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

COMMISSION PRESENT:
VACANT, Chair
RONNIE MILLS, Vice-Chair
WANDA VAN DAM, Secretary
JEFFREY BENDER
JAY YOUNG
STEVE COSTA
FRANK COSTA

STAFF PRESENT:
MICHAEL RODRIGUEZ, Assistant County Attorney
SCOTT ASHLEY, AICP, Senior Zoning Manager
SUSAN JACKSON, AICP, Senior Planning Manager
PATRICIA SMITH, AICP, Planner III
DAVID STALLWORTH, AICP, Planner II
SAMANTHA J. WEST, Planner II
JESSICA R. FLOWERS, Staff Assistant II
YOLANDA SOMERS, Staff Assistant II

PLEDGE OF ALLEGIANCE

Vice-Chair Mills led the pledge of allegiance.

LEGAL COMMENT

Michael Rodriguez, Assistant County Attorney, provided legal comment.

APPROVAL OF MINUTES

July 19, 2018
January 17, 2019

Member Young MOVED to APPROVE the minutes for July 19, 2018 and January 17, 2019 as presented by staff. Member Steve Costa SECONDED the motion. Motion CARRIED unanimously (4:0) Members Bender and Frank Costa abstaining.
Disclosure of Ex Parte Communications

Members of the Volusia County Planning & Land Development Regulation Commission were asked to disclose, for the record, the substance of any ex parte communications that had occurred before or during the public hearing at which a vote is to be taken on any quasi-judicial matters. All members present disclosed any communication as listed below.

Member Van Dam had a conversation with Glenn Storch regarding Ordinance 2019-6. Member Bender had a discussion with Robert Ballards regarding S-17-046. No other members present provided any ex parte communications.

PUBLIC HEARING ON APPLICATIONS

ITEMS TO BE CONTINUED OR WITHDRAWN

Items to be continued or withdrawn will not be discussed unless requested by a commission member, the applicant, or any other affected party. If you wish to speak on any of these items, please advise the commission clerk so that the chair can be advised. It is requested that applicants attend the hearing to answer any questions, which may arise.

V-19-018 - Application of Randall Kilner, owner, requesting a variance to separate nonconforming lots on Rural Mobile Home (MH-4) zoned property. The properties are located at 327 and 334 Creek Lane, New Smyrna Beach; Parcel Number(s): 4124-03-00-0230 and 4124-03-00-0080, ± 16,350 square feet and ± 17,000 square feet, respectively.

Susan Jackson, Senior Planning Manager, stated that there was a due public notice error and that staff requested a thirty-day continuance to the March 21, 2019 public hearing.

Member Van Dam MOVED to CONTINUE to the March 21, 2019, public hearing. Member Frank Costa seconded. Motion CARRIED unanimously (6:0).

NEW BUSINESS

Ordinance 2019-6 – Proposed Ordinance amending Chapter 72 regarding Conservation Subdivisions. This was previously advertised as Ordinance 2018-14.

Clay Ervin, AICP, Director, Growth and Resource Management Department, stated that this proposed ordinance was originally presented in May 2018. The commission had several questions about the preservation of uplands, buffers and landscaping requirements, setbacks and management plans. He explained that staff had done extensive research, and brought forward a revised proposed ordinance that was consistent with the comprehensive plan and the recommendations from the 2014 and 2015 smart growth implementation review committee. Mr. Ervin discussed the maps with the Environmental Core Overlay (ECO) layer displayed (Evidence 1). He pointed out the areas on the maps outlined in red which were privately owned wetland mitigation banks and publicly owned lands within the adopted ECO. He stated that one of the issues that the original ordinance had was that we did not specify how it would be applied. The comprehensive plan stated conservation subdivisions were only applicable to properties
with ECO or directly adjacent, therefore staff revised the proposed ordinance to ensure the applicability was consistent with the comprehensive plan. He referred to pages two through four of the package, and explained the fourteen summarized changes to the ordinance.

Member Steve Costa asked about lands adjacent to the ECO overlay. He asked if an owner had six properties and one was adjacent to ECO, could a conservation subdivision include all the properties.

Mr. Ervin replied affirmatively. He stated that staff did not want to exclude the properties on the periphery of the ECO. A parcel abutting the corridor boundary would be incorporated into an overall development plan.

Member Steve Costa suggested that the definition under applicability be clarified.

Mr. Ervin noted the suggestion.

Member Steve Costa commented that the language regarding nitrogen loads and advanced technology in this revision is appreciated. He stated that advanced technology was a continuously moving target. He recommended the implementation of actual standards as to nitrogen or certain nutrient levels that were consistent with what was considered advanced treatment, as it seemed to be left open to interpretation.

Mr. Ervin replied that staff had a concern about specific standards. He provided the comparison of the basin management action plan for the springs and the preferred areas where advanced treatment was in use. He explained that the Department of Environmental Protection was working with property owners to find better ways of handling the area and those measures were constantly evolving. He stated it may create more of a demand for more affordable options in meeting the standards.

Member Steve Costa commented that if we were meeting a standard, then the standard should be put in the code, rather than the term advanced technology, as that could mean something different five years from now.

Mr. Ervin explained that maybe staff could re-evaluate the terminology or the definition and bring it back separately as a cleanup to the code.

Member Steve Costa was agreeable as long as the task would happen. He mentioned that section fifteen, regarding the Florida friendly landscaping, was a good addition. He was concerned that staff was encouraging that only fifty percent of the plantings be native while not requiring the use of native plants. He commented that over seventy percent of the water use coming out of the aquifer is for irrigation, and that reducing that use was vital to the future of the state. He mentioned that encouraging native plantings is a nice thought, but it did not necessarily require it to happen.

Mr. Ervin replied that going forward we have a minimum requirement of fifty percent native planting so if someone wanted to they could provide at least that in native plantings. If you want to recommend to council that a mandatory requirement or percentage, staff is acceptable.
Member Steve Costa asked if landscaping requirements were already fifty percent native.

Mr. Ervin replied affirmatively.

Member Steve Costa inquired about the buffer requirement and if there was a mechanism for the hardship that it may cause.

Mr. Ervin replied that in item five, on page six of the package, the perimeter buffer was to address the concerns about visibility from the adjacent properties or rights-of-way. He explained that 50-foot was a typical setback in Agriculture zoning classifications, which gave the benefit that those areas could be counted for preservation and open space, while maintaining a minimum standard to ensure we were consistent and compatible with the agricultural areas.

Member Steve Costa commented that he would like staff to consider some type of waiver to this provision, so long as there was proper screening, or increase landscaping planned in a certain area for properties that have demonstrated the need to decrease the required minimum setback.

Mr. Ervin deferred to the legal staff, stating that whenever we provide flexibility we still needed some sort of guidelines with the flexibility. He stated it was our best attempt in providing a minimum and allowing the property owner the opportunity to get benefit from the preservation of perimeter buffers.

Member Van Dam asked about the density neutrality and whether the density would be calculated on the zoning or land use of the property.

Mr. Ervin replied that density neutrality was tied to future land use, and to the local plan as well. Staff analyzed the amount of conservation lands that had been acquired. The density was basically nullified either by public acquisition or placement of a conservation easement, and put into a bank for other projects to maintain density neutrality.

