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1 **PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION**
2 **PUBLIC HEARING HELD**
3 **AUGUST 8, 2017**

4
5
6 The Public Hearing of the Volusia County Planning and Land Development Regulation
7 Commission was called to order by **Frank Severino**, at 9:02 a.m., in the County Council
8 Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana
9 Avenue, DeLand, Florida. On roll call, the following members answered present, to wit:

10
11 **FRANK SEVERINO**
12 **WANDA VAN DAM**
13 **JEFFREY BENDER**
14 **JAY YOUNG**
15 **RONNIE MILLS**
16 **STEVE COSTA – *Absent***

17
18 **STAFF PRESENT:**
19 **MICHAEL RODRIGUEZ, Assistant County Attorney**
20 **SCOTT ASHLEY, AICP, Senior Zoning Manager**
21 **SUSAN JACKSON, AICP, Senior Planning Manager**
22 **MICHAEL DISHER, AICP, Planner III**
23 **SHERRI LAROSE, Zoning Technician**
24 **YOLANDA SOMERS, Staff Assistant II**

25
26 **PLEDGE OF ALLEGIANCE**

27
28 To be led by the commission chair.

29
30 **Michael Rodriguez, Assistant County Attorney**, provided legal comment.

31
32 **Disclosure of Ex Parte Communications**

33
34 Members of the Volusia County Planning & Land Development Regulation Commission
35 Board were asked to please disclose, for the record, the substance of any ex parte
36 communications that had occurred before or during the public hearing at which a vote is
37 to be taken on any quasi-judicial matters. All members present disclosed any
38 communication as listed below.

39
40 Member Mills stated that he had received emails from Robert and Sandra Liess for
41 cases CPA-17-006 and Z-17-050. All members present concurred and had no
42 additional ex parte communications.

43
44 **APPROVAL OF MINUTES**

- 45 • **July 11, 2017**

46
47 Member Bender abstained as he was not present.

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1
2 Member Van Dam abstained as she was not present.

3
4 **Member Severino TABLED the minutes for not having a quorum.**

5
6 **PUBLIC HEARING ON APPLICATIONS**

7
8 **NEW BUSINESS**

9
10 **S-17-043** – Application of Glenn D. Storch, P.A., attorney for Land Enterprises, Inc.,
11 owners, requesting a special exception for a nonexempt excavation on the Rural
12 Agriculture (A-2) portion of a Prime Agriculture (A-1) and A-2 zoned property. The
13 property is located on the northwest corner of Fullerton Grove Road and South U.S.
14 Highway 1, Oak Hill; ±123.24 acres; 9537-02-00-1140, 9537-02-00-1200. ***This is***
15 ***tentatively scheduled for the September 21, 2017 county council public hearing.***

16
17 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
18 explained that the applicant is requesting a new special exception to resume excavation
19 activities initiated under two previous special exception cases (S-88-065 and S-91-066).
20 Mr. Ashley informed the commission that the initial special exception (S-88-065)
21 approval was granted for a two-year period in 1988, and a second special exception (S-
22 91-066) approval was granted in 1991 to continue excavating the property for a period
23 not to exceed ten years. Mr. Ashley referred to page three of 25 of the staff report, and
24 explained that the Google Earth aerial depicted areas of excavation activity that were
25 completed, but not all in accordance with the approved plan. Mr. Ashley stated that the
26 intent of the special exception application is to re-establish the excavation use and to re-
27 start excavation activities within the existing boundaries, as previously approved. Mr.
28 Ashley referred to page four of 25 of the staff report, and said that the staff report was
29 not amended to reflect a revised site plan submitted and included on page 14 of 25 of
30 the staff report. Mr. Ashley said that the bottom elevation of -25 feet, for a depth of 31
31 feet, referred to on page four of 25 of the staff report, is actually -35 feet, for a depth of
32 40-41 feet, to match the 1991 approved depth of special exception S-91-066. Mr.
33 Ashley referred to page five of 25 of the staff report, and explained there are two
34 waivers to Section 72-293(15) of the zoning code necessary to address pit
35 encroachments into setback and perimeter landscape buffer requirements from the
36 previously expired special exception. Mr. Ashley clarified that the applicant's intent is to
37 maintain the current extent of the excavation pit top of bank, therefore, staff can support
38 a partial setback waiver (Section 72-293(15)(b)(1)(iv)(A, C and D of the zoning code)
39 from 150 feet to 50 feet along the northwesterly, northeasterly, and easterly property
40 lines, for land adjacent to the Florida East Coast (FEC) railway and Fullerton Grove
41 Road. The 150-foot setback standard also applies adjacent to wetlands; however, this
42 requirement is not met. Mr. Ashley stated the county's land development code requires
43 a minimum of 25-foot upland buffer area adjacent to wetland areas, and staff could
44 support a minimum 25-foot upland buffer from the internal wetlands be maintained, as
45 restoration would not be feasible. Mr. Ashley said that the perimeter landscape waiver
46 of Section 72-293(15)(b)(1)(v) of the zoning code will not be required as the applicant
47 has agreed to restoration of the impacted perimeter landscape buffer areas. Mr. Ashley
48 asked the commission to consider amending staff recommended Condition #1 to reflect

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1 a revised site plan prepared by Mark Dowst and Associates with a date of July 31,
2 2017; and Condition #12 should be deleted as the applicant is proposing replanting of
3 the perimeter landscape buffer, and to forward the application to county council for final
4 action of approval.

5
6 Member Bender expressed concerns of staff recommending a waiver to the minimum
7 setback requirements when the excavation activities approved in 1991 (S-91-066)
8 required the activities to maintain the 150 feet from the abutting property, the right-of-
9 way, and from any natural or manmade water body.

10
11 Mr. Ashley responded that staff is unsure when the encroachments occurred into the
12 required 150-foot setback. Mr. Ashley referred to page nine of 25 of the staff report, and
13 stated that staff has added Condition #7 requiring the applicant to submit an engineer's
14 certification and progress report on an annual basis giving the zoning compliance
15 activity an opportunity to address any future potential issues or concerns. Mr. Ashley
16 explained that the encroachments adjacent to the FEC railway is undeveloped, forested
17 agricultural property and the applicant has agreed to partial-restoration and replanting of
18 the perimeter landscape buffer to meet and maintain the proposed 50-foot setback
19 requirement.

