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**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
January 17, 2019**

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
STEVEN E. BAPP, Planner II
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

December 20, 2018

Staff provided the following corrections:

Page 2 of 17 Line 13 the word commission was spelled incorrectly, and on Page 17 of 17 Line 21 replace the words "Chair Severino" with "Vice-Chair Mills".

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1 **Member Young MOVED to APPROVE the December 20, 2018 with corrections by**
2 **staff. Member Van Dam SECONDED the motion. Motion CARRIED unanimously**
3 **(6:0).**
4

5 Disclosure of Ex Parte Communications
6

7 Members of the Volusia County Planning & Land Development Regulation Commission
8 were asked to disclose, for the record, the substance of any ex parte communications
9 that had occurred before or during the public hearing at which a vote is to be taken on
10 any quasi-judicial matters. All members present disclosed any communication as listed
11 below.
12

13 Members Young, Van Dam and Frank Costa commented that they had a conversation
14 with Glenn Storch regarding special exception case S-19-003. No other members
15 present provided any ex parte communications.
16

17 PUBLIC HEARING ON APPLICATIONS**18 ITEMS TO BE CONTINUED OR WITHDRAWN**
19

20 **Ordinance 2018-14** – Proposed Ordinance amending Chapter 72 regarding
21 Conservation Subdivisions.
22

23 Susan Jackson, AICP, Senior Planning Manager, stated that staff was requesting a
24 continuance to the February 21, 2019, hearing.
25

26 There was no discussion.
27

28 **Member Van Dam MOVED to CONTINUE to the February 21, 2019, public hearing.**
29 **Member Young seconded. Motion CARRIED unanimously (6:0).**
30

31 NEW BUSINESS
32

33 **PUD-19-011** – Application of Alex Ford, attorney for Keith Brown, Robin Brown, Rita Hirt
34 Drinkwater, Renee Hirt Baumgartner and Robin H. Brown, owners, requesting a rezoning
35 from the Rural Agriculture (A-2) to the ~~Transitional Agriculture (A-4)~~ Planned Unit
36 Development (PUD) classification. *Note: There was an error on the agenda, however the*
37 *advertisement and public notices described the correct request.*
38

39 Susan Jackson, AICP, Senior Planning Manager, stated that the request was for a
40 rezoning from the Rural Agriculture (A-2) zoning classification to the Planned Unit
41 Development (PUD) zoning classification for two parcels located on the southwest corner
42 of Osteen Maytown Road and Vat Road. Ms. Jackson explained to the commission that
43 the requested rezoning was a result of an eminent domain acquisition of right-of-way for
44 the East Central Florida Rail Trail project. The acquisition resulted in the two parcels
45 becoming nonconforming in lot size to their current A-2 zoning classification. The

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property was needed to complete the right-of-way for the trail, which will stretch 52 miles across the county. The property is located in the gap between Guise Road and Gobblers Lodge Road. The planned unit development agreement preserves the existing entitlements of the A-2 zoning classification once they become nonconforming. Staff found the request meets all rezoning criteria and recommended that it be forwarded to county council with a recommendation of approval.

As there were no questions of staff, the applicant was provided the floor.

Alex Ford, Landis Graham & French, P.A, 145 East Rich Avenue, DeLand, concurred with the staff recommendation. There is a provision in the code that would do this automatically, but since the property is being inherited and would then be held in common ownership, that provision would not apply.

Public Participation.

John Ondick, 1320 Deer Path Drive, Osteen. Mr. Ondick stated that this property abuts the River Oaks Association property and he is the registered agent for the association. He asked why the rezoning was being done and not a variance. He stated that if the property were combined then they would more than meet the A-2 requirements. He expressed concerns for the area being further rezoned in the future, and the association properties are 5 and 10 acres.

Ms. Jackson explained that the properties are not being combined. The planned unit development is to preserve what is allowed on the property today and not allow further subdivision of the properties that may have been allowed with a rezoning to a conforming classification such as A-4.

Vice-Chair Mills asked Mr. Ford if he wanted to comment on the concerns.

Mr. Ford explained that there were several options prior to this one. The request started as a variance, then a rezoning to A-4, which would have been spot zoning. This is to minimize the cost to the property owners, as it has been known that one of the properties would be inherited and held in common ownership. He mentioned that he would continue to speak with Mr. Ondick to alleviate any concerns.

Member Van Dam asked staff if there was any way to make these conforming lots without a rezoning.