Vice-Chair Mills asked if it would not be better to put a limit on the mitigation of wetlands in the conservation plans in regards to density bonuses.

Mr. Ervin replied affirmatively. He stated that the wetlands in the conservation plan were staying on-site, therefore staff was encouraging no mitigation, and that there would be no land bank to get density bonuses from.

Vice-Chair Mills commented that the density bonus tables seem to encourage preservation on site and he was wondering if we would be better served by doing a wetlands mitigation control over the entire conservation plan.

Mr. Ervin replied that staff could monitor this part of the implementation and could bring it back as part of the clean-up, along with Member Steve Costa’s language review, as it would probably require a comprehensive plan amendment.

Public Participation
Glenn Storch, 420 South Nova Road, Daytona Beach, Florida 32114, stated he had been following this amendment very closely. He said that conservation subdivisions have not been utilized for more than a decade because the standards were impossible to meet. The goal was to encourage conservation subdivisions through a voluntary incentive program that facilitated a better quality of life and preserving the environment. He reminded the commission that the flexibility that was being proposed still gave staff the ultimate authority because a conservation management plan was a negotiated agreement. It may take longer but the end product would be better. He stated that he fully supported the amendment.

Commission Discussion.

Member Steve Costa commented that he understood there was a minimum, which is important to preserve the ecosystem but would like to propose the landscaping be increased to 75% Florida Friendly landscaping. The nitrogen, phosphorus, and other contaminants from fertilizer and irrigation into the aquifer were concerns.

Mr. Ervin asked for clarification on whether he was referring to Florida Friendly or Native landscaping, as they were not necessarily the same thing.

Member Steve Costa replied that he wanted Florida Friendly.

Vice-Chair Mills was concerned that raising the minimum would create a hardship on someone trying to develop and not being able to meet the 75%.

Member Steve Costa referred to the Florida Friendly list of available plantings which was more extensive than the list for Native plants. He stated there wasn’t a burden on the developer with so many options.

Mr. Ervin commented that native plants were distinguished on the list, and Florida Friendly meant non-evasive and drought tolerant, which were better for the environment.

Vice-Chair Mills commented that his concerns have been addressed.

Member Steve Costa asked how to address the flexibility of the buffers and screening.

Mr. Ervin replied that there was flexibility to add walls or berms set to a minimum depth of 50 feet. That way there was a minimum standard to default to. If that could not be met, then an alternative plan with a berm, wall, or additional landscaping may be allowed.

Member Van Dam asked in what circumstance the 50 feet couldn’t be met.

Mr. Ervin replied that if a property frontage was only 50 feet or 100 feet wide, then the property would be excluded from the ability to do a conservation.

Member Van Dam commented that as long as the criteria is clarified, then she had no objection.
During commission discussion about reducing setbacks and possibly allowing a variance for parcels that were not able to meet the minimum standard due to irregular shape or parcel size, the commission expressed reservations about allowing flexibility to reduce the setback to less than 50 feet with a retaining wall or berm. This could be misconstrued as encouragement of smaller developments as conservation subdivisions.

**Member Steve Costa MOVED to FIND Ordinance 2019-6 CONSISTENT with the comprehensive plan and FORWARD to county council with a recommendation of APPROVAL with the following modifications:**

1. Clarification language regarding common ownership in the applicability section.

2. Require that all newly installed landscaping meet 75% Florida Friendly standards.

**Member Bender SECONDED the motion. Motion CARRIED unanimously 6:0.**

[S-17-046] - Application of Michael Woods, attorney for Kemcho Investment Group, LLC, owner, requesting a special exception for a nonexempt excavation on Forestry Resource (FR) zoned property.

Susan Jackson, AICP, Senior Planning Manager, stated that the request was for a special exception for a nonexempt excavation on a portion of a 231-acre parcel located on the south side of State Road 44, just east of the I-4 interchange. The property was zoned Forestry Resource (FR) and Resource Corridor (RC), and located within the ECO and NRMA overlays. The surrounding area was primarily timberlands and wetlands with some large lots developed with single-family residences to the east, agricultural lands to the north and conservation lands to the northeast. The applicant proposed four different excavation pits to remove approximately 1,000,000 cubic feet of fill material from the FR zoned portion of the property that covered about 38 acres. Ms. Jackson explained that there was no excavation permitted within the RC zoning classification. Through the site plan review process, the depth of the excavation pits would be determined and were proposed to be 31 feet deep from the top of bank. The property was located on a heavily wooded parcel. A 300-foot FPL easement runs along the east property boundary. The excavation activity would generate about 164 average daily trips, or hauls, per day. Dewatering would be pumped to adjacent wetlands in accordance with a St. Johns River Water Management District permit. The applicants had stated, but the plans did not show, that there was an existing 150-foot landscape buffer along the northern boundary, and that the wetlands abutting the western and southern property boundaries served as the landscape buffer in those areas. She explained that the specifics of the perimeter landscape buffer would be determined during the final site plan review process. The applicant intended to access the excavation site from two entrances off State Road 44. The first access was located about 600 feet from the western property boundary and the other was the existing FPL power line easement. Although it did not appear to have a negative impact of the level of service of State Road 44, there were several improvements that may have been necessary and would be addressed during the final site plan process. At the time of this report, staff had not received the required documentation to prove that the proposed excavation would not impact groundwater within the adjacent wetland.
systems and adjacent wells or information on landscape buffers. The hours of operation were proposed to be Monday through Friday, from 6 a.m. to 5 p.m., with a half day on Saturdays. Staff had recommended the hours of operation be amended to Monday through Friday, from 8 a.m. to 5 p.m., with no weekends or holidays. Staff also recommends fencing to enhance security of the site. Staff recommended the commission forward this case to county council with a recommendation of denial.

Member Frank Costa asked to confirm that this was a technical denial and that should council approve the request that it must receive a final site plan before commencing work on the site.

Ms. Jackson replied affirmatively.

Member Frank Costa asked what the repercussions were should any work occur on site prior to site plan approval.

Ms. Jackson mentioned that complaints would be provided to code compliance and the property owner would be subject to the code compliance process.

Member Van Dam asked why the application was being considered by the commission if staff found the application to be lacking required documentation.

Ms. Jackson stated that the applicant wanted to move forward and staff was accommodating the request. Staff had not fully reviewed the additional required documentation, therefore staff must recommend denial.

Member Van Dam commented that at this point her concern was that not all the facts were available for the commission to consider.

Member Bender inquired about the staff recommended condition eleven and limiting operating hours to allow for vehicle maintenance on Saturdays, no excavation work, but equipment maintenance.

Ms. Jackson replied that the condition could be amended should the commission request it.

Member Bender inquired about recommended condition twelve, that maybe the property could be posted with no trespass signs as well as the six-foot fence. He commented that breaching a fence was one thing but if the property was posted with “No Trespassing”, then it could not be said that it was unknown.

Member Bender asked about the letter of credit referenced in condition fourteen.

Ms. Jackson replied that the letter of credit was secured by a financial institution. The credit was intact until the work was complete, after which it would then be dissolved.