20
21 Member Van Dam referred to page five of 25 of the staff report, and asked if additional
22 excavation activity is proposed that would not meet the proposed 50-foot setback.

23
24 Mr. Ashley responded no, and clarified there are pockets of encroachments along the
25 FEC railway and Fullerton Grove Road property lines that the applicant is proposing to
26 restore with fill material.

27
28 Chair Severino referred to page nine of 25 of the staff report, and inquired what the logic
29 behind the requirement for a traffic study when there is little or no development in this
30 area.

31
32 Mr. Ashley responded that during the Final Site Plan review process, a traffic study or a
33 traffic engineering analysis identifying the number of trips and the truck traffic
34 distribution not using the county roadways is required.

35
36 Chair Severino inquired if the previous special exception cases (S-88-065 and S-91-
37 066) required the traffic study.

38
39 Mr. Ashley was not aware if the traffic engineering analysis was performed during the
40 Final Site Plan review process.

41
42 Member Bender referred to page seven of 25 of the staff report, and expressed
43 concerns with how the continued excavation activity does not adversely affect the public
44 interest when the material transported off-site will impact the road system.

45
46 Mr. Ashley responded that Fullerton Grove Road is a county maintained dirt road and
47 will not be used as a haul route for excavation material. Mr. Ashley clarified that the
48 excavated shell and sand material will be transported directly to a four-lane divided

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1 highway maintained by the State of Florida capable of handling heavy weighted vehicle
2 activity.

3

4 Member Bender stated that a State road is a public interest.

5

6 Mr. Ashley explained that this area of Oak Hill is a low populated area and the truck
7 traffic will not be using the local road system, but rather the existing access with a
8 median cut on U.S. Highway 1.

9

10 There being no further questions of staff, the floor was opened to the applicant.

11

12 Glenn D. Storch, Esquire, Storch Law Firm, 420 S. Nova Road, Daytona Beach, Florida.
13 Mr. Storch explained that his client, Land Enterprises, Inc., is the contract purchaser
14 from the previous special exception approvals (S-88-065 and S-91-066), and it is his
15 intent to repair the excavation issues and provide a valuable service to the public with
16 local excavation material. Mr. Storch said the property is in an ideal location by using
17 U.S. Highway 1 as the haul route constructed to accommodate heavy weighted
18 vehicles. Mr. Storch acknowledged staff's hard work in working together and placing
19 safeguards to ensure a successful completed site.

20

21 Member Mills inquired if Mr. Storch had reviewed the staff recommended conditions, on
22 pages eight through ten of 25 of the staff report.

23 Mr. Storch responded in the affirmative. Mr. Storch responded that there is no traffic in
24 this area and his client has agreed to replanting of the perimeter landscape buffer to
25 meet the proposed 50-foot setback.

26

27 Mr. Ashley clarified that a detailed landscape plan will be reviewed during the Final Site
28 Plan review process.

29

30 Member Van Dam referred to Condition #11, of page ten of 25 of the staff report, and
31 inquired about the waiver from 150 feet to 25 feet from the onsite wetlands.

32

33 Mr. Ashley referred to page 14 of 25 of the staff report, and responded that the site plan
34 depicts shaded areas where the onsite wetland areas exist. Mr. Ashley said pursuant to
35 the county's land development code regulations a minimum of 25-foot upland buffer is
36 required adjacent to the wetland areas, and staff would support a minimum 25-foot
37 upland buffer setback from the internal wetlands be maintained, as restoration would
38 not be feasible.

39

40 Member Van Dam asked Mr. Storch if the 25-foot wetland buffer is existing from the
41 wetland areas.

42

43 Mr. Storch responded in the affirmative.

44

45 Matthew Dowst, Mark Dowst and Associates, Inc., 536 N. Halifax Avenue, Suite 100,
46 Daytona Beach, Florida. Mr. Dowst said the code requires the excavation activities to
47 maintain a 150-foot setback from the abutting property, the right-of-way, and from any

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1 natural or manmade water body, and there are areas of encroachment that will be
2 restored to meet the proposed 50-foot setback.

3

4 Mr. Storch clarified that there are no impacts to wetlands proposed.

5

6 Member Bender inquired if the traffic study was necessary due to the remote location.

7

8 Mr. Ashley responded that the traffic study was a requirement of the Final Site Plan
9 review process.

10

11 Member Bender acknowledged that the traffic study, referenced as Condition #9 on
12 page nine of 25 of the staff report, was for informational purposes.

13

14 Mr. Ashley responded in the affirmative.

15

16 Mr. Storch asked Mr. Ashley if Condition #9, on page nine of 25 of the staff report, could
17 be minimized due to the remote location of the property.

18

19 Chair Severino asked Mr. Ashley if Mr. Storch's request was acceptable to staff.

20

21 Mr. Ashley responded in the affirmative.

22

23 There being no further questions of the applicant, the floor was opened to public
24 participation.

25

26 Edwin Brown, 505 SW 117th Street, Gainesville, Florida. Mr. Brown stated that he and
27 his brother purchased the adjoining properties (Parcel ID 9537-01-00-0240 and 9537-
28 01-00-0210) north of the project site on Fullerton Grove Road with the intent of
29 constructing a single-family dwelling, raising cattle, and the stocking of the fish pond.
30 Mr. Brown provided site visit pictures (Evidence 1) to assist in the discussion. Mr. Brown
31 expressed concerns with the environmental impacts to the property due to the
32 excavation activity generating excessive noise, dust, and comprising the water quality.

33

34 Mr. Storch responded that the restoration of the excavation site will result in a beautiful
35 lake that will increase the property values. Mr. Storch explained that limitations to the
36 operating hours of daily activities are in place and that his client will be a responsible
37 landowner and address any issues of noncompliance. Mr. Storch informed the
38 commission and Mr. Brown that the excavation site received a St. John's River Water
39 Management (SJRWM) Permit and they have determined that the excavation depth is
40 acceptable for this area.

