



Volusia County - PLDRC Meeting June 18, 2020

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

>> Yolanda, can you advance aside?

>> Thank you.

>> Good morning everyone I would like to thank everyone for joining us this morning. Those of you in the chambers and those of you on the webinar. Ms. Summers could I please have a roll call.

>> Good morning.

>> Good morning.

>> Frank Costa.

>> Here.

>> JE on?

>> Here.

>> From the van dam? Jeffrey Bender, Steve Costa is not present. Ronnie Mills?

>> Here.

>> Thank you, Ms. Summers. We do have some minutes from our May 21, 2020 meeting to consider any discussion on the minutes.

>> I have not seen the minutes since I did not get my packet.

>> Okay. Thank you. Anyone else with concerns on the minutes?

>> I didn't get mine, either , either.

>> Should we table the minutes?

>> Yes, sir.

>> I don't think we need to have that moved to the next meeting? We will move those minutes to the next meeting so additional commissioners didn't get them can have an opportunity to look at them. Okay. That is that. For those of you joining us this morning through the webinar, after staff has presented the case today and the commissioners had an opportunity to ask any questions, Ms. Summers will engage mics at that time I will ask you to state your name and address for the record this will give you an opportunity that pertinent information and answer questions the commissioners may have about your case. We also have request to speak for and against the cases being heard, the case is being heard it is time to have public participation for those of you joining us in chambers I will ask you to come forward so you can be recognized. For those joining us to the webinar Ms. Summers will engage your microphone so you can be recognized at that time I would like you to state your name and address for the record and we will be limiting comments to a three minute time limit. I will give the commissioners an opportunity ask questions they may have for you. After the comments have been heard I will give the applicant an opportunity to address the concerns speakers have an answer any questions the commissioners may have. I will be asking all motions to be voted on and done by roll call. At this time I would like to turn it over to Mr. Soria.

>> Thank you, decisions by this body and special exception cases and cases which resulted property from one classification to another recommendations only to the County Council. They

do not constitute a final hearing. Decisions on variances subject to appeal to the County Council. What this means no new evidence may be presented at the time of the County Counsel public hearing on the appeal. An aggrieved party that appeal such a decision is confined to the record before this body. Hearings by this body and rezoning special exceptions and variances our class I traditional nature meaning this body is acting more like a quart and must take into account oral, written and demonstrative evidence present and must be based on evidence in the record. Substantial evidence has been defined as that evidence a reasonable mind would accept to support a conclusion.

>> Thank you, Mr. Soria. How would like to ask the commission to disclose for the record any ex parte communication that have occurred before, during the public hearing which a vote is to be taken in any class I judicial matter and I will start with Mr. Young.

>> None.

>> Ms. Shelley.

>> None.

>> MR. Costa.

>> I make a comment on any audible devices if they are audible please sciences at this time. It doesn't look like we have any audience to be continued or withdrawn. Do we, Ms. Summers? Okay. We'll move on to new business I will ask Ms. van dam if she can read the first case.

>> First case is V-20-037 application of Harold S. and Suzanne P. Bentsen owners requesting variances to the minimum yard requirement and to allow more than one accessory structure over 500 square feet and urban single-family residential R-three zone property.

>> Thank you. Ms. Jackson would you like to give a staff report on this?

>> Yes, sir there are two variances associated with this property the first variances to reduce the side yard from 10 feet to 0.93 feet for an existing pole barn and variance two to allow two accessory structures over 500 square feet in size in a residential zoning classification. The property is located on the north side trail by the lake is approximately 446 feet east of its intersection, with old tree line trail. The property is zoned R3 requires 10,000 square feet 85 foot WT H this is a conforming lot it is 35,719 square feet with 100 80 foot lot with the property contains single-family residence pole barn pool workshop and the workshop has a carport attached to the front. The carport and pole barn rebuilt without permit. The carport is recent. The pole barn has been there since before the owners purchase the property, built in about 2002. The pole barn was built .93 feet from the east property line, in order for the applicant to obtain permits for that pole barn they need a variance to legitimize his current location. The carport meets setbacks but it's over 720 square feet and in order to have both pole barn and carport on the property the second variance is needed to allow two structures over 500 square feet. When we reviewed the variances we find we have to recommend denial and variance 1 because it fails to meet one of the five criteria. There is nothing peculiar about the property that would necessitate a variance. However we find it meets criteria two, three, four and five is not due to actions of the applicant and if denied it would create an undue hardship it is the