Member Bender asked if the institution could revoke the credit if the business got into financial trouble, and whether or not the funds would still be available for unfinished site work.
Ms. Jackson replied she was unable to answer that and asked if legal could respond.

Michael Rodriguez, Assistant County Attorney, replied that whether it was a letter of credit or a type of bond, they were handled by the engineering and public works department to ensure that there were funds available, should the county need to complete the work. He explained that these were things that were addressed and conditioned during final site plan approval.

Member Bender inquired about condition seventeen, as there was an option requiring a temporary office or restrooms.

Ms. Jackson asked if he wanted to require the office and the restrooms.

Member Bender replied that a restroom should be a requirement.

Member Young asked about any proposed pumping equipment and whether those pumps would be limited to hours of operation.

Ms. Jackson replied that there would be pumps due to the dewatering process and deferred to the applicant to address the issue. She mentioned that they would have to comply with the noise ordinance.

Member Steve Costa asked if staff had been to the site to look at it in any manner.

Ms. Jackson replied that the environmental staff had been to the site but she had not.

Being that there were no further questions of staff, the applicant was provided the floor.

Michael Woods, attorney, 231 North Woodland Boulevard, DeLand. Mr. Woods addressed the staff comments and commission comments. He spoke to the question of the application not having all the required information by stating that Mr. Buswell was present to speak to the drawdown of the groundwater in regards to the impact to the surrounding wells. He also mentioned that the site plan had been tabled and that his intention was to provide all required information, but felt he needed to move forward as it had become stalled. He mentioned that the project has taken a lot of effort in coordinating with staff for about eight to ten months, and the driving force had been avoidance of wetland impacts. He spoke to the irregular shape of the excavation pits being due to the constraints and limitations for compliance with the code. He mentioned that St. Johns River Water Management standards were typically 50-foot setbacks while the county required 150 feet and that the plan provided was in compliance with the county’s requirements. He pointed out that excavation pits one and two would be accessed from State Road 44, and that excavation pits three and four would utilize the access along the eastern boundary. These decisions were to avoid wetland impacts, as the concept to connect and access excavation pits three and four through excavation pits one and two, was dismissed. Mr. Woods spoke to the photos (Evidence 1) he presented. He explained this was the original concept for the roadway and the connection to the driveway that was requested by staff to be removed. He reiterated that through the process the thought of avoiding unnecessary impact to the wetlands was the driving force behind excavation
pits three and four’s location and access. He then began addressing staff comments provided in the staff report. He explained that the hours of operation of 7 a.m. to 5 p.m. Monday through Friday, would be appreciated as one hour would not make a difference to impact. He also asked that operations be allowed on Saturday in the mornings only. The seven to five time frame was provided to a similar project a few months ago and they requested the same provision. He explained he did not understand the basis for having to close on federal holidays and from the stand point of working, it did not make sense. The potential load and operation was about 75 to 100 vehicles per day. He then explained the perimeter landscaping (Evidence 1) along the eastern boundary of the property was a utility easement that services Mr. Storch’s client (Florida Power and Light) to the south. He stated that the area between the easement and the property line was substantial wetlands. He commented that due to the required setback and staff requirements, there would be no additional plantings because of the county’s wetland avoidance and mitigation. He displayed photos that were taken to show the proximity of the two homes that are probably the closest to any point of the roadway. He mentioned the roadway was a utility easement, and that there were powerlines and other provisions the county does not typically allow to apply as landscape buffering. The overall goal of the county policies were to have excavation operations tucked further into the property. As can be seen from the aerial photo we are very much isolated in the interior of the property. He opined that the footprint provided minimal impact. He discussed technical requirements for the landscape buffer on the east side versus recognizing the existing conditions and to allow for that to meet the landscaping requirement. He mentioned the high water tables and that the excavation would operate a thirteen horsepower pump, continuously, and it could not be shut off because the water would return. This was a fairly standard concept for excavations. He mentioned that he did not recall a requirement for a fence as part of the landscape buffer and did not see how a fence would be compatible with the surrounding neighborhood or could be installed without wetland impacts. It also does not seem practical to provide fencing that is not required by code. He stated that the limited access and a gate would be sufficient and that the property would be posted. He addressed staff recommended conditions of approval, stating he was agreeable to conditions one, three, four, five, six, nine, thirteen, fourteen, and fifteen. He commented that condition two was agreeable, but he did want to mention that a plan had been engineered to seek a variance from the wetland setbacks that may be submitted in the future. He clarified the dimensions of the excavation is controlled by the plan provided today. He stated for the record that the intention was to comply with conditions seven and eight, and was continuing to work with staff in regards to the presence of wetlands. He requested that condition eleven be changed, as discussed previously, to seven to five Monday through Friday and a half-day on Saturdays. With respect to condition twelve, he mentioned that there were other ways to handle safety, by posting of the property instead of building a fence. He commented that the intention of a letter of credit or bond was to provide funds to allow the county to continue the work regardless of the applicant or its finances. He mentioned that in regards to condition sixteen, there would be a water tank and dust suppression and to condition seventeen, although an office was not necessary, there would be restroom facilities for the site. He stated that he was in conversations with Mr. Storch regarding the power company and the utilization of the easement, as there were concerns about vehicle conflicts and a continuance was requested, but at this time it was unfortunate that we could not accommodate the request.
He asked the commission to assist him in keeping this project moving forward, all issues could and would be resolved, but the delays due to every concern were detrimental to the project.

Member Bender commented that it would be difficult for the trucks to not run off the road after making a U-turn on State Road 44 to get to the second entrance.

Mr. Woods replied that it was something that had to be worked out.

Member Bender asked about the surrounding private wells and what would be done if they were impacted. He would like some sort of protection for this issue.

Mr. Woods replied that the idea is the materials presented by the engineers were supposed to quantitatively and qualitatively demonstrate that it is not an issue, and if they were in the margin of error of impacting that, they would scale-back the drawdown or location. He stated that the first rule was to do no harm.

Member Bender spoke of a conversation with one of the property owners in the area and thought that the wells were shallow. He commented that he appreciated reports and data analysis but he wanted to see protection measures such as money set aside in case of damage to the wells so that the property owners were not burdened by lawsuits to fix damage done to them by this use.

Mr. Woods replied that although it was a new concept, it could be structured in the letter of credit or type of bond, once an estimate of cost was established. He would not be able to commit to that at this point, but it could be considered going forward.

Member Bender commented that it would be hard to support the request without addressing this issue.

Mr. Woods stated that if the commission imposed a condition it would be worked out to the best of our ability and, if for some reason, it was determined that the condition could not be fulfilled, they would ask for relief from the condition.