41

42 Member Mills asked Mr. Storch what the life expectancy is for completion.

43

44 Mr. Storch responded the life expectancy for completion is within ten years.

45

46 Member Mills asked Mr. Storch if his client will work with SJRWM to ensure there is no
47 salt-water intrusion.

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1 Mr. Storch responded in the affirmative, and that a geotechnical evaluation with soil
2 borings has been performed throughout the excavation site.

3
4 Member Mills asked Mr. Brown if he had any additional comments.

5
6 Mr. Brown expressed concerns with the amount of local fill that is available since he
7 was recently cited for bringing fill onto his property. Mr. Brown wanted to know if zoning
8 compliance would address issues of the excavation site.

9
10 Mr. Storch encouraged Mr. Brown to contact his office directly if he had any compliance
11 concerns to ensure that they were satisfactorily resolved.

12
13 Mr. Dowst clarified that wet and dry soil borings were performed.

14
15 There being no further public participation, the floor was opened for commission
16 discussion.

17
18 Member Mills inquired if safeguards are in place to monitor the water level during the
19 Final Site Plan review process.

20
21 Mr. Ashley responded that SJRWM will monitor the water level and other impacts as it
22 relates to the State Permit. Mr. Ashley clarified that the Final Site Plan will approve and
23 monitor the setbacks and the landscape buffer design.

24
25 Member Van Dam inquired if additional excavation activity is proposed at the
26 northeasterly portion of the site and the wetland areas.

27
28 Mr. Ashley responded no, and explained the applicant is proposing to add fill in some
29 areas to meet the proposed 50-foot setback and has agreed to maintain an existing 25-
30 foot wetland buffer.

31
32 Member Bender referred to Condition #4 on page nine of 25 of the staff report, and
33 asked Mr. Storch if his client would consider modifying the business operating hours to
34 include that no operation will be permitted on certain holidays.

35
36 Mr. Storch responded in the affirmative.

37
38 Mr. Ashley stated that the traffic engineering comments were erroneously omitted from
39 the staff report and wanted to provide additional comment on amending Condition #9,
40 located on page nine of 25 of the staff report. Mr. Ashley displayed traffic engineering
41 comments from Melissa Winsett, dated June 19, 2017, to assist in the discussion. Mr.
42 Ashley acknowledged that traffic engineering staff is requesting a trip generation and
43 intersection study be performed by a registered traffic engineer once the excavation site
44 is operational using AM and PM turning movement counts at the driveway, based on
45 which direction the trucks and employees will be coming.

46
47 Chair Severino asked if there was no further commission discussion to move forward
48 with a motion.

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1
2 **Member Mills MOVED to FORWARD case number S-17-043 to the county council**
3 **with a recommendation of APPROVAL for a special exception for a nonexempt**
4 **excavation, with the following staff recommendations, and amended conditions**
5 **by PLDRC:**
6

- 7 **1. Consistency with Concept Plan. Special exception approval is limited to the**
8 **site improvements as permitted by this special exception and as shown on**
9 **the site plan submitted with this application and prepared by Mark Dowst**
10 **and Associates with a date of April 4, 2017, as may be modified by the**
11 **conditions herein.**
12
- 13 **2. Site Plan Approval. The applicant shall not begin the excavation until after**
14 **final site plan review and approval by the County Development Review**
15 **Committee (DRC) and issuance of a Development Order/Excavation Permit**
16 **issued by the Growth and Resource Management Department.**
17 **Development and use of the subject site shall be in substantial compliance**
18 **with the submitted conceptual plan and written documents as may be**
19 **modified by the DRC. The applicant shall comply with the requirements of**
20 **Section 72-293(15) of the Zoning Ordinance.**
21
- 22 **3. Completion in Ten (10) Years. The special exception shall be granted for a**
23 **ten (10)-year time-period, including reclamation activities, subject to**
24 **compliance with the approved DRC Development Order/Excavation Permit.**
25
- 26 **4. Business Hours. The hours of operation of trucks and machinery**
27 **associated with the excavation shall be limited to 7:00 a.m. to 7:00 p.m.,**
28 **Monday through Saturday. No operation shall be permitted on Sundays,**
29 **and including the following State and Federal Holidays: New Year's Day,**
30 **Birthday of Martin Luther King, Jr., Washington's Birthday (President's**
31 **Day), Memorial Day, Independence Day, Labor Day, Columbus Day,**
32 **Veterans Day, Thanksgiving Day, and Christmas Day.**
33
- 34 **5. Obtain All Permits. All appropriate permits from local, state and federal**
35 **regulatory agencies shall be obtained by the applicant as required prior to**
36 **issuance of a Development Order/Excavation Permit by the Growth and**
37 **Resource Management Department. Copies of required State and Federal**
38 **Permits or statements from appropriate agencies to indicate that permits**
39 **are not required shall be provided during the DRC review process. The**
40 **applicant shall comply with any applicable local, state or federal rules and**
41 **regulations of other concerned governmental agencies.**
42
- 43 **6. Reclamation Bond. The applicant shall post an acceptable performance**
44 **bond, irrevocable letter of credit, or funds in escrow in the amount up to**
45 **100 percent of the estimated reconditioning costs, as estimated by the**
46 **Public Works Department for reclamation payable to the County of Volusia**
47 **in an amount approved by Volusia County Environmental Management**

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1 Services, in a format approved by the County Legal Department prior to
2 permit issuance. If the applicant has not completed the excavation in the
3 ten years granted by the special exception, the county may redeem the
4 acceptable performance bond, irrevocable letter of credit, or funds in
5 escrow and utilize the funds to perform any remedial work necessary to
6 complete the terms and conditions of the reclamation, as required by the
7 county in the special exception, and to be required by the county in the
8 final site plan approval process.
9