Ms. Jackson replied that another option would be to get a variance to separate nonconforming lots once they were held in common ownership.

Commission Discussion. None.

Member Frank Costa MOVED to FORWARD case PUD-19-011 to county council with a recommendation of APPROVAL. Member Young SECONDED the motion. Motion CARRIED unanimously (6:0).

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S-19-003 – Application of Glenn Storch, attorney for Kareen Coleman, owners, requesting a special exception for a rural event center on Prime Agriculture (A-1) zoned property.

Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson explained to the commission that this was the first rural event center special exception case brought before the board. She stated that in August 2018, the county council adopted rural event center regulations in reaction to the state passing legislation to allow for diversification of uses in agricultural areas. She explained that several wedding barn venues have popped up in Volusia County due to the legislation that was passed and they have not gone through any zoning approval, nor have the correct building permits for public assembly uses been obtained. Ms. Jackson said that since the rural event center regulations had been drafted, those types of uses would be coming through for a special exception request, which would require them to have to go through site plan approval process to ensure that the site was developed to the standards needed for public-type uses. After that, they would be required to obtain building permits and fire safety permits to ensure public safety at those venues. She went on to explain that the subject property was cited for operating a business where not permitted and that they were trying to remedy the citation by going through the special exception process, after which they would move on to the final site plan approval process, as well as obtain building permits. Ms. Jackson went through each criteria for granting a special exception and explained that they either met, or would meet all of the criteria. She explained that the venue was being accessed by Spring Forest Drive which is a private easement road being maintained by the homeowners' association, whereas a requirement of the special exception was that the venue be serviced by a public road. She went on to show on the site plan where Watermelon Lane continued through to the venue, but would need to be constructed for the venue to utilize it as its primary access. Ms. Jackson stated that the request was consistent with the zoning code, and that the subject property was a part of the Samsula Local Plan, which has a goal of preserving and protecting the agricultural heritage of the area. Therefore, staff finds it compatible with the comprehensive plan and recommended that the case be forwarded to county council with a recommendation of approval, subject to the conditions that were provided.

Member Van Dam asked if only the handicap spaces needed to be paved and not the rest of the parking area.

Ms. Jackson answered in the affirmative.

Vice-Chair Mills asked if the venue was built prior to the rural event center classification.

Ms. Jackson stated that she believed it was.

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

Glenn Storch, Storch Law Firm, 420 South Nova Road, Daytona Beach, provided photos (Evidence 1) and a petition with signatures in support of the request (Evidence 2). Mr. Storch explained to the commission that it was an interesting issue because the state legislature determined that you could have wedding barns in agricultural areas and that they were trying to create a model of how to work with the county to make sure it is being

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1 done properly and in an appropriate manner. He went on to explain that the owner helps
2 to maintain Spring Forest Road, and that his only concern was getting access to the public
3 road, since Spring Forest Road was the current road being utilized to get to the public
4 road. Mr. Storch said they would be willing to enter into a maintenance agreement for
5 Spring Forest Road in lieu of having to build a bridge over the ditch on Watermelon Lane
6 to provide access to State Road 415 for guests and emergency vehicles. He explained
7 that he felt the state legislature was looking at the fact that *rural event centers*
8 supplemented income to maintain agricultural uses on properties. He concluded by
9 saying that they were simply trying to provide a safe place for people to hold their events
10 with little impact to the neighbors.

11
12 Jeff Coleman, 315 Spring Forest Drive, New Smyrna Beach. Mr. Coleman stated that
13 they didn't have an issue with the conditions other than the access, and that his neighbors
14 signed the letter which explained that there wasn't any noise or impact to them when
15 weddings were being held.

16
17 Vice-Chair Mills asked Ms. Jackson to comment on the road issue brought up by Mr.
18 Storch.

19
20 Ms. Jackson stated that it was a requirement of the rural event center regulations that the
21 venue be serviced by a public road. She explained that Spring Forest was a private
22 easement that accessed a public road, but the venue needed to have direct access to a
23 public road. Ms. Jackson concluded that it was a requirement that must be met for
24 meeting the criteria for the special exception, and that if they could work out a different
25 access it would have to be worked out through the final site plan approval process.

26
27 Mr. Storch asked for clarification on whether or not it had to front on a public road.

28
29 Ms. Jackson stated that if it were a private driveway owned by the parcel owner it would
30 be acceptable, but that it wasn't a private driveway, it was a private road accessible to
31 several properties.

32
33 Mr. Storch stated that it was a private driveway easement that went to his house and
34 several others that is maintained and meets the criteria for a dirt road subdivision.

