a 10.5 ft. rear yard setback. Staff supports these variances because they recognize and legitimize 50-year old setback regulations that were in effect at the time the house was built. The front and the waterfront yards are compliant with the current B-8 regulations. With regard to the variance request for a west side yard setback (1.9 ft. in lieu of the required 15 ft.) for the carport; and the variance request for a rear yard setback (3.5 ft. in lieu of the required 20 ft.) for the covered porch, Staff cannot support these requests because the structures were built without permits and any hardship claimed is self-imposed. These are not the minimum variances that will allow the owners to make reasonable use of the property, and will confer rights upon them that are not commonly enjoyed by other properties in the same zoning classification. Therefore, Staff recommends **DENIAL** of the requested variances.

Member Gove stated he could not match up the floorplan and the survey that were in the staff report. He stated the floorplan shows the carport on the opposite side of the building than where it is located on the survey.

Mr. Zechnowitz replied that the carport is definitely on the west side of the structure.

Member Gove wanted to know what the indentation in the north east corner of the survey was. He commented he did not see that indentation on the floorplan.

Michael Ciocchetti, Doran and Wolfe, 444 Seabreeze Boulevard, Daytona Beach, Attorney for Owner, stated in 1996 the Carberry's purchased the subject residence. He asked Mr. Zechnowitz to put an old photo of the home on the overhead projector while he explained the details of the home. He stated the home originally had a screened area, florida room, utility room, and a carport, and during the hurricanes those areas were damaged so the owner hired a contractor to repair the home. He stated the screened areas and florida room were removed and the home was made into a rectangular shaped home. He then had Mr. Zechnowitz put up a photo of what the home currently looks like while he explained what was done to the home. He stated that where the florida room used to be and to the left of the area, that is what was set in 5-ft. from the florida room. Now this concrete area has been built, and it is representing where the screened room was, where the florida room was, and it has been extended out in front of that white wall. When Mr. Carberry contracted with the contractor, it was represented to him that he could rebuild in this fashion. Mr. Carberry had no reason to second guess that because there had already been a screened room and a florida room there, so when the

contractor told him that this could be built he had no reason to doubt that. So he allowed the construction to proceed.

Member Rudolph asked if the photo that was being shown depicted the back of the home.

Mr. Ciocchetti said it shows the oceanfront side of the home.

Member Rudolph asked “where do you drive in?”, and wanted to know if one would drive in to the carport on the back.

Mr. Ciocchetti explained that this was on the opposite side of the carport. The carport is on the west side and this is on the east side. He stated the white door is on the north side and that door goes into the living/dining area. He explained that the requested 3.5 ft. variance is for what appears to be an “alleyway”, and stated it is actually 4.3 ft. He stated the oceanfront side does not need a variance. He then had Mr. Zechnowitz show additional photos of the home as it currently is, and photos of other neighboring homes. He stated this home will be in conformance with the other homes in the neighborhood. He stated they believe the columns that support the carport area were built at the same time the home was originally built, so they believe that the carport was built when the home was built, but at some point the roof was removed and replaced (possibly without a permit). He pointed out that most of the homes in the area have some sort of aluminum carport. He stated that the lot coverage is 29%, and in this zoning classification you are allowed up to 38% lot coverage. He added that if this property had not been platted individually, they could have had a townhome type structure here, and there would not be a need for this variance request.

Chairman Huttman wanted clarification of Staff’s recommendation. His understanding was that what Staff was recommending for approval legitimizes an existing condition.

Mr. Zechnowitz replied it legitimizes the structure as it was originally built in 1957.

Chairman Huttman replied, so all the blocks and everything else shown in the pictures would have to be removed.

Mr. Zechnowitz replied not exactly. The oceanfront portion is compliant and the setback for the front yard adjacent to Seashore Drive is also compliant, so a portion of that structure would be allowed to remain. It would only be the south side and the west side structures that would have to be removed.

Chairman Huttman asked if the south side was the utility area.