- 10 7. Annual Progress Reports. The applicant shall submit an engineer's
11 certification and progress report to the Planning and Development Services
12 Division on an annual basis outlining that the excavation is proceeding in
13 accordance with the terms of the excavation permit and/or DRC
14 requirements and/or conditions.
- 15
- 16 8. Fill Restriction Covenant. The developer shall record a covenant stating
17 that the excavation pit shall only be filled with water and shall not be filled
18 with construction and demolition debris or other waste material.
- 19
- 20 9. Traffic Study. A traffic study signed and sealed by a registered traffic
21 engineer shall be required to be submitted prior to site plan approval. The
22 methodology shall be coordinated with Volusia County Traffic Engineering.
23 A trip generation and intersection study shall be performed by a registered
24 traffic engineer once the excavation site is operational with AM and PM
25 turning movement counts at the driveway based on what direction of which
26 the trucks and employees will be coming.
- 27
- 28 10. Monitoring Wells. A formal recommendation of the necessity to install
29 monitoring wells shall be submitted in conjunction with the DRC review of
30 the project. This information is needed to determine if a groundwater
31 monitoring system is warranted and to assure no long-range effects on the
32 water table will take place within a few hundred feet of the excavation.
- 33
- 34 11. Setback Waiver. Approve a partial waiver to section 72-293(15)b.1.iv. A, C
35 and D.: to allow the top of the bank of the excavation to set back a
36 minimum distance of 50 feet along the northwesterly, northeasterly and
37 easterly property lines of the subject 85.42-acre project site, which are
38 adjacent to the FEC railway and Fullerton Grove Road, as shown on the
39 special exception plan. The remaining property perimeters shall provide
40 the standard setback of 150 feet. In addition, a waiver for 25-foot setback
41 from the onsite wetlands located on the subject property.
- 42
- 43 12. Landscape Buffer Waiver. Deny a waiver to section 72-293(15)b.1.v., and
44 require owner, and successors, comply with the code required 50-foot
45 landscape buffer.
- 46
- 47 13. No Other Variances. No other variances shall be accepted.

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1
2 Mr. Ashley stated that Condition #1 shall be amended to reflect the revised site plan
3 dated July 31, 2017.

4
5 **Member Mills responded in the affirmative, and said Condition #1 shall be**
6 **amended to state, “... revised site plan submitted with this application and**
7 **prepared by Mark Dowst and Associates with a date of July 31, 2017...”.**

8
9 **Member Bender SECONDED the motion. Motion CARRIED UNANIMOUSLY (5:0).**

10
11
12 **V-17-048** – Application of Robert Guerard, owner, requesting a variance to the minimum
13 yard and maximum lot coverage requirements on Urban Single-Family
14 Residential/Wilbur-By-The-Sea Overlay Zone (R-9S) zoned property. The property is
15 located at 3940 Cardinal Boulevard, Port Orange; ± 7,500 square feet; 6312-03-03-
16 0060.

17
18 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
19 explained to the commission that the requested variances to the minimum yards and the
20 maximum lot coverage requirements would allow an existing accessory structure to
21 remain in its current location on the lot. Mr. Ashley said that the accessory structure is a
22 metal carport structure measuring approximately 624 square feet in size and will be
23 used for the storage of the owner’s personal watercraft. Mr. Ashley explained that an
24 accessory structure exceeding 500 square feet in area must meet the principal structure
25 setback requirements, which are 20 feet in the rear yard and seven feet in the side yard.
26 The existing metal carport encroaches into the required yards and has essentially a
27 zero setback from the west rear and north side lot lines. Mr. Ashley said that the
28 variances are necessary to resolve further Code Enforcement action and to facilitate the
29 issuance of a building permit application (20170526037).

30
31 There being no further questions of staff, the floor was opened to the applicant.

32
33 Robert Guerard, 3940 Cardinal Boulevard, Port Orange, Florida. Mr. Guerard explained
34 that due to the limited space on the lot, the only feasible placement for the metal carport
35 is in the backyard, along the north side of the property; therefore, the metal carport
36 cannot be moved. Mr. Gerard said that his variance application included seven no
37 objection letters from adjacent property owners in support of the requested variances.
38 Mr. Gerard had no other comments to add to the staff report.

39
40 Member Mills inquired how long the metal carport has been at the property.

41
42 Mr. Guerard responded that the metal carport has been at the property for several
43 months.

44
45 Member Van Dam inquired if the metal carport was required to be moved to meet a five-
46 foot setback, would there be enough space to park his watercraft.

47

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1 Mr. Guerard responded no, and explained that due to the location of the existing single-
2 family dwelling on the lot and the fence; there is limited area for maneuvering of the
3 watercraft into a parking space and it is not possible of relocating the metal carport to
4 meet a five-foot setback.

5
6 Chair Severino referred to page 23 of 29 of the staff report, and requested presentation
7 of the site visit pictures to assist in the discussion. Chair Severino asked Mr. Guerard to
8 explain how he needs to maneuver around the attached garage in order to park the
9 watercraft into the back yard.

10
11 Mr. Guerard explained that he backs-in the watercraft along the northside of the
12 property to reach the metal carport located in the back yard. There is approximately
13 nine feet between the garage and the fence.

14
15 Member Mills acknowledged that he did not visit the property, and inquired if the metal
16 carport was open on the sides.

17
18 Mr. Guerard responded in the affirmative.

19
20 Member Mills inquired if there was a concrete foundation.

21
22 Mr. Guerard responded no.

23
24 Chair Severino asked Mr. Guerard to explain why he needs a metal carport exceeding
25 500-square feet in area.

26
27 Mr. Guerard explained that there is a sand embankment behind the carport and the
28 watercraft cannot fit all the way back without the motor hitting it.

29
30 Chair Severino asked Mr. Guerard to explain the reasoning for the width of the metal
31 carport as it extends beyond the rear of the house.

32
33 Mr. Guerard responded that he was interested in parking one of his personal vehicles in
34 the carport so the front yard did not seem too cluttered with vehicles.

35
36 There being no further questions of the applicant, the floor was opened to public
37 participation.

38
39 There being no public participation, the floor was opened for commission discussion.

40
41 Chair Severino acknowledged that he understood the hardship for the requested
42 variances and appreciated that the applicant provided numerous letters of support from
43 his neighbors.

44
45 Member Van Dam inquired if a building permit application should have been issued
46 prior to construction of the metal carport.

47
48 Mr. Ashley responded in the affirmative.

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1
2 Member Van Dam acknowledged that if the property has applied for a building permit,
3 then he would have been informed of the regulations.