variance necessary to make possible the continued use of the existing structure and we do not find it is injurious to the area involved the adjacent neighbor has sent a letter of support on the side of the pole barn. As for variance 2, staff has to recommend denial we find the variance fails to meet two of the five criteria, again there is nothing peculiar about the property and applicants are responsible for having installed the carport without a permit. We do find it meets criteria three, four and five literal interpretation of this criteria would restrict the slot from achieving 35 percent lot coverage as it is now with the existing carport and pole barn and all other structures on the site, the parcel is only at 14 percent open space. It is the minimum variance to allow existing pole barn and carport to remain on-site and is not injurious to the area involved. The adjacent neighbor on the carport site has sent a letter of support. If you have any questions I would be happy to answer.

>> Thank you, Ms. Jackson. Do we have questions for staff? I see Ms. Shelley your microphone is live do you have a question?

>> No, sir.

>> And also Mr. Young?

>> No, I don't have any.

>> Ms. van dam do you have a question?

>> Did you say 14 percent lot coverage of 14 percent open.

>> Lot coverage.

>> I don't know what I said but that is what I meant.

>> Okay. Ms. Jackson I do have a question. This is in part of a homeowner association?

>> I don't know.

>> All right. That was my question. During no comments is the applicant present? yes, would you like to come forward and state your name and address for the record?

>> Good morning.

>> Good morning.

>> Harold Benson and the address is 1320 by the lake.

>> You heard the staff report.

>> Being my first time here, not knowing everything to say properly, I can please ask to know what we are asking for is just a simple request to get permits for our two barns which one was there when we built the house in the other, when I purchased the carport, it was a freestanding carport that actually attached to the existing barn. We were told it was a temporary structure that we would not need a permit, but if I needed one, I would have certainly bought a permit because we are that kind of people. We do not try to do things wrong we just built a house and bought permits for everything else, and so we are asking to be able to go forward and keep our situation, our barns, and just pay for permits to make it legal.

>> Okay.

>> I did have a representative helping me this morning, Mr. Peterson who owns the lot next to me on the carport side. He is in compliance with having the carport there with no problem at all.

>> Okay.

>> Have I said enough?

>> You certainly have. Yes, sir. Let me see if any of the commissioners have any questions, just wait a moment. Anyone have questions for the applicant? Ms. Shelley?

>> It just goes back to your question, Mr. Chairman, regarding an HOA.

>> We are on a private debt and cul-de-sac there is no HOA all properties are privately owned.

>> Okay.

>> Thank you.

>> Okay. Any other questions for the applicant? Okay, hearing none. This time, I will ask do we have any public participation forms for this case? Okay, Mr. Peterson, would you like to speak. If you state your name and address for the record and once you've completed your statement if you will fill out a form and give it to Ms. Summers at my left.

>> My name is Arnie Peterson I have the house at 1309 trail by the lake. It is a house that is closest to one of the structures, I call it the shed. I would like to just boil down to this, what was built there in no way is a detriment to the property. The house was owned by the mom and dad, and mom passed away about three weeks ago. And me and my brother and sisters inherited the house. And so it is now in our ownership. If I felt like in any way it was hurting this house in value, I would say. As a matter of fact, I checked the value at Volusia County has on the property and a couple of weeks ago the value increased by \$20,000. That was the assessed value. I don't think it has hurt anybody. This has nothing to do with this hearing, but this couple, we have my moms garbage can out every Tuesday morning and put it back. That is who you are dealing with. And if we could ever grant anybody a variance this is what we should do.

>> Thank you. Any questions for Mr. Peterson? I don't see any. We have anyone else, Yolanda on the web? Okay. Seeing we do not have anybody else to speak I'm going to close this to public participation and open it up for commission discussion. Or motion.

>> I will make a motion. Given the fact the size of the property the letters of support from neighbors and so on I don't have an issue with this one. I will make a motion to approve variance one and two of V-20-037.

>> Okay. Do we have recommendations?

>> I will second.

>> Okay, I have a motion to approve variance is one and two with staff recommended conditions. And I have a second. Do we have any discussion on the motion? Hearing nine, as for Roll call Mr. J young? your mic is off.

>> I approve.

>> Ms. Shelley.

>> Yes.

>> Mr. Frank Costa.

>> Yes.

>> Ms. Wanda van dam?

>> Yes.

