

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION  
PUBLIC HEARING HELD  
MAY 13, 2014**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Frank Severino**, at 9:01 AM 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:

**FRANK SEVERINO  
WANDA VAN DAM  
JAY YOUNG  
RONNIE MILLS  
JEFF GOVE  
JEFFREY BENDER  
JOSEPH ALLEVA**

**STAFF PRESENT:**

**IAN WILLIAMS, Assistant County Attorney  
SCOTT ASHLEY, AICP, Senior Zoning Manager  
CAROL MCFARLANE, AICP, Planner II  
DORA ROCKEFELLER, Staff Assistant II**

**APPROVAL OF MINUTES**

- April 8, 2014

**Member Young moved to APPROVE the April 8, 2014 minutes as written. Member Van Dam seconded the motion. Motion CARRIED unanimously (7:0).**

**Ian Williams, Assistant County Attorney, provided legal comment.**

**Disclosure of Ex Parte Communications**

Members of the Volusia County Planning & Land Development Regulation Commission Board were asked to please 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.

No ex parte communications took place.

**ITEMS TO BE CONTINUED OR WITHDRAWN**

None

**PUBLIC HEARING ON APPLICATIONS**

1 **NEW BUSINESS**

2  
3 **V-14-041** – Application of Shayna Morrow, agent for Euleta Dianne Fox, owner,  
4 requesting a variance to the north front yard from the required 20 feet to 2.99 feet on  
5 Tourist (B-8) zoned property. The property is located at 1453 Ocean Shore Boulevard,  
6 Ormond Beach; ± 22,860 square feet; 3234-07-00-0130.

7  
8 Scott Ashley presented the staff report.

9  
10 Shayna Morrow, 1453 Ocean Shore Boulevard, Ormond, agent for Euleta Dianne Fox,  
11 owner, stated that she had nothing to add to the staff report.

12  
13 **Member Bender moved to APPROVE the variance subject to the following staff**  
14 **recommended conditions:**

- 15  
16 1. **The variance is limited to the single-family dwelling placement as shown on**  
17 **the property survey from Harts Progressive Enterprise Inc., Sheet 2 of 3,**  
18 **report dated 11/22/13 and certified to Euleta Dianne Fox Trust. Except for**  
19 **compliance with the required front yard, any future expansion of the single-**  
20 **family dwelling shall require a separate variance.**

21  
22 **Member Young seconded the motion. Motion CARRIED unanimously (7:0).**

23  
24 **V-14-042** – Application of Shayna Morrow, agent for Euleta Dianne Fox, owner,  
25 requesting a variance to the rear yard from the required 20 feet to 7.5 feet; and a  
26 variance to the front yard from the required 20 feet to 14.67 feet; and a variance to the  
27 side yard from the required 5 feet to 1-foot on Tourist (B-8) zoned property. The  
28 property is located at 4 Ocean Beach Drive, Ormond Beach; ± 6,400 square feet; 3234-  
29 07-00-0125.

30  
31 Scott Ashley presented the staff report.

32  
33 Shayna Morrow, 1453 Ocean Shore Boulevard, Ormond, agent for Euleta Dianne Fox,  
34 owner, stated that she had nothing to add to the staff report.

35  
36 **Member Gove moved to APPROVE all variances subject to the following staff**  
37 **recommended conditions:**

- 38  
39 1. **Variances 1, 2 and 3 are limited to the single-family dwelling placement as**  
40 **shown on the property survey from Harts Progressive Enterprise Inc., Sheet 1**  
41 **of 2, report dated 11/22/13 and certified to Euleta Dianne Fox Trust. The single-**  
42 **family dwelling cannot be enlarged, increased, or extended to further encroach**  
43 **into the front, side or rear yards without approval of a separate variance and/or**  
44 **building permit and inspection.**
- 45  
46 2. **The property owners or authorized representative shall combine the property**  
47 **(Lots 12 and 13, O’Byrne Subdivision) into an unified parcel by submission and**  
48 **completion of a subdivision exemption application through the land**  
49 **development office within 60 days of the date of variance rendition, unless the**

1 property owners request and are granted an extension by the Zoning  
2 Enforcement Official.

3  
4 **Member Van Dam seconded the motion. Motion CARRIED unanimously (7:0).**

5  
6 **V-14-043** – Application of Shayna Morrow, agent for Euleta Dianne Fox, owner,  
7 requesting a variance to the rear yard from the required 20 feet to 9.4 feet on Tourist (B-  
8 8) zoned property. The property is located at 7 Ocean Dunes Drive, Ormond Beach; ±  
9 6,700 square feet; 3234-07-00-0143.

10  
11 Scott Ashley presented the staff report.

12  
13 Shayna Morrow, 1453 Ocean Shore Boulevard, Ormond, agent for Euleta Dianne Fox,  
14 owner, stated that she had nothing to add to the staff report.