4
5 Mr. Ashley responded in the affirmative.

6
7 Member Mills acknowledged that he understood why the property owner might have
8 thought that a building permit was not required since the metal carport was open on the
9 sides and there is no concrete base. Member Mills asked Chair Severino if he had
10 concerns with the lot coverage variance for 38 percent in lieu of the required 35 percent.

11
12 Chair Severino responded in the affirmative, and said that the accessory structure
13 exceeds the 500-square foot threshold requirements in allowing a five-foot rear and side
14 yard setback.

15
16 Member Mills acknowledged that the accessory structure has no impact to the
17 neighbors. Member Mills referred to Condition #2 on page eight of 29 of the staff report,
18 and clarified that if the accessory structure is destroyed, then the reconstruction of the
19 accessory structure shall comply with the required setbacks. Member Mills stated that
20 he is in support of the requested variances.

21
22 Member Van Dam expressed concerns of approving a variance for zero setbacks to the
23 side yard and rear yard for the existing accessory structure, and stated that if the
24 structure were smaller, then meeting the five-foot setback would be possible.

25
26 Member Young agreed with Member Van Dam and stated that if the property owner had
27 researched if a building permit was needed prior to construction, then perhaps the
28 setbacks would be met.

29
30 Member Mills clarified that the zero setback is necessary due to the alignment of the
31 driveway and maneuvering the watercraft into the metal carport in the back yard.
32 Member Mills acknowledged that there was no opposition from the neighbors. It would
33 be a financial burden for the removal or relocation of the accessory structure.

34
35 Chair Severino referred to pages seven through eight of 29 of the staff report, and
36 asked Mr. Guerard if he read the staff conditions.

37
38 Mr. Guerard responded no.

39
40 Chair Severino asked Mr. Guerard to take a moment and read the staff conditions on
41 pages seven through eight of 29 of the staff report.

42
43 Member Bender asked Mr. Ashley if the neighborhood had a Home Owner's
44 Association.

45
46 Mr. Ashley responded no. Mr. Ashley referred to page 22 of 29 of the staff report, and
47 stated that the Wilbur-By-The-Sea Civic Association provided comments on the
48 requested variances.

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1
2 There being no further commission discussion, Chair Severino asked for a motion.

3
4 **Member Mills MOVED to APPROVE case number V-17-048, a variance to section**
5 **72-277(1) for a north side yard from the required seven feet to zero feet and for a**
6 **west rear yard from the required 20 feet to zero feet for an existing accessory**
7 **structure (Variance 1) and a variance to the maximum lot coverage from 35**
8 **percent to 38 percent (Variance 2) on Urban Single-Family Residential/Wilbur-by-**
9 **the-Sea Overlay Zone (R-9S) zoned property, subject to the following staff**
10 **recommended conditions:**

- 11
- 12 **1. The variances shall be limited to the existing detached carport structure**
13 **depicted on the variance site plan.**
 - 14 **2. The variances shall be limited to the life of the carport structure. Should the**
15 **carport be demolished or destroyed by more than 50% of its assessed**
16 **value, the variance approvals shall expire and any new construction or**
17 **reconstruction shall meet all applicable zoning code requirements,**
18 **including setbacks.**
 - 19 **3. The carport structure shall not exceed 15 feet in height, measured from the**
20 **midpoint of the roof slope to the ground.**
 - 21 **4. The applicant shall complete the permitting process for the carport**
22 **structure (permit application 20170526037), including any remaining fees**
23 **and inspections.**
 - 24 **5. Vehicle parking underneath the carport shall maintain a five-foot setback**
25 **from the rear and side property lines.**
- 26

27 Chair Severino asked Mr. Guerard if the staff conditions are acceptable.

28
29 Mr. Guerard responded in the affirmative.

30
31 Member Mills clarified Condition #5 on page eight of 29 of the staff report, requires all
32 vehicular parking underneath the carport shall maintain a five-foot setback from the side
33 and rear property lines.

34
35 Mr. Guerard responded in the affirmative.

36
37 Member Van Dam clarified Condition #2 on page eight of 29 of the staff report, requires
38 if the accessory structure is destroyed, then reconstruction shall comply with the zoning
39 code requirements, including the setbacks.

40
41 Mr. Guerard responded in the affirmative.

42
43 **Member Bender SECONDED the motion. Motion CARRIED unanimously (5:0).**
44

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1 **V-17-049** – Application of Michael and Margaret Seca, owners, requesting a variance to
2 a waterfront yard for a single-family dwelling addition on Urban Single-Family
3 Residential (R-3) zoned property. The property is located at 3030 John Anderson Drive,
4 Ormond Beach; ± 25,401 square feet; 3221-00-02-0010.
5

6 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
7 explained to the commission that the property owners are requesting a variance to a
8 previously approved waterfront yard setback for the construction of a porch addition to
9 an existing single-family dwelling. Mr. Ashley said that the property was granted a
10 waterfront yard setback of 12.5 feet in 2007 by the Volusia County Council, by appeal
11 case A-07-057. Mr. Ashley clarified that in order to have reasonable use of the property,
12 due to the unique shape and the sloped embankment of the coquina rock riprap
13 seawall, a variance is needed to construct the porch addition on the existing paver
14 patio.
15

16 There being no questions of staff, the floor was opened to the applicant.
17

18 Michael and Margaret Seca, 3030 John Anderson Drive, Ormond Beach, Florida. Mr.
19 and Mrs. Seca explained that due to the unique shape of their property and the
20 protected flood zone on the northernmost portion of the property, there is no other
21 location to permit a screen room addition to their single-family dwelling. Mr. and Mrs.
22 Seca stated that there are several properties along John Anderson Drive where either a
23 single-family dwelling or a screen room has been constructed to the seawall. Mr. and
24 Mrs. Seca provided aerial pictures (Evidence 1) to assist in the discussion for properties
25 located at 2500 John Anderson Drive, 2578 John Anderson Drive, 2588 John Anderson
26 Drive, 2384 John Anderson Drive, 2586 John Anderson Drive, and 2406 John Anderson
27 Drive.
28

29 Chair Severino asked Mr. Ashley the proximity of the referenced properties to the City of
30 Ormond Beach's jurisdiction.
31

32 Mr. Ashley responded that he did not know the proximity of the referenced properties to
33 the City of Ormond Beach's jurisdiction, other than the 2588 John Anderson Drive
34 property. Mr. Ashley said that the 2588 John Anderson Drive property recently received
35 multiple variances to construct a single-family dwelling and a wood deck with a second
36 floor balcony.
37

38 Chair Severino referred to page 11 of 19 of the staff report, and expressed concerns
39 with the requested zero waterfront yard setback.
40

41 Mr. Ashley clarified that the setback is measured from the top of the coquina
42 embankment.
43

44 Chair Severino referred to page 14 of 19 of the staff report, and acknowledged the lack
45 of walkable area beyond the existing open paver patio.
46

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1 Mr. Ashley explained the existing site conditions of the property as being a sloped
2 embankment of coquina wall beyond the open paver patio with minimal green space in
3 the side yard.