>> Mr. Jeff Bender.

>> Yes.

>> Motion carried unanimously. Ms. van dam next case.

>> Next case is V-20-040 application of Mark Watts attorney for James Frable and Mary Ames owners requesting a variance to minimum yard requirements and transitional agricultural A-three R disease own property.

>> Ms. Jackson staff report on this, please?

>> Yes, this is also another continued case from the April 16 meeting, in between that time and this time there has been a revision to it. They no longer need variance 2 so there are only two variances associated with this case. Variance one is to reduce the west side yard from 25 feet to 18.48 feet for an existing 502 square-foot accessory structure it's a small carport and variance rate is to reduce the south side yard from 25 feet to 12.5 feet for an existing 7654 square foot assess restructure. The property is located on the west side of Cape Lake Road. It is approximate 150 feet south west of its intersection with Reynolds Road in the day Springs area it is on A 3 it requires when a curve 150 foot lot with this is 5.3 acres inside was 720 foot lot with is conforming. The property is an L-shaped property. And it fronts on an un-open platted right-of-way to the north. An and cave like road to the east. So it requires for yard setbacks to those two side. Zoned A three does not have an agricultural use modified and any kind of agricultural building are building has to meet principal structure setbacks. The owners were issued notice of violation in November 2018 for construction without permits. Two of the structures, is now one of the structures we are talking about, was issued – was constructed before the current owners took possession of the property. The large structure is a result of actions of the applicant. They did construct that structure. We talked about structure one, – can I do this? Can you see that? Everybody can see that? Structure one is that carport.

>> I can't see it.

>> You can see it at home when I do that?

>> No, I can't see it.

>> Can you draw on it?

>> I don't have my packet.

>> Well, structure one is the carport up in the top left-hand side of the webinar. It is 15.7 feet by 32 feet, it encroaches 6.5 feet to the west side yard. The request is to reduce the west side yard from 25 to 18.48 to allow the structure to remain in place. The structure was built in 1999 by a previous owner without a permit. And then, structure three, if you could put the cursor on structure three, it is the big – it is a huge light pole barn structure with an enclosed structure in the middle of it. It measures 99 point eight feet by 76.7 feet. In the internal metal building is 30 feet by 50 feet all under one roof. It is enclosed on the south side that faces the adjacent property to the south encroaches 12.5 feet to the south side yard. So the variance request is to reduce outside yard from 25 feet to 12.5 feet. This structure was built in 2018 after the current owners purchased the property. A little bit of chronology, of the development of the property,

1965 the property was owned a one which required at that time a 30 foot front yard 30 foot rear end 10 foot size. In 1974, there was a lake house construct the use of the lake house with sleeping quarters existed prior to current regulation and therefore it is a lawful nonconforming use. In 1975, the single-family dwelling was constructed along with the swimming pool and a 20 by 16 foot assess restructure and that one is no longer a part of this request. 1980 the property was rezoned to A three with the adoption of the uniform zoning ordinance setbacks were increased to 40 foot front yard, 40 foot rear waterfront yard 25 foot side yard. Structure one was constructed in 1999 and in March of 2018 the current owners purchased the property, and later in 2018 structure three was constructed. When we evaluate these variance requests for variance one, staff has to recommend denial we find it fails to meet one of the five criteria. It does not meet criteria when there are no special circumstances with the property or the structure. It was zoned A3 at the time the structure was built but we do find it meets criteria two, three, four and five it's not a direct result of the application of the applicant the previous owners constructed the building. In order to meet current code this structure would have to be removed and relocated which may cause unnecessary hardship. It is the minimum variance needed to get permits for the structure where it is currently located we do not find it to be injurious to the area is been located there since 1999. If there is heavily wooded office and significant distance to the nearest neighbor. Variance three, evaluating this variance we find the variance fails to meet two of the five criteria. It does not meet criteria one, there are no special circumstances with the property in two, is a direct result of the applicant's action. We find it meets criteria three, four and five. It would have to be removed or relocated which may cause unnecessary hardship it is the minimum variance necessary to allow the pole barn to stay where it is currently located and obtain permits. We do not find it is injurious to the area, it is heavily wooded to the south and there is considerable distance between this structure and the nearest neighbor to the south. With that, I'm happy to answer questions.

>> Thank you, Ms. Jackson. Do we have any questions for staff? Mr. Young, would you like to speak?