Member Frank Costa commented that he was a property rights person. He wanted to support the project, but this would be in his backyard and the hours of operation were an issue. He mentioned that it was not so much the 7:00 a.m. as the startup of the equipment and trucks at 6:30 a.m. in order to be ready to start at 7:00 a.m. He also mentioned that being closed on federal holidays was necessary and provided an example that Fourth of July falls on a Tuesday this year, and to have a barbecue with excavation noise would not be appealing. He stated that it would be simpler if the commission had a landscape plan to review and that it would be hard to provide a favorable recommendation as presented. Excavation pit one was the closest to State Road 44, at about 150 feet from the edge of the road, and although it is wooded it was not heavily wooded. He suggested that unless there was a wetland present that a landscape berm be installed along that side so the excavation pit could not be visible from the road. He stated that State Road 44 was a gateway between New Smyrna Beach and DeLand that is traveled heavily on the weekends. The view should not be of an excavation pit as what can be seen on State Road 415 near Rassley Road.
Member Steve Costa echoed Member Frank Costa’s comments. He mentioned that the commission was to make recommendations on whether there are adverse impacts to public interest, natural environment, scenic beauty or excess pollution. He stated that the applicant has not provided the information necessary for such a recommendation to be made. For example, it was mentioned that the property owner to the south was a power company, and information hadn’t been provided to assist whether or not the use would adversely affect a critical utility of our public grid. He asked how the commission was to ascertain whether the use was going to affect the public without submitting all of the information.

Mr. Woods reiterated that the reason he was before the commission was that this had been in the process at staff level for a while and in order to get to a final result and have this come to fruition was to find out from the commission and council what the concerns were. They needed complete feedback to address all the issues and keep the project moving forward. He commented that he has heard the commission’s issues as being verification of groundwater, landscaping, perimeter buffers and clarification on the eastern boundary as access.

Member Steve Costa commented he had a concern with the ability of the St. Johns River Water Management District to monitor and oversee the project. He stated that since this project was directly in the county’s environmental overlay area, that maybe some type of third-party verification would be necessary to ascertain that the plan was being followed, or allow the county to come out and do regular inspections.

Mr. Woods replied that he thought the county already had that authority.

Member Steve Costa asked how the applicant intended to make this commission confident that the wetlands were going to be protected.

Mr. Woods replied that the St. Johns River Water Management District required a 50-foot setback from the wetlands and the project was designed with a 150-foot setback due to the county requiring that standard. He explained that the county was in charge of enforcing and verifying that since there was a heightened standard already imposed by the county.

Member Steve Costa commented that he was not sure if the county had standards and requirements about monitoring the quality and quantity of the water pumped offsite into the wetlands.

Member Young commented that he had three concerns; the hours of operations of 7:00 a.m., the drawdown on wells and dewatering, and the utilization of the access easement to the utility substation.

Mr. Woods spoke to the photo of the roadway (Evidence 1), and stated that the roadway was not an emergency access but a full primary access to the station. He opined that the concern from the power company was regarding when they were having delivery of equipment and construction at the substation that there was not enough travel way for both, and maybe maintenance of the roadway.
Vice-Chair Mills commented about the lack of information on tapered shoulders and understood that a fence was an issue for the applicant.

Mr. Woods replied that Mr. Buswell could address that but the code requires a fence based on sloping and we will not be required based on our proposed slopes.

Steve Buswell, 1729 Ridgewood Avenue, Holly Hill, spoke to a computer model graphic of the ground mounting water analysis (Evidence 2). He explained that the white contours on the inside correspond with the limits of the bottom of the excavation pit. This basically results in a cone of influence, which shows the limits of where the groundwater would be 500 feet away. You can see basically it is back to almost existing groundwater level at that point before it even crosses the property. He commented that at 500 feet it is almost negligible, as far as the effects on the groundwater. He commented on the sloping of the excavation pits, and that the county required a gradual slope that is to be planted with native wetland after the finished product was stabilized. He mentioned the truck movements and traffic improvements and explained that DOT would be reviewing and permitting road improvements on State Road 44, regarding both driveways and drainage. Their concern had been the slowing down of trucks on State Road 44 as they enter the site. This will require a 460-foot deceleration lane at both points of entry. Any other median improvements they deem are required based on their analysis will be provided to them. He addressed the commission’s concern about the monitoring of the project with regards to dewatering and wetlands. He mentioned the dewatering method approach that has been proposed to the St. Johns Water Management District is basically a sock trench that gets discharged right on top of the wetland for filtration.

Member Young asked whether the drawdown was based on a static or rubber band effect and does it take in account for 24-hour pumping.

Mr. Buswell replied that this is steady state after getting the water table down to the bottom.

Ms. Jackson asked for clarification of whether there was stockpiling on site.

Mr. Buswell replied that the typical idea was that you construct in layers. The intent is to dewater as much as possible so that the material that is dug out can be loaded for transport without having to move the materials twice.

Ms. Jackson asked where the stockpiling would be located.

Mr. Buswell replied that it would be in the limits of the pits but basically inside the silt fence.

Ms. Jackson asked about the height of the stockpiling mounds.

Mr. Buswell replied he would imagine that the piles would not be more than 12 feet.

Ms. Jackson suggested an additional requirement to ensure the stock piles of dirt would not be visible to off-site properties.
Member Steve Costa asked about the graphic depicting the groundwater effect. It did not show the wetlands in the excavation area would be effected.

Mr. Buswell referred to the graphic showing the red contour which indicates a negligible effect. The water table below the wetland would be impacted, but the wetlands get hydrated as you discharge into them.

Member Steve Costa asked how it was monitored.

Mr. Buswell replied that it was not monitored. He explained the process of pumping down the water, and that as the material dries, the rest of the water is discharged to the wetlands.

Member Steve Costa inquired whether the water leaving the wetland was monitored.

Mr. Buswell replied that from a steady-state number it is somewhat different than when you start with the higher water table. They don't calculate that number. It is 90% of the water that is drawn down and rehydrated into the wetlands.

Vice-Chair Mills inquired about what would be needed to keep the material dry given the surrounding wetlands.

Mr. Buswell replied that the parameters of the soil indicated how many pumps you need. Basically, 13-1/2 horsepower pump is standard, and it will continually cycle through, but it is enough that they can keep the area dry.

Member Steve Costa asked for something to illustrate the amount of water that is going to be required to be moved around in this area and the wetlands surrounding the site. He inquired how those wetlands would be affected by the increased water being pumped into them, and the effects on those wetland areas connected on neighboring properties. His concern was pumping into a wetland could cause flooding of a connected wetland or property.

Mr. Buswell replied that the discharges are located adjacent to each excavation pit and the main system was 1000 feet away from the property line.

Member Steve Costa replied that he had no idea how big the wetland was and would like information.

Mr. Buswell replied that the RC boundary on the map showed the size of the wetland system.

Member Steve Costa replied that the RC boundary goes off-site to neighboring properties and he did not know how that modeled but did not want other people's properties to be flooded and was looking for something to show that it would not happen.

Member Young asked if the model presented was based on operation of one excavation pit at a time or more than one at a time.
Mr. Buswell replied that one single excavation pit was operated at a time.

Member Young inquired whether each excavation pit became static prior to moving to the next excavation pit.

Mr. Buswell replied affirmatively and stated that it would be static and stabilized. Depending upon the size of the excavation pit, they may construct a temporary basin to discharge that water.

Member Van Dam asked staff if stock piling was allowed in the 150-foot buffer.