4
5 Chair Severino asked Mr. Seca what the height of the porch addition is proposed.

6
7 Mr. Seca responded the height of the porch is a single-story, approximately 11 feet in
8 height.

9 Chair Severino expressed concerns with the ability of constructing the porch addition if
10 there is no access or minimal walkable area beyond the open paver patio.

11
12 Mr. Seca explained the assembly of the porch addition's aluminum framing will take
13 place in the side yard lawn and the screen installation will be completed while inside the
14 structure.

15
16 Member Van Dam expressed concerns with the second floor balcony and how the
17 porch addition was going to fit.

18
19 Mr. Seca clarified that the porch addition will be constructed beneath the second floor
20 balcony.

21
22 Mr. Ashley referred to page 14 of 19 of the staff report, and marked up the aerial picture
23 and demonstrated to the commission the location of the second floor balcony and the
24 location of the proposed porch addition.

25
26 There being no further questions of the applicant, the floor was opened to public
27 participation.

28
29 There being no public participation, the floor was opened for commission discussion.

30
31 Member Mills acknowledged that there is limited area on this lot for a screen room.

32
33 Member Van Dam asked Mr. Ashley if the proposed variance is for a regular screen
34 room or for a composite roof addition.

35
36 Mr. Ashley responded that an accessory screen enclosure setback is five feet. The
37 applicant's proposal is for a solid roof construction and it would have to adhere to the
38 waterfront yard setback that was established at 12.5 feet for the principal structure (A-
39 17-057).

40
41 There being no further commission discussion, Chair Severino asked for a motion.

42
43 **Member Bender MOVED to APPROVE case number V-17-049, a variance to the**
44 **waterfront yard from the established 12.5 feet to zero (0) feet for a porch addition**
45 **on the rear of a single-family dwelling on Urban Single-Family Residential (R-3)**
46 **zoned property, subject to the following staff recommended conditions:**

47
48 **1. The variance applies exclusively to the 11.3-foot x 64-foot dimensioned**

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1 screened porch depicted on the applicants' variance site plan/property
2 survey prepared by Casey Land survey, LLC, with a sign and seal date of
3 April 5, 2016. The proposed porch shall not exceed a height of 10 feet. This
4 porch shall not be enlarged, increased, or extended further to encroach or
5 occupy any greater area of the property beyond the above stated
6 dimensions without approval of a separate variance. The porch shall not be
7 converted to living area.
8

- 9
- 10 2. Prior to the commencement of any site work or construction of site
11 improvements, the applicant shall obtain all required building and
12 environmental permits and required inspections, and comply with all
13 applicable fees, codes, and ordinances.
 - 14 3. No impervious surfaces or structures shall be constructed or placed upon
15 the subject property except as shown on the approved variance site plan.
16 Variances and conditions established under case A-07-057 for the principal
17 structure and the property shall remain in effect, except as permitted by
18 this application. Notwithstanding any code provision, no balconies, decks
19 or stairways shall extend or overhang into the waterfront yard area
20 established by this approval and shown on the variance plan.
21

22 **Member Mills SECONDED the motion. Motion CARRIED (4:1, Chair Severino in**
23 **opposition).**

24

25 **CPA-17-006** - Application of Riley and Mary Faith Allen, owners, requesting a Small
26 Scale Future Land Use Map Amendment from the Urban High Intensity (UHI)
27 designation to the Urban Low Intensity (ULI) designation. The property is located at
28 6749 Turtlemound Road, New Smyrna Beach; ± 18,750 square feet; 8505-01-36-0240.
29 ***This is tentatively scheduled for the September 21, 2017 county council public***
30 ***hearing.***

31

32 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
33 informed the commission that the new property owner is interested in developing the
34 property to construct one single-family dwelling. Mr. Ashley explained that the
35 applicants are seeking the Urban Low Intensity (ULI) future land use designation in
36 order to facilitate a companion rezoning application (Z-17-050), to the Urban Single-
37 Family Residential/Indian River Lagoon Surface Water Improvements and Management
38 Overlay Zone (R-9W) zoning classification, that will not take effect until certification of
39 the plan amendment is finalized. Mr. Ashley said the Bethune Beach community is
40 primarily residential, therefore staff finds the plan amendment request consistent with
41 the comprehensive plan.
42

43 There being no questions of staff, the floor was opened to the applicant.
44

45 Riley and Mary Faith Allen, 6079 Linneal Beach Drive, Apopka, Florida. Mr. and Mrs.
46 Allen stated their intent is to relocate to the Bethune Beach community and construct a
47 single-family dwelling.
48

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1 There being no questions of the applicant, the floor was opened to public participation.

2
3 There being no public participation, the floor was opened for commission discussion.

4
5 Chair Severino asked if there was no commission discussion, to move forward with a
6 motion.