15  
16 **Member Young moved to APPROVE the variance subject to the following staff**  
17 **recommended conditions:**

- 18  
19 **1. The variance is limited to the single-family dwelling placement as shown on**  
20 **the property survey from Harts Progressive Enterprise Inc., Sheet 1 of 2,**  
21 **report dated 11/22/13 and certified to Euleta Dianne Fox Trust. The single-**  
22 **family dwelling cannot be enlarged, increased, or extended to further**  
23 **encroach into the rear yard without approval of a separate variance and/or**  
24 **building permit and inspection.**

25  
26 **Member Mills seconded the motion. Motion CARRIED unanimously (7:0).**

27  
28 **S-14-044** – Application of Terry Thomas, Crown Castle Towers, LLC., agent for St.  
29 Johns River Water Management District, owner, requesting a special exception for a  
30 communication tower exceeding 70 feet above ground level (AGL) on Conservation (C)  
31 zoned property. The property is located at the terminus of Sawmill Road, DeLand; ± 561  
32 acres; 6135-00-00-0010.

33  
34 Scott Ashley presented the staff report.

35  
36 Terry Thomas, 3615 E. Lake Avenue, Tampa, E.M. Enterprises General Contractors,  
37 Inc., agent for St. Johns River Water Management District, owner, stated that he is  
38 currently working with the assistant county attorney on the access agreement.

39  
40 Member Gove stated that the staff report referenced the lease area as 70 feet by 70  
41 feet and that it should instead read 100 feet by 100 feet.

42  
43 Mr. Thomas stated that the lease area was indeed 100 feet by 100 feet and that the  
44 landscape buffer would reduce the area to 70 feet by 70 feet.

45  
46 Mr. Thomas introduced the RF Engineer, Jim Graf.

47  
48 Jim Graf, 1101 Greenwood Boulevard, Lake Mary, RF Engineer with AT&T, spoke to  
49 the likelihood of one tower frequency interfering with another tower frequency.

1 Mike Kondracki, 1405 South Glencoe Road, New Smyrna Beach, adjacent property  
2 owner, spoke to the requested site being part of a trail system. He also spoke to the  
3 county acquiring this land for conservation purposes.

4  
5 Member Gove asked what impact the tower would have on the trail system.

6  
7 Mr. Kondracki stated that vehicles would be present and that wetlands are all around  
8 the proposed site.

9  
10 Member Severino asked staff if they had researched the environmental impact of the  
11 proposed site.

12  
13 Mr. Ashley stated that indeed Environmental Services had provided comments to staff.

14  
15 Member Gove said that the staff report stated the property owner gave the land to the  
16 St Johns River Water Management District for conservation purposes.

17  
18 Mr. Williams stated that the land was given to St Johns River Water Management  
19 District. However, he was not sure if there were any deed restrictions. He will look into it  
20 prior to council.

21  
22 Mr. Ashley stated that communication towers are a permitted special exception in the  
23 Conservation zoning classification.

24  
25 Mr. Thomas spoke to the wetland issues, stating that a low water crossing would be  
26 installed to address the issue.

27  
28 **Member Bender moved to FORWARD the special exception to county council**  
29 **with a recommendation of approval, subject to the following staff recommended**  
30 **conditions:**

- 31
- 32 **1. The special exception approval is for a single, self-supported monopole**  
33 **tower with a maximum height not to exceed 190 feet (AGL), and structurally**  
34 **designed for collocation of at least three carriers.**
  - 35  
36 **2. The proposed tower shall be generally located on the parcel in accordance**  
37 **with the submitted special exception site plan prepared by Infinigy**  
38 **Engineering and Surveying, Inc., dated March 26, 2014, subject to**  
39 **applicable regulations of the Volusia County Code of Ordinances.**
  - 40  
41 **3. All permits shall be obtained from the Federal Aviation Administration**  
42 **(FAA), and Federal Communications Commission (FCC) and/or any other**  
43 **applicable federal, state, or local governmental agencies as required and**  
44 **submitted to the Growth and Resource Management Department (GRM).**  
45 **The facility shall be maintained and operated in full accordance with all**  
46 **applicable federal, state, and local regulations and permits.**
  - 47  
48 **4. Development of the parcel shall be subject to submittal of a site plan to the**  
49 **Land Development Division for review and approval prior to building permit**

1 application. The site plan must comply with applicable zoning and land  
2 development code requirements. The tower site shall be developed in  
3 accordance with the site plans prepared by Infinigy Engineering and  
4 Surveying, Inc., dated March 26, 2014, as may be modified by these  
5 conditions and/or modified by further County review and/or modified by the  
6 FAA/FCC and/or other permitting requirements. In addition, any  
7 environmental issues with regard to tree clearing and gopher tortoise  
8 burrows shall be resolved prior to an issuance of a site plan approval  
9 and/or building permit.

10  
11 and the added condition that legal looks at the deed for deed restrictions.  
12 Member Gove seconded the motion. Motion CARRIED 5:2. (Members Van Dam  
13 and Mills were in opposition).