Ms. Jackson replied that it was not allowed and that staff would recommend a specific condition stating that stockpiling was prohibited within the 150-foot buffer or within the buffer to State Road 44 or adjacent properties, nor visible from the those boundaries.

Member Van Dam asked if it was allowed within the 50-foot wetland buffer.

Ms. Jackson replied that in this case the wetland buffers were 150 feet.

Member Van Dam inquired that if the buffer was 150 feet from all wetlands, therefore they would not be allowed to stockpile any of the material within a 150 feet of any of the wetlands.

Ms. Jackson replied affirmatively.

Member Steve Costa stated there was no wetland delineation.

Mr. Buswell replied a wetland delineation was submitted.

There being no further questions of the applicant, the Vice-Chair opened the floor for public participation.

Public Participation.

Lisa Graff, 700 Universe Boulevard, Juno Beach, project manager for the substation. She stated that the substation to the south of this site was a regional transmission substation and it was considered critical infrastructure. The station served customers indirectly by transferring or moving energy through two smaller substations that serve customers directly. She provided the floor to her representative, Glenn Storch.

Glenn Storch, 420 South Nova Road, Daytona Beach, representative for Florida Power & Light. He explained that his client informed him of this project a couple of days ago and that they did not have everyone present that was needed to testify, but felt this application had been brought forward prematurely. He stated that he was familiar with excavation and was not opposed to this excavation, in concept, if it was needed in the area. He explained that excavations were complex and required collaboration from the area as not to adversely impact them. He explained that excavations are open for five or six years and effect the surrounding area, but if done correctly, the impacts can be minimized. He
stated that although a notice was sent to his client’s home office in Juno Beach, they were not aware that the easement was intended to be the primary access for the excavation. He mentioned that he had a presentation to show some issues that his client had regarding the access and that he had called Mr. Woods to explain his position and asked for a continuance to begin working on a solution. He presented a PowerPoint presentation (Evidence 3) describing the reasons this was an issue for his client. He mentioned that before this commission was a technical recommendation of denial from staff because the applicant did not provide all the necessary information to make a favorable recommendation. This project was being pushed through without the necessary information to allow the impact to be minimized by working with neighbors that are critically affected by their project. He opined that this application was not ready for review by the commission. He described the significance of the easement and that the roadway that was built to access and maintain a regional transmission substation. The substation is considered critical infrastructure by Homeland Security, so anything that obstructs or prevents construction or use of the substation would cause tremendous hardship, not just for his clients, but for thousands of citizens of Volusia County, should there be an issue at the substation and crews were not able to get to it. The resolution to the utilization of this roadway must be specific, in writing, and enforceable. The roadway was built under a special statute for providing a road to a substation and electric infrastructure. It was not a typical road built for an excavation. He mentioned the photo (Evidence 1) presented by Mr. Woods showing that the roadway was not wide enough to accommodate two major vehicles passing each other. He stated his client’s vehicles are carrying 600,000 pounds of equipment and are massive transporters. Excavation dump trucks trying to utilize the roadway as well could cause ruts trying to pass, or could fall off the pavement edge, get stuck, or break down and cause the roadway to be impassable. He spoke more to the power point, explaining that the rendering of the substation was stock and not a true picture of the facility as it was strictly forbidden by homeland security to publicize a facility. He mentioned the photo of the types of vehicles and the infrastructure of the area. He mentioned that FP&L purchased the easement from the property owner for the sole purpose of building this road to the regional substation and everyone knew that at the time of purchase. No one mentioned the idea of using the roadway on a daily basis for hundreds of dump trucks, potentially damaging or preventing access on the roadway. He stated the roadway was of great concern to FP&L. The easement language entitled FP&L full use and enjoyment of the property without limitation, the right to use the existing road on the property, and to keep the roadway clear of obstructions as may be necessary and desirable for FP&L. He surmised that a broken down dump truck was an obstruction and must be kept off the roadway. The agreement did not state that the easement was nonexclusive or exclusive, or whether it could be used for other commercial uses. The owner utilizing it to survey the property was understandable, but the idea of turning the road that is used for critical infrastructure into being used by hundreds of dump trucks without some agreement with them was not foreseen or understandable. He reiterated that they were not opposed to the excavation use, or all the other things being spoken about, such as time frames and drawdowns. The most important issue for his clients is access to their critical infrastructure. He stated that none of these items could be resolved without the information staff was lacking from the applicant. He provided three options for the commission, one was a continuance to allow him to work with the applicant, two was requiring an alternate access road as a condition of approval, or the third was to forward to the county council with a recommendation of denial.
Member Young asked whether the transmission station was already built.

Ms. Graff replied that they had four of the eight transformers set and that the site was active. She mentioned the 300-foot access easement was approved under the transmission siting act and there are specific standards that it must be built to that are different from that of a haul road for an excavation pit.

Member Frank Costa asked Mr. Storch if he could reach an agreement with the applicant or was this a stall tactic by the opposition.

Mr. Storch replied that he does not do stall tactics, and has worked with Mr. Woods for years and believed a solution could be reached, however he needed more than two days to work with the applicant.

Member Frank Costa complimented Mr. Storch on his past practice of always trying to find a solution for all involved, and commented that he hoped that the applicant would consider the opportunity of a continuance.

Member Steve Costa asked about the picture showing that construction had already begun on the excavation site.

Mr. Storch showed the photo (Evidence 4) that work had begun near excavation pit three. He said this was recently brought to their attention and they became concerned.

Member Steve Costa asked about the location of where the photo was taken.

Ms. Graff replied that the photo was taken from the access road facing the proposed excavation pit three.

Member Steve Costa mentioned that the photo does not show silt fencing, but shows wetlands and site development being done. He asked if staff was aware of the site being in operation.

Ms. Graff said there was a silt fence that curves around and there are bushes growing around it.

Mr. Storch asked if that was the applicant’s fencing or his clients.

Ms. Graff replied it was our FPL’s fencing.

Member Young mentioned that there appeared to be a fuel tank in the picture.

Mr. Storch asked Ms. Graff if it was FPL’s fuel tank.

Ms. Graff replied that it was not.

Mr. Storch reiterated that an agreement was necessary to ensure the utilization of the easement and the consequences of misuse. He commented that when you have one-
hundred trucks per day with one-hundred different operators, the rules must be specific, must be complied with, and have consequences. He stated that his clients had to follow homeland security regulations in regards to access around the regional substation. He was willing to work with the applicant to resolve the issue for both parties, but it could not be done in one day.

There being no further questions of Mr. Storch, the floor was provided to the applicant for rebuttal.

Mr. Woods stated that given Mr. Storch’s issues, he would like to request a continuance for a single hearing. He was unaware that there was a homeland security issue and provided the recorded access easement (Evidence 5) mentioning that it did not state anything about the issue. He wanted to have a resolution but he did not want to get stuck in the review process. He thought that the inclination from FP&L was that they not use the roadway in any way but that would require impacts to the wetlands, which the intent thus far has been that the wetlands are to be avoided. He asked for verification from staff because of the security issues, would the avoidance of wetlands requirement change. He also mentioned he was not aware of any site work happening and would address it with his client immediately.