35
36 Vice-Chair Mills said the access could be hashed out before the case goes before council.

37
38 Member Young asked if the commission approved it, would they be bypassing one of the
39 requirements of having access through Watermelon.

40
41 Mr. Rodriguez stated that the language in the code is that the property be serviced by a
42 public road to prevent sites at the end of narrow, private dirt roads, which impact traffic
43 and the surrounding areas. He said the intent of the maintenance agreement and the
44 requirement of a public road was to accommodate emergency vehicles and increased
45 traffic. Mr. Rodriguez stated that Watermelon Lane was a public, dirt right-of-way road
46 that extended onto the property which could serve the venue. He explained that Spring
47 Forest was actually a private road maintained by the homeowner's association. If they
48 treated the entire homeowners association maintained road as a private driveway that
49 connected to State Road 415, it would lead to a public road. The other option is to use

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1 the public right-of-way of Watermelon Lane. The issue would be determined at the
2 development review committee level. He concluded that the regulations, therefore,
3 wouldn't be bypassed.

4
5 Member Young asked if they should strike the condition stating that the property be
6 accessed by Watermelon Lane.

7
8 Mr. Storch suggested that a provision be added that said that it be served by a public
9 road and then work it out.

10
11 Mr. Ashley stated that it was already in the code.

12
13 Mr. Rodriguez stated that it would meet the standard whether it was serviced by State
14 Road 415 or Watermelon Lane.

15
16 Member Young asked again if the requirement should be struck out.

17
18 Ms. Jackson clarified that it didn't need to be struck out as it wasn't a condition.

19
20 Mr. Rodriguez clarified for the record, the legislature hadn't specifically determined that
21 wedding barns fell under the agri-tourism portion of the statute. He said it was an
22 interpretation due to the word 'ceremonial' being used. He stated that New Hampshire
23 was the only jurisdiction that made the determination that wedding barns were not
24 accessory to an agriculture use and that Florida hadn't made that determination yet. He
25 explained that structures or facilities built to accommodate persons coming onto an
26 agricultural site were not deemed agri-tourism facilities under the statute. He went on to
27 say those buildings that didn't have a bona-fide agricultural use would still be subject to
28 local regulations. Mr. Rodriguez said that there was nothing in the statute that prohibited
29 local governments from addressing significant offsite impacts caused by the use, such as
30 traffic impacts and road access. He concluded that it wasn't limited to a wedding barn,
31 but could be equestrian competitions or a 4-H club banquet. The courts hadn't specifically
32 determined that weddings were ceremonial aspects of agriculture, which was a
33 nationwide issue.

34
35 Vice-Chair Mills asked staff since it was an existing rural event center prior to the adoption
36 of the ordinance, how were they to address the facilities that existed before?

37
38 Mr. Rodriguez stated that you could not grandfather in a non-permitted use.

39
40 Member Frank Costa asked if the main access to the venue would be from Spring Forest
41 Drive.

42
43 Mr. Storch stated that they would work with staff on it and suspected that was a logical
44 way to provide access, in keeping with the ordinance.

45
46 Member Frank Costa asked if that had been the access point up until then.

47
48 Mr. Storch answered in the affirmative.

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1 Member Frank Costa asked if there were any objections or complaints from the
2 neighbors.

3
4 Mr. Storch stated that there wasn't and that the homeowners' association president and
5 vice-president signed the petition and welcomed the venue. He went on to say that a
6 special exception was a permitted use if you met the conditions and that they would meet
7 those conditions and would work with staff to clarify the public road access.

8
9 Public Participation.

10
11 Dorothy Valenzi, 240 Spring Forest Drive, New Smyrna Beach. Ms. Valenzi was opposed
12 to using Spring Forest Drive as the access to the rural event center as she travels it by
13 foot, bike and horse routinely, and with that amount of cars traveling the road the dust
14 would be unbearable, and for safety concerns.

15
16 Member Young asked if Spring Forest Drive was a true passable two lane road.

17
18 Ms. Valenzi stated that it wasn't a two lane road with a shoulder, but was carefully
19 passable on the grass. She clarified that it wasn't just the cars that come in before the
20 event and leaving after the event that cause the issue, but all of the staff and catering
21 trucks leading up to the events.

22
23 Commission Discussion.

24
25 Member Bender asked staff if the county had the right to grant access across a private
26 road and if the surrounding property owners would need to sign off on it. He stated that
27 if it were him, he should have the right to say, as a private owner, that he didn't want it.