7
8 **Member Van Dam MOVED to FIND amendment CPA-17-006 CONSISTENT with the**
9 **comprehensive plan and to FORWARD to the county council with a**
10 **recommendation of APPROVAL for transmittal to the Volusia Growth**
11 **Management Commission for certification.**

12
13 **Member Young SECONDED the motion. Motion CARRIED unanimously (5:0).**

14
15 **Z-17-050** – Application of Riley and Mary Faith Allen, owners, requesting a rezoning
16 from the Urban Multifamily Residential/Indian River Lagoon Surface Water
17 Improvements and Management Overlay Zone (R-7W) zoning classification to the
18 Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and
19 Management Overlay Zone (R-9W) zoning classification. The property is located at
20 6749 Turtlemound Road, New Smyrna Beach; ± 18,750 square feet; 8505-01-36-0240.
21 ***This is tentatively scheduled for the September 21, 2017 county council public***
22 ***hearing.***

23
24 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
25 informed the commission that the applicant's rezoning application is a companion case
26 to the Small Scale Future Land Use Map Amendment application (CPA-17-006). Mr.
27 Ashley explained that the new property owner is interested in developing the property to
28 construct a single-family dwelling to which approval of the small scale future land use
29 map amendment to the Urban Low Intensity (ULI) designation and the rezoning to the
30 Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and
31 Management Overlay Zone (R-9W) zoning classification is required. Mr. Ashley stated
32 that staff finds the rezoning application is compatible with the proposed future land use
33 designation.

34
35 There being no questions of staff, the floor was opened to the applicant.

36
37 Riley and Mary Faith Allen, 6079 Linneal Beach Drive, Apopka, Florida. Mr. and Mrs.
38 Allen stated they had no comments to add to the staff report.

39
40 There being no questions of the applicant, the floor was opened to public participation.

41
42 There being no public participation, the floor was opened for commission discussion.

43
44 Chair Severino asked if there was no commission discussion to move forward with a
45 motion.

46
47 **Member Young MOVED to FORWARD case number Z-17-050 to the county**
48 **council for final action with a recommendation of APPROVAL for a rezoning from**

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1 the Urban Multifamily Residential/Indian River Lagoon Surface Water
2 Improvements and Management Overlay Zone (R-7W) zoning classification to the
3 Urban Single-Family Residential/Indian River Lagoon Surface Water
4 Improvements and Management Overlay Zone (R-9W) zoning classification.

5
6 **Member Van Dam SECONDED the motion. Motion CARRIED unanimously (5:0).**

7
8 **V-17-052** – Application of Glenn D. Storch, attorney for Susan K. Kinard, owner,
9 requesting variances to the minimum yard and the maximum lot coverage requirements
10 on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements
11 and Management Overlay Zone (R-9W) zoned property. The property is located at 6524
12 Tuttlemond Road, New Smyrna Beach; ± 2,500 square feet; 8505-01-47-0110.

13
14 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
15 explained to the commission that the requested variances to the minimum yards and the
16 maximum lot coverage requirements would allow the construction of a single-family
17 dwelling. Due to the State acquisition and realignment of State Road A-1-A to
18 Tuttlemond Road in the early 1960's, a considerable portion of lot frontage was taken
19 for right-of-way and the lot now measures 50 feet in depth, rather than the originally
20 platted depth of 100 feet. Mr. Ashley explained that the former property owner was
21 granted variance (V-16-024) approval for a substandard lot, front, rear and side yard
22 setbacks, and for the maximum lot coverage requirements. All, but the substandard lot
23 approval, has since expired. Mr. Ashley stated that staff can support the re-
24 establishment of the previous variance (V-16-024) approval, but expressed concerns
25 with the proposed 120-square foot rear deck, as it will encroach into the requested rear
26 yard setback. Mr. Ashley referred to page 11 of 25 of the staff report, and said that
27 Condition #3 of the previously approved variance (V-16-024) required that no balconies
28 or stairways shall extend or overhang into any yard area established on the approved
29 variance plan. Therefore, staff is recommending the removal of the 120-square foot rear
30 deck in order to maintain the minimum variance request.

31
32 There being no questions of staff, the floor was opened to the applicant.

33
34 Glenn D. Storch, Esquire, Storch Law Firm, 420 S. Nova Road, Daytona Beach, Florida.
35 Mr. Storch explained that his client, Susan K. Kinard, cannot construct a single-family
36 dwelling without variance approval to setback and lot coverage requirements. Mr.
37 Storch referred to page four of 25 of the staff report, and agreed with staff's assessment
38 of constructing a three-story dwelling would not be in character with the surrounding
39 area. Mr. Storch said his client would agree to an added condition to limit the building
40 height to a two-story single-family dwelling, and was in support of staff's
41 recommendation of approval of the requested variances.

42
43 There being no questions of the applicant, the floor was opened to public participation.

44
45 William Nosan, 6525 Engram Road, New Smyrna Beach, Florida. Mr. Nosan stated his
46 property is the northwest lot adjacent to the subject property. Mr. Nosan said that he
47 has no objection to the requested variance reduction to the west rear setback to 10 feet
48 and the north and south side setback to five feet. Mr. Nosan expressed concerns with

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1 the potential noise that maybe generated with the proposed walkway in the front yard.
2 Mr. Nosan asked the commission to consider a conditional approval limiting the location
3 of the entrance to the proposed single-family dwelling to the southernmost portion of the
4 lot. Mr. Nosan inquired what mechanism was in place preventing the property owner
5 from constructing a three-story dwelling, with a minimum floor area of 1,000-square foot,
6 on the small lot.

7
8 Member Young referred to page 13 of 25 of the staff report, and asked Mr. Nosan to
9 identify where the southernmost portion of the lot was located for the requested
10 entrance of the dwelling.

11
12 Mr. Nosan identified part of Lot 12, Block 47 of the Bethune-Volusia Beach Unit 4 of 7
13 Units plat, as the southernmost portion of the lot as his preferred entrance of the
14 dwelling, which is below the dotted line, as referenced on page 13 of 25 of the staff
15 report.

16
17 Chair Severino thanked Mr. Nosan for his participation in the public hearing and
18 appreciated his comments.

19
20 Mr. Storch clarified that for his client to have reasonable use of the property, a
21 southernmost entrance to the single-family dwelling can be designed as well as relocate
22 the garage to the northernmost portion of the lot.

23
24 William (Bill) E. Allen, Jr., Allen and Son Construction, LLC, 829 East 14th Avenue, New
25 Smyrna Beach. Mr. Allen explained that the architectural drawings were originally drawn
26 so the entrance to the dwelling was from the middle of the structure and the garage was
27 located to the left of the entrance (southernmost portion of lot). Mr. Allen said that the
28 architectural drawings could be drawn so that the design of the dwelling is flipped.