Vice-Chair Mills commented that one of his concerns was the ability to create these roadways and the effect it would have on the wetlands. It is in a naturally wet area to begin with. He questioned if this is a good plan for this area. He expressed that he did not think that the roadway was the only issue and he did not want the applicant to leave here thinking a positive recommendation would be given if the road issue was addressed.

Mr. Woods explained that he was not trying to oversimplify the outstanding information, or that it somehow alleviated the other concerns that have been discussed. He expressed that the applicant had the wetlands delineated and applied for an administrative boundary adjustment that was not favorable to him, in order to adjust the zoning boundaries to properly reflect the actual conditions on site. He had the ability and access to a roadway that would not impact wetlands and at this point that was the path of least resistance. He needed to know that there was an option that staff would allow. He stated he could provide for the access roadway and deal with mitigating as long he knew there was an option.

Member Steve Costa expressed that the applicant needed to come back with a sufficient plan.

Mr. Woods requested to know whether there was a prohibition that stated, under no circumstances could the road go from pit to pit, traversing the wetlands. He stated it would be ideal if FP&L could do their thing and we do ours and never the two shall meet; however, he did not think that could be accomplished in compliance with county policies.

Vice-Chair Mills replied that the commission did not know the impacts of connecting the different excavation pits through the wetland areas or whether to avoid the areas altogether was the only option.
Member Bender mentioned that he was struggling with the urgency of trying to get approvals of a project when the required information was not provided. He wanted to know why the approvals were necessary right now and could not understand the urgency for not doing the process right.

Mr. Woods mentioned that this application had been in the process for about eight to ten months, and although the application was submitted with a substantial misread of the requirements, it was necessary to move forward with the process to be able to utilize the project. A special exception should be a two or three month approval process. He conveyed that he was trying to keep deadlines so that the project could come to fruition. He was confident that Mr. Buswell could submit the necessary documents to staff. He wanted assurance that making the change in course was allowable and that there would not be any impassable or insurmountable blockage to it by staff.

Member Bender commented that it would be impossible for this commission or for the staff present to accommodate the assurance about the roadway as it seemed to be an issue that environmental staff would need to review and provide recommendation.

Mr. Woods replied that he did not need staff or the commission to give a definite permission. He was requesting a reason such as a policy or code reference that would or would not allow the change in the access.

Vice-Chair Mills asked staff to comment on the continuance to see if there could be a solution to staff’s satisfaction as far as information needed for a recommendation of approval.

Ms. Jackson replied that the staff reports for the next hearing were due on Monday and then the package would be finalized within the week for publishing. She voiced her concern that there was insufficient time for the applicant to provide the necessary documentation and for staff to review it prior to completing the next month’s reports. She suggested that, in an effort to help the applicant keep the project moving forward, the special exception be split into phases. Approval for phase one to include excavation pits one and two, as they looked to be able to move forward with some additional documentation. It would give an opportunity to work out the details about the road for excavation pits three and four.

Vice-Chair Mills commented that as far as the pass ability of the road was concerned, the proposed equipment and trucks that are to utilize it were rather large. Without expanding the width or constructing a new road, it did not seem possible in his experience. He mentioned the different phases and utilizing a different roadway, but without knowing how much water was going to be displaced and the effects on the surrounding wetlands, or if there would be an encroachment on the wetland areas, it was unclear if a road needed to be built.

Ms. Jackson responded that it was her understanding the initial road proposed from excavation pit two to three was denied by the environmental review staff because it would bifurcate the wetland and the policy was avoidance, then mitigation.
Mr. Woods was confident that he could get all the necessary information for a phased approach to staff, with a thirty day continuance. Then they would provide the remaining information for the second phase while being able to continue working towards completion. He was concerned that a continuance for longer would be detrimental to the project.

Member Young asked if a traffic study would be required if the traffic flow changed as a result of using that road.

Ms. Jackson replied that staff would double check if it would be necessary since the study provided may have been based on the primary access point.

Vice-Chair Mills asked staff if the commission were to address the excavation pits one and two, would thirty days be enough time for review.

Ms. Jackson responded that it would be really tight and would need the information right away. She mentioned that staff was unsure how it would be handled, but would be willing to work with the applicant.

Mr. Rodriguez clarified that the next hearing was in 28 days, as to make it clear that a continuance for thirty days would not be the next hearing.

Michael Woods, attorney, acknowledged.

Member Van Dam commented that her concern was that the commission was reviewing an incomplete application and felt rushed for an approval based on the applicant’s timeframe. She mentioned she understood that the project needed to keep moving through the process but it was incomplete information and would like to have the application continued until all the information was provided and reviewed.

Ms. Jackson replied the outstanding items for the impact to adjacent wells, landscaping, fencing, and so forth, would need to be provided to staff as soon as possible and thought that a continuance to April was manageable.

Member Bender commented that he did not want to have this continued for less than to the April hearing as he was concerned with rushing and making mistakes.

**Member Bender MOVED to CONTINUE S-17-046 to the April 18, 2019, public hearing. Member Van Dam SECONDED the motion.**

Member Frank Costa commented that he could not support the motion as he could relate to the cost of delay. He commented that if all the information for the excavation pits one and two is available then he could support recommending approval for those excavation pits so that we don’t have to review them again once the package becomes complete and addresses some of the concerns that we have about buffers, landscaping and excavation pits three and four.

**Motion CARRIED 5:1 (Member Frank Costa opposed).**
V-19-007 - Application of Glenn Storch, attorney for Edward and Hope Gonano, owners, requesting variances to the minimum yard requirements on Urban Single-Family Residential (R-9) zoned property.

Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson explained that the subject property was zoned R-9 which required 75 feet lot width, but the lot was five feet less than that. A good nonconforming lot letter was obtained to acquire building permits, however, the new homeowners were requesting three separate variances to add onto the rear of the home and add an additional story on the home that they purchased in 2014. She explained that the subject property was on the seaward side of the coastal construction control line, and that the valuation of the proposed renovation was subject to certain building requirements to maintain the integrity of the livable space. She explained that the bottom floor must be elevated to be constructed on pilings in case of flooding. The proposed addition was to follow the current line of the home, but variances would be required as the home encroached into both side yards. Staff felt there was enough of a buildable envelope on the lot to redesign the home to eliminate or reduce the variance request, therefore, staff recommended denial and provided conditions that had to be met regardless of the variance being approved or denied.

Member Van Dam asked if the third variance request was still necessary based on averaging the setbacks to the lots of either side.

Ms. Jackson stated that it was still in play as a survey of the properties on either side was not provided to staff.

Being that there were no further questions of staff, the applicant was provided the floor.

Glenn Storch, 420 South Nova Road, Daytona Beach, FL. Mr. Storch explained to the commission that he believed a survey indicating the setbacks had been provided. He went on to state that the home was built in 1947 and that it had incurred storm damage over the years from hurricanes. The homeowner wished that the home be built to current code and storm requirements to protect it and the neighbors’ homes. He applied for a remodel permit in 2017 and had been working with staff to resolve the issues on the property. Mr. Storch stated that typically you were able to reconstruct or remodel a home based on the existing lines and setbacks however, they were trying to remodel the home correctly and staff indicated that it would have to meet current code requirements due to the valuation of the proposed remodel. Mr. Storch indicated that the proposed remodel would place the home exactly right back where it currently resided on the lot within the existing front and side yard setbacks.