>> Yeah. Since I don't have it in front of me, I read in early or late last night, what are the three conditions you would recommend? Since I don't have the packet.

>> Can you see them on the screen?

>> No, I can see nothing on the screen. I only see you. I don't see the pictures are nothing.

>> He has to minimize his thing.

>> I will read them out loud . There is a standard conditions we have with all these variance cases. If the appeal DRC find the applicant has provided competent and substantial evidence to support approval of the request the following conditions are provided for consideration. The structures are limited to their existing footprint as depicted on the survey dated January 9, 2019. This structure shall not be enlarged, increased or extended further to occupy any greater area without approval of the separate variance. Condition two, the applicant shall obtain and complete the required loading permit inspection for each structure within 90 days of rendition of the determination. Three, applicant shall restore the lake house to its original configuration

and obtain permits and inspections for any recommendations performed on said structure within 90 days of rendition of the TLD RC determination.

>> Okay.

>> Does that answer your question? What yeah.

>> Ms. Van dam?

>> Condition three, regarding the lighthouse that is a condition that will be in effect regardless?

>> It will be quite there is nothing regarding the lighthouse that is the responsibility of PLD RC2.

>> We are not requesting variances that will have to be dealt with separately but we are including it as a condition to ensure it occurs.

>> All right.

>> Mr. Costa do you have a question?

>> I think she just kind of answered it the lighthouse has nothing to do with these variances you just contacted on the end as a here you go kind of thing?

>> Yes.

>> To get it to comply guess the question is. This has nothing to do with our voting what so ever. I think I just answered my own question.

>> Mr. Young, any more questions?

>> No, that answer my questions . Thank you.

>> Okay, sir. And Mr. Bender?

>> Is there any reason why you did not include if it is damaged by 50 percent or whatever has to come into compliance as part of your conditions?

>> We can add that.

>> That should be.

>> Okay.

>> Any other questions for staff? I don't see any. Thank you, Ms. Jackson. I will as the applicant to come forward, please. Before we get started, Mr. Watts, you heard our discussion this morning, Mr. Young does not have all the information in the packet.

>> Yes.

>> Obviously, this may sway a decision one way or the other you wish to continue this case?

>> No, I think we can provide information.

>> I just want to make sure you are good with that.

>> I think we are fine.

>> If you state your name and address.

>> For the record Mark Watts with the law firm of tropical . On behalf of James Frable and Mary Ames my address is 231 N. Woodland Boulevard the land. I appreciate the opportunity to be with you this morning I appreciate the work staff has put into the staff report. One of the reason we wanted to continue this in the April meeting was Mr. For able informed us one of the structures had been removed so we provided updated information and there were a couple of particular features of the property I felt like we needed to provide supplemental information on. And so, if you had our packet, Mr. Young will see there was an additional letter we

submitted some pictures of the property. I think highlights the unique features. I would like to walk through, we put together – where did the little clicker go? Susan, did you take – all right. I think there are some unique features and I agree with elements of the staff analysis, obviously, a number one. And structure wanted an items number one and two and structure three. We have a little different take and I would like to walk through that with you because I think it does give a legal justification for the variance requested. You have seen is, this is structure number one. What I want to point out here, I'm going to talk about this as we go through this. The property has a very significant slope to it. On the north and along the western edge, portions of the property much more elevated and everything slopes down probably 20 feet from one end to the other down to the lake. As a result don't have certain portions of the property we can put structures because you have that slope. Here, this is the northwest corner of the property, it is kind of at the point we have the flat area before you begin sloping down. The existing house has improvements such as a pool and other thing and this is the structure in place when Mr. Frable Purchased the property but when you look to the left is sidewalks and it will be on that that would make it difficult to relocate that structure further to these. To comply with the setbacks. Structure two come this is the one that was removed I won't dwell on that. Finally, structure three I'm going to spend more time talking about this one because it does have unique characteristics that force this to be the place where that structure was actually constructed. This is when construction was done in 2018 after the property was purchased. Built living agricultural property but not necessarily going through permits later found out he is not ag exempt so he did need to require permits. We are in this process so he can apply for the permits after the fact. I will move along here. Here is your variance criteria staff found we met for both of the structured three, four and five and structure two, I'm sorry, structure one we also met criteria two so the two are trying to deal with here are the ones that are highlighted. With regard to special condition on the carport. I think you have got a couple of things. One, you have that significant slope to the property. As a driveway comes into the property, it stays on the high portion of the ground state away from work slopes down to the lake and cursed down to where the lake houses. The carport is located in the corner where that curve occurs and out of that 40 foot front yard setback but in that side yard set. We think that characteristics of the property you have got that substantial slope or you can build without going down into the lake area is a criteria that help support, it's a special condition of the property that supports the location of the structure. Here is a better view. If you look here, hopefully, you can see that online. You can see the cursor here. Let's see.