29
30 Mr. Storch asked Mr. Nosan if this was acceptable.

31
32 Chair Severino asked for a five-minute recess so that the parties involved can resolve
33 the concerns of the adjacent neighbor, Mr. Nosan.

34
35 Mr. Storch stated that during the recess, additional terms were negotiated with Mr.
36 Nosan to gain support for the variance approval. The term are as follows: (1) The
37 entrance of the dwelling will be near the center of the lot adjacent to the relocated
38 garage to the north; (2) Any area built on the lower section (first floor) will not have
39 access to the rear of the structure and will only have access to the south; (3) No other
40 extensions, as indicated in staff Condition #3, on page seven of 25 of the staff report,
41 shall be permitted into the required yard.

42
43 Mr. Nosan expressed a preference of a portion of the downstairs (first floor garage area)
44 to be walled to protect and buffer any potential noise from the property.

45
46 Chair Severino asked Mr. Storch is there were any other conditions that the commission
47 needed to consider.

48

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1 Member Young inquired if Mr. Storch had any objection to restricting construction of the
2 structure to a two-story single-family dwelling.

3
4 Mr. Storch responded no.

5
6 There being no further public participation, the floor was opened for commission
7 discussion.

8
9 Member Mills clarified the added condition to relocate the garage to the northernmost
10 portion of the lot and the entrance to the single-family dwelling is to be determined when
11 the architectural drawings are finalized.

12
13 There being no further commission discussion, Chair Severino asked for a motion.

14
15 **Member Mills MOVED to APPROVE case number V-17-052, a variance for a front**
16 **yard from the required 25 feet to 15 feet (Variance 1); a variance for a rear yard**
17 **from the required 20 feet to 10 feet (Variance 2); a variance for side yards from**
18 **the required 7 feet to 5 feet (Variance 3); and a variance to the maximum lot**
19 **coverage from the allowed 35 percent to 40 percent (Variance 4) on Urban Single-**
20 **Family Residential/Indian River Lagoon Surface Water Improvements and**
21 **Management Overlay Zone (R-9W) zoned property, subject to the following staff**
22 **recommended conditions, plus two (2) Conditions added by the PLDRC:**

- 23
- 24 1. The developer shall comply with the Indian River Lagoon Surface Water
25 Improvements and Management Overlay Zone requirements of the Land
26 Development Code, including stormwater retention and open
27 space/landscaping criteria.
 - 28
 - 29 2. The variances are limited to a proposed single-family dwelling with a
30 dimension of 40 feet wide and 25 feet deep. The applicant shall submit a
31 revised variance plan to the Planning office within ten working days from
32 the date of the hearing that is in compliance with the staff
33 recommendations.
 - 34
 - 35 3. No impervious surfaces or structures shall be constructed or placed upon
36 the subject property except as shown on the approved site plan. No
37 balconies, decks, or stairways shall extend or overhang into any yard area
38 established by this variance.
 - 39
 - 40 4. The applicant or successors shall maintain the required area for two off-
41 street parking spaces that shall not extend into the public right-of-way.
42 Therefore, the ground floor carport or garage shall not be converted to
43 conditioned or unconditioned living area.
 - 44
 - 45 5. The property owner or authorized agents shall obtain the required permits
46 and inspections and comply with any other Federal, State and County fees,
47 codes or ordinances.

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1
2 **6. The garage shall be located at the northernmost portion of the lot.**

3
4 **7. The single-family dwelling shall be limited to a two-story building height.**

5
6 Mr. Storch clarified that verbal agreement with Mr. Nosan requested the entrance of the
7 dwelling is to be from the center of the lot.

8
9 Member Mills responded that the location of the entrance to the single-family dwelling
10 will not be a condition of the variance approval.

11
12 **Member Young SECONDED the motion. Motion CARRIED unanimously (5:0).**

13
14 **CPA-17-007** - A Comprehensive Plan Large Scale Administrative Text Amendment to
15 the Intergovernmental Coordination Element to amend the Interlocal Service Boundary
16 Agreement with the City of Daytona Beach. ***This is tentatively scheduled for the***
17 ***September 21, 2017 county council public hearing.***

18
19 Susan A. Jackson, AICP, Senior Planning Manager, presented the staff report. Ms.
20 Jackson explained that the Volusia County Council adopted an Interlocal Service
21 Boundary Agreement (ISBA) with the City of Daytona Beach on June 15, 2017. Ms.
22 Jackson clarified that the ISBA provides a mechanism to allow annexation of a
23 particular parcel that is currently not contiguous to the City. The ISBA will allow the City
24 to be responsible for constructing the First Step Shelter to provide temporary housing
25 for homeless citizens. Ms. Jackson stated pursuant to Florida Statutes, the respective
26 parties to the agreement shall amend their Intergovernmental Coordination Elements of
27 their Comprehensive Plan within six months of the effective date of the ISBA.

28
29 Member Van Dam inquired if the agreement was for one parcel.

30
31 Ms. Jackson responded in the affirmative.

32
33 There being no further questions of staff, the floor was opened to public participation.

34
35 There being no public participation, the floor was opened for commission discussion.

36
37 Chair Severino asked if there was no commission discussion, to move forward with a
38 motion.

39
40 **Member Young MOVED to FIND amendment CPA-17-007 CONSISTENT with the**
41 **comprehensive plan and to FORWARD to the county council with a**
42 **recommendation of APPROVAL for transmittal to the Department of Economic**
43 **Opportunity for review and to the Volusia Growth Management Commission for**
44 **certification.**

45
46 **Member Van Dam SECONDED the motion. Motion CARRIED unanimously (5:0).**

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OLD BUSINESS

None

OTHER PUBLIC ITEMS

STAFF ITEMS

None

STAFF COMMENTS

None

COMMISSION COMMENTS

None

PRESS AND CITIZEN COMMENTS

None

ADJOURNMENT

Having no further comments from the public, staff, or commissioners, Chair Severino thanked everyone and adjourned the meeting at 11:13 a.m.