28
29 Mr. Rodriguez explained that the easement was to the homeowners association, and it is
30 a private road governed by a declaration of restrictions and covenants, not an easement
31 over someone's property for access. He stated that it wasn't up to the county to enforce
32 the covenants and restrictions of the homeowners association. He went on to explain
33 that the HOA would need to be party to the maintenance agreement for the road since it
34 was currently their responsibility to maintain the road.

35
36 Mr. Storch said that it was a site plan issue at that point and that they would be working
37 with staff, the neighbors, and the HOA to work out the best approach to be serviced by a
38 public road. He stated that they wanted to make sure the objections were addressed and
39 everyone was in agreement.

40
41 Member Young stated he was concerned about the wording regarding the property having
42 access to Watermelon Lane since it wasn't a condition, and whether or not that would be
43 what they were approving.

44
45 Ms. Jackson stated that it was not in the conditions and that it would be worked out
46 through the site plan approval process. She explained that the Technical Review
47 Committee would review it and make a determination. It could be that the final
48 determination would require that they have to build Watermelon Lane. She concluded

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1 that if an equally satisfactory resolution is agreed to then they would like to have that
2 option to explore.

3
4 Mr. Storch stated that they recognized that the option of building out Watermelon Lane
5 wasn't off the table either but that they would have the flexibility to explore all of the
6 options.

7
8 Member Steve Costa inquired about the number of events they had per year.

9
10 Mr. Storch stated that they didn't have that many events and that a couple a month would
11 equate to 24 a year.

12
13 Member Steve Costa asked if there was anything in the ordinance restricting the number
14 of events allowed.

15
16 Mr. Rodriguez said that the only limitation was on hours of operation.

17
18 Member Steve Costa asked if the applicant would have a problem with limiting the amount
19 of events per year to avoid having three in a weekend.

20
21 Mr. Storch confirmed that a maximum of 24 events per year would be ok.

22
23 Member Steve Costa stated that the issue would be if the property were sold and the next
24 owner wanted to have more events and then the county couldn't control that because it
25 was permitted.

26
27 Mr. Storch stated that they were a model and that if they wanted to look at that moving
28 forward they didn't have a problem with adding that to the conditions.

29
30 Member Steve Costa asked if it were limited to certain types of events.

31
32 Mr. Rodriguez stated that staff considered restrictions when the ordinance was drafted,
33 and opted not to place restrictions on the type or amount of events on the site as it would
34 cause a logistical tracking issue. He stated that other jurisdictions require a calendar to
35 be submitted for the number of events and that staff didn't intend to be that intrusive. Mr.
36 Rodriguez went on to explain that a rural event center is for hosting events where they
37 could have weddings, 4-H celebrations, equestrian competitions, etcetera, and that we
38 didn't have restrictions on the number of events or type of events. He concluded that if a
39 property owner voluntarily limits the number of events per year, it could be added as a
40 condition to the special exception.

41
42 Mr. Storch said they would be more than willing to do that.

43
44 Member Young asked if the venue was licensed as a wedding barn, would that restrict
45 the use.

46
47 Mr. Rodriguez stated that a business tax receipt or occupational license were for taxes to
48 operate on the site, and that it wasn't a zoning approval that gave the right to operate on

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1 the site. He explained that the special exception under the rural event center code made
2 it a permitted use within the zoning category.

3
4 Member Young asked if that limited it to a wedding event.

5
6 Mr. Rodriguez said no, and went on to quote code section 72-2 “that a rural event center
7 was a venue on agricultural zoned property intended primarily to house, shelter, transport,
8 facilitate the congregation, and/or accommodate members of the general public for events
9 that include weddings, family reunions, class reunions, company retreats and picnics, or
10 other similar events or celebrations”.

11
12 **Member Young MOVED to FORWARD case S-19-003 to county council with a**
13 **recommendation of APPROVAL with the staff recommended conditions and**
14 **clarification of the road access. Member Frank Costa SECONDED the motion.**

15
16 Motion Discussion.

17
18 Member Steve Costa commented about the condition of limiting the number of events.

19
20 Member Young concurred and amended the motion to include a condition to limit the
21 number events per year to 24.

22
23 Member Steve Costa commented that moving forward they would have to look at that for
24 each individual case and make sure that the existing neighborhoods have minimal
25 impacts.

26
27 Vice-Chair Mills was concerned about the condition from an enforcement perspective.