>> Yes, I can.

>> If you can see here this is the location where that carport structure is and you can see in this picture I think much better how much slope there is from the property to one side and the other if you look at the overhead shop this is that L-shaped parcel ever property that comes down to the left side of the picture the lake is on the right-hand side of the picture. Probably a significant portion of that green area is actually wetland area of what would be considered wetland area from a construction standpoint. So limited areas we can actually build. This is

looking up from the high place looking back down but again you can see that substantial contour the property has that limits the area to build. Looking back, this is looking at structure number three, one of the things I'm going to show you in a minute there was a prior agricultural use on this property that modified the contour in certain areas and so I think based on that, structure three has one location it actually would fit within the property. If you look to the left that is different going down the northern property line you have a very nice stand of oak trees, you have also got 40 foot setback off the front yard because of that an open right of way. There is limitation of what you can do to the left-hand side of this picture but from a tree removal standpoint a contour standpoint in the standpoint of the 40 foot setback in place there. Here is an aerial, this is from about 2012, and the point I wanted to draw your attention to hear is this area of the property was previously clear. It was clear, level for a nursery that was in place and maintain a number of years in that location. When Mr. Frable If you are familiar with that area the County many people have packing sheds and pole barn to that type of structure is typically associated with a A3 in here you hadn't already clear graded area previously used for that nursery. In 2017 the nursery is not there this is before Mr. Frable Hardy and 2019 the area with that nursery was this was the area of the property where he did not have to deal with slope condition that exists everywhere else was clear and level and didn't have to get into tree impact our front yard setback that exists to the north between his driveway and the property line. That's another image in the broader context. One of the things when you walk around the property you will see a personal here in a second, there is a substantial amount of tree vegetation that wetland area associated with the like adjacent to every building number three is, that I think provides additional buffer, one thing I do want to point out to the south of that, when you look at that southern property line asking for the 12 a half foot variance from, on the other side is in excess driveway. There is substantial buffer vegetated material in an excess driveway with property to the south, we were able to speak with the property owner to the south a gentleman named John Garrett who has no objection to the variance in the property in Brown I have got the green checkmark on, their personal is for his mother to move in to that is adjacent to the property line with the setback variance for the carport is being requested. We have talked to the neighbors, we think everybody is okay with what is there in the slope is the special condition that justifies condition one and two are satisfied. With regard to the staff conditions we are fine with the listed staff conditions including, Mr. Young, I think you added the condition of the nonconforming structure was damaged beyond 50 percent it would have to be removed. I think the code covers that we are fine with that condition as well . With that I can answer any question. Appreciate the opportunity to be here this morning.

>> Thank you Mr. Watts. Any questions? Mr. Young, do you have a question?

>> Now.

>> Mr. Frank Koster?

>> Is direct, how are you doing.

>> I'm good.

>> How are you doing?

>> Speaking of condition, condition number three regarding restoration of the lake house what does that entail?

>> We will need to sit down with staff to work through what was there from the footprint of that building originally I think there has been material that has been replaced we need to make sure we are on the same page to the extent it was there versus what was replaced.

>> You have any issues with that condition being attached?

>> No, I think we can meet with staff and work through that.

>> That was my only question.

>> Ms. Van dam?

>> Mr. Watts, we look at the picture on page 29?

>> Yes.

>> On the left-hand side of that picture where the tree stumps are, is that some type of construction going on there. It almost looks like a support beam behind the trees there?

>> That is defense there is a privacy fence.

>> On the ground.

>> Yes, sorry, support beam?

>> That is a fence post.

>> It's a stack of fence posts sitting on the trailer.

>> Around field fence posts.

>> Okay. Any other questions for the applicant? All right, sir we will see we have anybody would like to speak and give you an opportunity to rebut if they do. Do we have any public participation, Ms. Summers?

>> No, sir.

>> Do we have anybody here that would like to speak to this case? Come forward, sir state your name and address for the record once you have spoken if you would fill out a form and give it to Ms. Summers to my left.