Edward Gonano, 3909 Oriole Avenue, Wilbur by the Sea. Mr. Gonano stated that the elevation of the home was 17 feet above the 100 year flood plain and the mean water height. He stated that the pilings would hurt because he would have to dig them down and he just wanted to improve the home.

Mr. Storch edified the effort going into making sure the remodel was done correctly. He went on to go through the requirements for granting a variance and rebutted staff’s recommendation for denial, while explaining that the variances requested were only necessary due to the valuation of the proposed remodel being more than the requirement.
He felt as though homeowners were being discouraged from improving their homes and that if the variance was denied, the home wouldn’t be able to be brought up to code. Mr. Storch concluded by explaining to the commission that the neighbors were in support of the request and he had no issues with the proposed conditions.

Member Frank Costa stated that he felt that the proposed remodel would be beneficial and asked if the existing slab was going to be removed or would they just be cutting out for the pilings.

Mr. Gonano stated that the slab would be removed.

Vice-Chair Mills asked if the requests were triggered based on a dollar amount.

Ms. Jackson responded in the affirmative.

Vice-Chair Mills asked when the ordinance was put into place.

Ms. Jackson explained that it was a nonconforming regulation.

Vice-Chair Mills asked if there was room in the ordinance to increase over time as costs go up.

Ms. Jackson stated there was one for the building code that was based on a 50 percent valuation and one for the zoning code that was based on 75 percent valuation.

Vice-Chair Mills clarified that the dollar amount was based on the property value as it stood today rather than a specific dollar amount.

Ms. Jackson answered in the affirmative and explained that it was based on the valuation per the property appraiser’s office.

Vice-Chair Mills asked if the intent was to keep anyone from removing the structure to rebuild under the same footprint.

Michael Rodriguez explained that the intent was to phase out nonconforming structures over time. If it’s attempted to increase the nonconformity, you would need a variance, while any replacement should be in keeping with the current regulations.

Vice-Chair Mills asked if he were to completely wipe out the current home, would he still need the variances with the vacant lot.

Mr. Rodriguez answered in the affirmative and that code required if the repairs were in excess of 50 percent of the valuation, the variances were required.

Mr. Storch stated that the building could be expanded toward the beach as long as he didn’t go over the dollar amount.

Mr. Rodriguez answered in the affirmative and explained that he couldn't increase the encroachments.
Mr. Storch explained that the homeowner could expand the home along the same setbacks that were currently in place along the property lines and increase the size of the home, but he couldn’t do it correctly by installing the pilings. He felt that the policy should be encouraging them to do it correctly. He concurred with Vice-Chair Mills in his comment about increasing the valuation over time due to increased building costs.

Ms. Jackson reviewed the survey and explained that the first variance to the front yard setback was no longer needed.

Public Participation. None.

Commission Discussion.

Member Frank Costa explained that the request had his support.

Member Frank Costa MOVED to APPROVE case number V-19-007, a variance to reduce the north side yard setback from 7 feet to 4 feet for a new single-family residence, and a variance to reduce the south side yard setback from 7 feet to 4 feet for a new single-family residence on Urban Single-Family Residential (R-9) zoned property, subject to the following staff-recommended conditions:

1. The portion of the property’s retaining wall protruding into the South Atlantic Avenue right-of-way shall be removed prior obtaining the Certificate of Occupancy.

2. Prior to obtaining the Certificate of Occupancy, the applicant shall obtain and complete all required permits for any on-site fences and walls that have been improperly erected on the premises as of the date of this action.

Member Van Dam SECONDED the motion. Motion CARRIED unanimously (6:0).

PUD-19-015 - Application of Robert Foster, attorney for Alfredo Avila, owner, requesting a rezoning from the Neighborhood Commercial (B-2) classification to the Planned Unit Development (PUD) zoning classification.

Scott Ashley, AICP, Senior Zoning Manager, stated that the request was for a rezoning from the Neighborhood Commercial (B-2) zoning classification to the Planned Unit Development (PUD) zoning classification for an existing 11,000-square-foot shopping center located on the west side of State Road 15A. The applicant requests the rezoning to allow for additional permitted uses such as a game room or arcade for billiards, pool, pinball machines, jukeboxes or other coin operated amusement, in addition to the permitted uses in the B-2 zoning classification. Mr. Ashley referred to the current zoning map (page 22 of the staff report) in showing the zoning pattern of the area, which is predominately zoned commercial even though the area is not fully developed. The subject property is developed with a shopping center built in 2004 and there is no new site work or alterations planned for the development. The request is to legitimize a business that is in operation. Staff has included language for development standards, parking, landscape buffers, and things of that nature, should the property be redeveloped.
or modified to add additional structures or uses. Staff found that the addition of this one commercial use would not have any impact in relation to the eight criteria found on page four of the staff report. Therefore, staff recommended approval, subject to the one condition on page five of the staff report, which incorporates the Exhibit 1 of the Resolution.

Member Steve Costa asked if the arcade use was the use being added to the shopping center.

Mr. Ashley replied affirmatively.

Member Steve Costa wanted to confirm the arcade use was already operating.

Mr. Ashley replied that it is currently operating on the subject property and started operation without the approvals or within the appropriate zoning classification. This request is to legitimize the use and this is the process in which staff and the applicant has agreed would have the least impact on the area in terms of land use. The planned unit development classification can control the existing B-2 uses and allow one additional use instead of changing the land use to commercial and a rezoning to a more intensive commercial zoning classification.

Member Steve Costa wanted to confirm that the one use being added is game rooms or arcade for billiards, pool, pinball machines, jukeboxes or other coin operated amusements.

Mr. Ashley replied affirmatively. The applicant has a tenant that is operating an arcade amusement center that is in compliance with the state definition for a gaming room. They have a state certificate for this use. This is the zoning classification that allows the use of arcade amusement center.

Member Steve Costa asked if the machines are gambling machine.

Mr. Ashley replied that they are defined as coin-operated gaming machines.

Member Mills asked legal if the code defined what types of machines are included in the arcade.

Michael Rodriguez replied that the machines are defined by the code and the code is in compliance with the state definition.

There being no further questions of staff, the applicant was provided the floor.

Bob Foster, 108 West Rich Avenue, DeLand, attorney for Mr. Avila. The applicant is seeking to have the zoning changed so that he can continue to rent to the people who are conducting this arcade within an existing shopping center. Mr. Foster clarified that the arcade is operating. It was not until the business tax receipt was applied for that it was found that it was not permitted in the zoning.

Member Frank Costa asked how long they and been operating without approval.
Mr. Foster replied almost four months.

Public Participation - None.

Member Steve Costa commented that he could not support this use in this neighborhood. He stated that the use definition provided by the code includes a list of uses that he thought were inappropriate for a neighborhood area.

Vice-Chair Mills concurred with Member Steve Costa and said that is why he asked about the law.