28
29 Member Steve Costa commented that it would at least give neighbors an opportunity to
30 call code enforcement with an issue.

31
32 Member Bender expressed his concerns for the neighbor that objected to the level of
33 traffic, and that utilizing a private easement when a requirement is having access from a
34 public road doesn't fulfill the requirement to him.

35
36 Member Frank Costa commented that his concern prior to speaking with staff and the
37 applicant was the issue with the road access. He explained that on paper they met the
38 special exception requirements and that the road access was up to the homeowners
39 association, the applicant, and staff to hash out in the site plan approval process, along
40 with the drafting of the road maintenance agreement.

41
42 Member Young concurred with the need for a maintenance agreement.

43
44 Vice-Chair Mills concurred with member Frank Costa and commented on the issues that
45 would arise from limiting the amount of events due to an enforcement problem, and he
46 thought they shouldn't be restricting it if the ordinance didn't.

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1 Member Young stated that if there wasn't a restriction he would have to back out because
2 if a big company or corporation bought the property, that could become an issue with the
3 number of events.
4

5 Mr. Storch interjected that a number wasn't required, but that they stipulated 24 and had
6 no problem with it.
7

8 Vice-Chair Mills asked if that would fall under the agreement with the homeowners'
9 association for the road conditions.
10

11 Mr. Rodriguez stated that it was two separate issues and that any road agreement would
12 be to make sure that the road would be maintained to county standards for the type of
13 use on the site. He went on to say that the applicant volunteered the restriction on the
14 use so there shouldn't have been any issue with adding it as a condition. The special
15 exception runs with the land and would stay in effect for any subsequent owners.
16

17 Vice-Chair Mills asked if the motion was still good with Member Young and Member Frank
18 Costa. Both concurred and had no issues with adding the condition to limit the number
19 of events.
20

21 Member Bender couldn't support the request due to the impacts upon the neighbors.
22

23 Member Steve Costa commented on the fact that the homeowners' association could
24 choose to gate the private road to remedy the situation if they were against the traffic.
25

26 Member Bender stated that when it reached county council, he hoped that there were
27 issues they would pay attention to.
28

29 *Motion restated*

30 **Member Young MOVED to FORWARD case S-19-003 to county council with a**
31 **recommendation of APPROVAL with the following staff recommended conditions**
32 **and clarification of the road access:**
33

- 34 **1. Special exception approval is limited to the use and site improvements as**
35 **shown on the site plan submitted December 12, 2018, and as revised subject**
36 **to county council approval to fully comply with section 72-293(26) of the**
37 **zoning code.**
38
- 39 **2. The seating capacity of the proposed rural event center building is limited to**
40 **175 seats.**
41
- 42 **3. The special exception is subject to compliance with applicable county land**
43 **planning regulations of Chapter 72 of the county code. Any proposed**
44 **expansion of the proposed use, or increase in seating, or change of use, will**
45 **require approval of a new special exception.**
46
- 47 **4. Before commencement of any site work, the applicant shall submit for review**
48 **and approval of a final site plan, as provided under Section 72-291, zoning**

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code, as amended. The special exception plan may be modified during the final plan review process to comply with Chapter 72 of the zoning code.

5. All structures used for the rural event center shall be constructed and maintained in accordance with the Florida Building Code and the Florida Fire Prevention Code. Appropriate permits and inspections shall be obtained prior to resuming any event activities on the subject parcel.

6. No loudspeaker or call system shall be audible on adjoining properties.

7. Hours of operation shall be limited to 8 a.m. to 11 p.m.

8. All exterior lighting shall be directed away from adjoining properties.

9. The property owner shall establish and maintain a road maintenance agreement with the County of Volusia prior to issuance of a Final Site Plan Development Order.

10. Events shall be limited to twenty-four events per calendar year.

Member Frank Costa **SECONDED** the motion. Motion **CARRIED 5:1** (Member Bender in opposition).

OLD BUSINESS

None.

OTHER PUBLIC ITEMS

None.

STAFF ITEMS

None.

STAFF COMMENTS

None.

COMMISSION COMMENTS

Member Young mentioned that the condition to limit the number of events with the rural event centers was a case by case basis and did not think it may be necessary for all cases. Member Frank Costa concurred.

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1 **PRESS AND CITIZEN COMMENTS**

2

3 None.

4 **ADJOURNMENT**

5

6 Having no further comments from the public, staff, or commissioners, Vice-Chair Mills
7 thanked everyone and adjourned the meeting at 10:19 a.m.