Mr. Ciocchetti replied the south side is the utility area. He stated that when the Carberry’s purchased the home in 1996, there was the screened area that only gave a 3.5 ft. setback, but the Carberry’s decided they didn’t want the jog in the wall with the utility room, so they went ahead and brought it inline with the utility room. So now, the actual variance request is only for 4.3-4.4 ft. He stated there is a need for the variance on the southern portion, and the blocks would have to be removed along with the utility room. He explained that the fuse box is in the

utility room, so they would have to move all the electrical, which would cause a hardship. He then noted for the record that there have be no adverse effects to the community as a result of the screened room, which occupied an area larger than the variance they are requesting today.

Chairman Huttman asked about the variance that Staff supports. If the applicant's request is denied, and they walk away, they will still have the existing condition. He asked what Staff's recommendation would do with regard to this.

Mr. Ciochetti commented that the approval as recommended by Staff, does nothing for them. They will have to tear down the block walls, and the roof will have to be redone. The utilities and electrical will have to be relocated within the residence because the utility and the carport would have to be removed.

Mr. Zechnowitz replied that the columns of the carport (while they may look old) are set on relatively newly poured concrete, so they were not there in 1957.

Mr. Ciochetti replied it appeared to him that the columns were not set on the concrete. He stated he believes that the new concrete was set around the columns.

Mr. Zechnowitz replied that Staff's chief building official was at the site and he relayed that those columns were built on new concrete.

Don Vancini, Chief Building Official, explained that Tom Reynolds, Chief Building Inspector, was at the site. He pointed out on a photo [being shown on the overhead projector] where the concrete was poured. He stated the poured section of concrete is not the original driveway to the site. He then pointed out a break in the concrete. He stated it appeared to Mr. Reynolds as if the columns had been set on the concrete. He pointed out where the concrete had the date of 1996 in it and where the owners had inscribed their names in it. He stated it appears there had been a narrow carport there at one time and that was expanded, but Staff does not believe the columns are as old as they appear.

Member Rudolph asked about the angular joints in the concrete that were shown on the first photo Mr. Vancini put up. He wanted to know if they were cold joints, as opposed to expansion joiners.

Mr. Vancini replied it is a cold joint.

Member Rudolph asked about the sequence of events listed in the staff report.

Mr. Ciochetti explained the sequence of events.

Member Rudolph and **Mr. Ciochetti** spoke back and forth regarding the events listed in the staff report.

Mr. Ciochetti stated that from a legal perspective, this variance should be granted because we are looking at an Urban High Intensity development.

Member Gove asked about Staff's alternative suggestion for a west side yard setback. He wanted to know if that would still allow for the carport to remain.

Mr. Zechnowitz replied no. The alternative suggestion by Staff recognizes the original structure (the block work for the dwelling).

Mr. Ciochetti commented that Staff's recommendation doesn't necessarily get them nowhere, but the only way that would come into play is if the fire damage is to the point that it is assessed where the house would have to be demolished since it is a non-conforming structure. He stated that theoretically it would get them there, but he does not believe they are at that point. He stated that essentially the recommendation from Staff would have them tear down the carport, the utility room, and all of the block work, and not rebuild the screened room (which was there), not rebuild the florida room, and relocate the utilities inside the home. He stated that is a burden.

Member Rudolph commented he did not think the utilities would have to be moved to the inside of the home. He then asked if Staff had received any input from neighboring property owners.

Mr. Zechnowitz replied that when he was at the site a couple of weeks earlier, one of the neighboring property owners to the south came out and complained about the fact that the enclosed porch was very close to his property line.

Jamie Seaman, Assistant County Attorney, commented that what Mr. Zechnowitz just stated could not be considered today because it was heresy.

Mr. Ciochetti noted for the record that he included a photograph of that neighbor's property, which depicts that they are the worst violator with regards to encroaching on setbacks. He stated that home's carport is almost touching the home next to it. He stated there was a letter from a Mr. Miller in support of the request.

Tom Adams, 1 Sea Shore Drive, Ormond Beach, neighbor, stated he feels that the improvements will enhance the value of the properties in the neighborhood. He is in support of the request.

Ms. Seaman asked Mr. Adams how long he had been living there.

Mr. Adams replied they bought the home 20 years ago, but did not live in it full time until 10 years ago.

Mr. Ciochetti stated that all other homes have attached carports and he doesn't see how this one wouldn't have had one also.