14  
15 **OLD BUSINESS**

16  
17 **S-14-023** – Application of John Ruth, Florida Telecom Services LLC., agent for Loern  
18 Jones, owner, requesting a special exception for a communication tower exceeding 70  
19 feet above ground level (AGL) and a waiver to Section 72-293(23)(9)(e)(5) separation  
20 from a single-family dwelling from the required 1,000 feet to 825 feet on Forestry  
21 Resource (FR) zoned property. The property is located at 2333 Osteen Maytown Road,  
22 Osteen; ± 51 acres; 9322-01-01-0020. *Continued from the April 8, 2014 hearing*

23  
24 Scott Ashley presented the staff report.

25  
26 John Ruth, 1960 Timberline Road, Weston, managing member of Florida Telecom  
27 Services, spoke to the need in the proposed area for tower coverage. Mr. Ruth stated  
28 that perhaps the code should be rewritten, because at this time it does not state that the  
29 applicant must have an anchor tenant lease.

30  
31 Member Young asked if the code was written to state an anchor tenant was required.

32  
33 Mr. Ashley stated that it was not.

34  
35 Mr. Williams pointed out page 9 of the staff report, stating that it was up to the PLDRC  
36 to base their decision on the interpretation of that passage.

37  
38 James Morris, 750 Oak Heights Court, Unit 304, Port Orange, gave an update to the  
39 continued case # S-14-013. Mr. Morris spoke to the requested tower not having a  
40 commitment with an existing carrier, and therefore not meeting the criteria for granting  
41 the special exception.

42  
43 **Member Young moved to FORWARD the special exception to county council with**  
44 **a recommendation of approval, subject to the following staff recommended**  
45 **conditions:**

- 46  
47 1. **The special exception approval is for a single, self-supported lattice tower**  
48 **with a maximum height not to exceed 300 feet (AGL), and structurally**  
49 **designed for collocation of at least a five carriers.**

- 1       **2. The proposed tower shall be generally located on the parcel in accordance**  
2       **with the submitted special exception site plan prepared by MDP**  
3       **Engineering, Inc., dated February 7, 2014, subject to applicable regulations**  
4       **of the Volusia County Code of Ordinances, and subject to a setback from**  
5       **the property lines of half the height of the tower.**  
6
- 7       **3. All permits shall be obtained from the Federal Aviation Administration**  
8       **(FAA), and Federal Communications Commission (FCC) and/or any other**  
9       **applicable federal, state, or local governmental agencies as required and**  
10       **submitted to the Growth and Resource Management Department (GRM).**  
11       **The facility shall be maintained and operated in full accordance with all**  
12       **applicable federal, state, and local regulations and permits.**  
13
- 14       **4. Development of the parcel shall be subject to submittal of a site plan to the**  
15       **Land Development Division for review and approval prior to building permit**  
16       **application. The site plan must comply with applicable zoning and land**  
17       **development code requirements. The tower site shall be developed in**  
18       **accordance with the site plans prepared by MDP Engineering, Inc., dated**  
19       **February 7, 2014, as may be modified by these conditions and/or modified**  
20       **by further County review and/or modified by the FAA/FCC and/or other**  
21       **permitting requirements. In addition, any environmental issues with regard**  
22       **to tree clearing and gopher tortoise burrows shall be resolved prior to an**  
23       **issuance of a site plan approval and/or building permit.**  
24
- 25       **5. The tower shall be lighted per the written specifications of FAA Advisory**  
26       **Circular 70/7460-1K Change 2 Chapter 4, so that the tower is visible to**  
27       **aircraft in low light conditions.**

28  
29 **Member Van Dam seconded the motion. Motion CARRIED 5:2. (Members Severino**  
30 **and Mills were in opposition).**

31  
32 **STAFF ITEMS**

33  
34 None

35  
36 **STAFF COMMENTS**

37  
38 None

39  
40 **COMMISSION COMMENTS**

41  
42 Member Mills spoke to control burn liability with the special exception case S-14-044.

43  
44 Mr. Williams stated that he was not sure if prescribed burns were conducted on this site.  
45 Member Mills stated that he just wanted council to be aware of the liability.

46  
47 Member Gove stated that he had seen a request from council to define front lot line.

1 Mr. Ashley stated that the council has asked that code language be redefined for the  
2 right-of-way and front yard setbacks.

3  
4 Member Gove asked if communication towers were going to be applied for on a regular  
5 basis as there seem to be a lot of those special exception cases lately.

6  
7 Mr. Ashley stated that the technological demand for services have contributed to the  
8 demand for communication towers.

9  
10 Member Van Dam asked if approved tower cases were able to extend their towers by  
11 an additional 20 feet for antenna upgrades without the need for additional approvals.

12  
13 Mr. Ashley stated that section 72-292(h)(2) *General requirements for communication*  
14 *towers and antennas*, states that an approved tower can expand an additional 25 feet in  
15 order to facilitate collocation. He stated that would take place during the permit review  
16 process, and not be required to come back through the PLDRC.

17  
18 **PRESS AND CITIZEN COMMENTS**

19  
20 None

21  
22 **ADJOURNMENT**

23 Having no further comments from the public, staff, or commissioners, Member Severino  
24 thanked everyone and adjourned the meeting at 11:11 AM.