Member Steve Costa referred to the Dave and Busters and Game Time arcades in One Daytona as different types of arcades that may be more appropriate than the gaming operation being proposed in this neighborhood area.

Member Van Dam MOVED to FORWARD case PUD-19-015 to county council with a recommendation of APPROVAL. Member Young SECONDED the motion. Motion FAILED 3:3 (Members Mills, Bender and Steve Costa opposed). No recommendation can be forwarded without a majority affirmative vote.

V-19-019 – Application of Michael and Heather Shannon, owners, requesting a variance to separate nonconforming lots and a variance to the minimum yard requirements on Prime Agriculture (A-1) and Resource Corridor (RC) zoned property.

Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson explained to the commission that the requested variances were to separate nonconforming lots and to reduce the front yard setback to build a new single family home. She stated that when the properties were created, they met the zoning code which has been through several reiterations since then and several rezonings. She explained that the variance request to separate the nonconforming lots met all five criteria for granting the variance and staff recommended approval of that variance. She went on to explain that the second variance request was due to the fact that the subject property was a corner lot with easements that encroached 25 feet onto the property where the setback had to be measured from, even though the proposed dwelling was 105 feet from the property line. She highlighted the site plan and provided examples of where the home could be positioned in order to not need the requested variance. Staff recommended denial of the requested variance even though acknowledgement was made that the buildable area was impacted by conditions outside of the applicant’s control.

Vice-Chair Mills asked if the variance to separate the lots would still be the same buildable area indicated on page 10 of the staff report.

Ms. Jackson explained that the variances were independent of one another and that yes, the buildable area was the same as indicated.

Being that there were no further questions of staff, the applicant was provided the floor.
Michael and Heather Shannon, 830 Airport Road, Apartment 410, Port Orange. Mr. Shannon explained that they were requesting the variances to build their home for their family and they thought they were going through the right channels but were unaware that zoning and environmental review were the last steps. He explained that they felt they should be held to the A-2 standards since they had a five acre lot. Mr. Shannon explained that he didn’t want to have to clear any other trees than there already had been and that’s why they chose to build in the proposed envelope and requested the variances. He concluded that the easement was more utilized as a driveway for his own lot than as a road for the neighbors.

Public Participation. None.

Commission Discussion. None.

Member Frank Costa MOVED to APPROVE case number V-19-019, a variance to Section 72-206(1) nonconforming lots, to separate parcel 7230-00-00-0530 from parcel 7230-00-00-0940, and a variance to reduce the west front yard from the required 100 feet to 80 feet for the construction of a single-family dwelling on Prime Agriculture (A-1) and Resource Corridor (RC) zoned property, subject to the following staff-recommended conditions:

1. A conservation easement is required, over all wetland and upland buffer areas, to be dedicated to the County of Volusia

2. The variance shall be limited to an 80-foot front yard setback for the proposed single-family dwelling as depicted on the variance site plan prepared by FL Design Build Inspect, last revision dated January 15, 2019. The variance shall not apply to any future structures. In addition, the proposed single-family dwelling shall not be enlarged, increased, or extended further to encroach or occupy any greater area of the property without approval of a separate variance.

3. The property owner or authorized agent(s) shall obtain and complete all required building permits and inspections for the proposed single-family dwelling.

Member Van Dam SECONDED the motion. Motion CARRIED unanimously (6:0).

V-19-022 - Application of Brock Parslow, agent for Parslow US Real Estate, LLC, owner, requesting a variance to separate nonconforming lots on Urban Two-Family Residential (R-6) zoned property.

Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley explained to the commission that the requested variance was requested to separate nonconforming lots. The subject property was nonconforming to the R-6 zoning classification as a duplex was constructed on the lot in 1984 which was actually two single family homes connected by a wall. The owner lost the duplex to foreclosure and the bank deeded off the lots separately. He explained that the variance only affected the subject property and that the applicant could not fix the nonconformity as obtaining more property
would increase the nonconformity for the adjoining lots. He withdrew the condition for going through the land development office to subdivide the lots as granting the variance would take care of the subdivision. Staff recommended approval of the variance request.

Vice-Chair Mills asked for clarification that staff was withdrawing the condition.

Mr. Ashley answered in the affirmative.

Being that there were no further questions of staff, the applicant was provided the floor.

Brock Parslow, 4326 Isabella Circle, Orlando. Mr. Parslow explained that he had no further comments.

Public Participation. None.

Commission Discussion. None.

Member Young MOVED to APPROVE case number V-19-022, a variance to Section 72-206(1) nonconforming lots, to separate parcel 7020-00-00-1697 from parcels 7020-00-00-1690 and 7020-00-00-1692 on Urban Two-Family Residential (R-6) zoned property.

Member Frank Costa SECONDED the motion. Motion CARRIED unanimously (6:0).

OLD BUSINESS

None.

OTHER PUBLIC ITEMS

None.

STAFF ITEMS

None.

STAFF COMMENTS

Susan Jackson, Senior Planning Manager, reminded the commission that applications for re-appointment are due.

Vice-Chair Mills asked if any of the current member applications were missing.

Yolanda Somers, Staff Assistant II, replied that the information was requested but not received. She stated that she knew Members Van Dam and Young were received and that Member Frank Costa would need to re-apply.

Member Frank Costa said staff would receive it the same day.
Ms. Jackson commented to the commission that staff reports looked a little different because the County is working on making them compliant for those with disabilities and over the next few months the format may evolve.

**COMMISSION COMMENTS**

Member Frank Costa commented about the scheduling of the agenda, as it took less time to do the last half of the agenda than it did for the first half. He wanted to know if staff could arrange the agenda to minimize the wait time on the public.

Member Young responded that many times he had tried to predict the time on the agenda and he was about half correct half the time. He commented that it is hard to predict.

Susan Jackson, Senior Planning Manager, responded that the order on the agenda was based on the case number. Staff tries to arrange the agenda when cases have the same attorneys as applicants so that the owners are not paying for attorneys to sit in the audience.

Member Steve Costa mentioned that deliberating for hours on incomplete applications and then continuing them should probably not be allowed to happen again.

Ms. Jackson thanked the commission for continuing the case for two hearings because often times the agenda for the following hearing is already being finalized while in the current hearing and it is not often understood.

Vice-Chair Mills asked if it was known when the re-appointments would be done by council.

Yolanda Somers, Staff Assistant II, replied that all members expire as of March 31, 2019, and was hoping for no later than March 19, 2019 council hearing. The agenda for March 5, 2019 was being finalized today and depending if there was time, it could be then. She stated she would keep the commission apprised with the information as it was provided.

Member Van Dam asked about the staff names not being on the reports and if that was about the compliance revisions.

Ms. Jackson responded that the packages are usually a team effort and although there is an original drafter of the report, the final product has multiple authors. The commission can contact her with any questions on any of the reports.

**PRESS AND CITIZEN COMMENTS**

None.
ADJOURNMENT

Having no further comments from the public, staff, or commissioners, Vice-Chair Mills thanked everyone and adjourned the meeting at 12:57 p.m.

ADOPTED

Ronnie Mills, Chair

Wanda Van Dam, Secretary

04/18/2019

Date

Date