Member Rudolph **MOVED** to **APPROVE** case **V-07-038** as requested by the applicant, because there is a special hardship, as some of the items were done prior to the purchase of the current

owner, and based on the testimony presented. Member Gove **SECONDED** the motion. Motion **CARRIED** unanimously. Members Sixma and Cornett not present to vote.

Chairman Huttman called for a break at 12:25 p.m.

Meeting reconvened at 12:45 p.m.

OLD BUSINESS

NONE

PUBLIC ITEMS

1. Comprehensive Planning Proposed Large Scale Amendment CPA-07-1
.....Terry James, Comprehensive Planning Manager, Growth & Resource
Management

Terry James, Comprehensive Planning Manager, stated he would explain each of the 9 items in the amendment package and is requesting a motion for each item.

Item 01 – CPA-07-1-1 Indian Lake Road–Hammock is a private amendment request to change the future land use on 20.92 acres from Low Impact Urban (LIU) within the Natural Resource Management Area (NRMA) to Industrial (I). The subject parcel is north of International Speedway Boulevard, and on the east side of Indian Lake Road.

The area is wooded and vacant with no flood plain or wetlands and is not prime wildlife habitat. Surrounding properties on the west include the jail and other public facilities; on the east Commercial/Industrial – auto auction and asphalt batching plant; on the north is a public institutional facility; south is Commercial, bail bonds and restaurant. Roads would be at a slightly higher count than the current FLUM classification, but there are no adverse impacts to roadway level of standards (LOS).

There are wellheads on the property, which will be protected by the County Wellhead Protection Ordinance.

Staff recommends the change in the FLUM classification from Low Impact Urban in the Natural Resource Management Area to Industrial and removal from the NRMA.

Member Rudolph **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 1 **CONSISTENT** with the Comprehensive Plan. Member Gove **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 02 – Amend the Future Land Use Element by adding a Goal, Objective and Policy to implement the “School Planning Amendment” to the Volusia County Home Rule Charter, which was passed in the general election on 11/3/06.

Member Gove **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 2 **CONSISTENT** with the Comprehensive Plan. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 03 – Added and revised language to the Policies in the Coastal Management Element to implement the Manatee Protection Plan for Volusia County. Language was coordinated with the Environmental Management Department and the Florida Fish & Wildlife Conservation Commission.

Member Gove **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 3 **CONSISTENT** with the Comprehensive Plan. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 04 – Revises a Coastal Management Policy to provide for land acquisition under the Volusia Forever Program.

Member Rudolph **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 4 **CONSISTENT** with the Comprehensive Plan. Member Lipke **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 05 – Same as Item 3. Revises language of the Conservation Element as related to the Manatee Protection Plan for Volusia County.

Member Gove **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 5 **CONSISTENT** with the Comprehensive Plan. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 06 – Same as Item 4. Revises a Conservation Element Policy to provide for land acquisition under the Volusia Forever Program.

Member Rudolph **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 6 **CONSISTENT** with the Comprehensive Plan. Member Gove **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 07 – Same as Item 3. Revises language of the Recreation & Open Space Element as related to the Manatee Protection Plan for Volusia County.

Member Gove **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 7 **CONSISTENT** with the Comprehensive Plan. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 08 – Same as Item 3. Revises the definition of “MARINA” as related to the Manatee Protection Plan for Volusia County.

Member Gove **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 8 **CONSISTENT** with the Comprehensive Plan. Member Rudolph **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

Item 09 – Repeal the Capital Improvements Program FY2005-06 to FY 2009-10 and replace it with FY2006-07 to FY2010-11. This amendment relates to the annual update of the CIP required by Florida growth management statutes. This CIP has already been adopted by the County Council on September 2006. Reflecting a slight increase in roadway funding, but not enough to off-set the reductions in the previous reduction in roadway funding.

Member Rudolph **MOVED** to **FORWARD** Comprehensive Plan Large Scale Amendment CPA-07-1 to the County Council, finding Item 9 **CONSISTENT** with the Comprehensive Plan. Member Gove **SECONDED** the motion. Motion **CARRIED** unanimously. Members Cornett and Sixma not present to vote.

STAFF ITEMS

NONE

COMMISSION COMMENTS

NONE

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 12:50 p.m.



Gary Huttman, Chairman



Date



Taver Cornett, Secretary



Date