>> Good morning, commissioners understand computers 4404 Cave Lake Road it is adjacent to the property that Mr. Watts mentioned the owner had given approval for the variance to be allowed. I'm two doors down, almost 1000 feet away. We are on the Lake we have no objection we have no objection, it's the woods, is a country. There isn't a level spot on my property. Ever built our home originally decided to put it near the water and it is a full-time job. After I retired, I should have stayed as an engineer because all I do is pick up dead trees, repair fences, it is almost like Gunsmoke. Frable Has been a great neighbor he has a real job and I have a handyman job at the house but I have seen the property, I know the property the building you are referring to with the larger pole barn structure, is hidden from the street, a similar pole barn structure was built on Reynolds Road this past year, by a plan company that is all there is around there. That quite frankly, looks quite similar. As an owner, I don't see any problem, part-time resident lives across the street from James have no problem with it. I am not authorized to speak on anyone's behalf but my own. We are quite a tight neighborhood.

There is a Flagler County Sheriff that lives next door to James. I think it is Flagler. That family has no problem, either. It is one of those things where you only have so many places you can build unless you are willing to spend a couple of hundred grand to have your property fully leveled and that would require permitting as well because it flows into a lake that is protected by Florida wildlife. You cannot put a certain horsepower motor on your boat on that link. You can use chemicals to kill the hydrangea that grow on the lake. There is a lot of built in issues with the properties on that like there are nurseries that are working on property adjacent to all of ours. And they encounter the same problems. It's a full-time issue. That is all I got to say.

>> Thank you, sir. Any questions for the speaker? Okay. You may have a see, sir I don't hear any. Anyone else that would like to speak to this case? Ms. Summers, anybody on the web that would like to speak to this case?

>> No, sir.

>> At this time I will close to public participation in open it to commission discussion? Mr. Bender?

>> I've been in this area if I'm not mistaken on this Lake, next to there is like a cabin no one lives in but they use it for parties or whatever. There is no one even there at the property they just use it to host various things I was at a couple of functions there. Like the gentleman said, it is woods. I don't see where you would inconvenience anything or anybody not even the Bears. With that, I'm going to make a motion that V-20-040 be approved with staff recommendations with the condition if damaged 50 percent statement is added.

>> All right, sir.

>> I will second that.

>> Just to clarify variance number two is no longer necessary and the condition about the damage structure applies to the lighthouse structure, I believe?

>> I'm sorry?

>> It only applies to the lighthouse structure doesn't apply to any other structure? Does the lake house?

>> It would apply –.

>> I wanted to apply to all of them.

>> Okay.

>> We are only looking at the variances, that lake house has really nothing to do with the variances, is that correct?

>> My understanding is the lighthouse currently does not need –.

>> I have a problem with that being in the condition that is not something we should determine at this time.

>> The 50 percent condition is required by County code anyway. 50 percent damages in County code for nonconforming structure be removed.

>> It is actually 75. My understanding this commission usually attaches 50 percent when it is a non- confirming structure suffered through variance because of the extraordinary nature.

>> You are right the variance here does not apply to that structure.

>> Mr. Frank Costa you had a statement?

>> Yes, thank you. I cannot support the motion as it stands. With condition number three regarding the lighthouse I've scoured through this package why we are having this meeting there is no mention what is to be restored at the lake house, the application for variance I think it is outside of our scope. If it is a code issue that Tackett on to the experience request. In order for me to get a yes vote would have to have that motion amended to drop number three of the conditions.

>> I agree with you. That was my concern it didn't have anything to do with the variances we are looking at this morning. Mr. Young, you had something to say?

>> Why did staff attach it, may I ask?

>> We included it in the conditions just to ensure that it would be addressed in a timely manner. We put a 90 day requirement in there. That is the only reason, it can be removed.

>> Okay. Ms. Van Dam?

>> I make a motion I don't have a problem dropping.

>> You want to eliminate condition number three?

>> That is fine.

>> And our second.

>> I will go along with it.

>> We are eliminating the condition of staff recommendations three. Obviously, variance two has been withdrawn so we are concerned to variance one and three, correct? Okay. All right. Do we have any comments?

>> Yes, Mr. Chairman does the 50 percent threshold still apply to the structures?

>> We are moving it to a 50 percent, Mr. Watts?

>> I apologize. I wanted to speak to that one and clarify, Mr. Bender, you are applying that to the structures the variances are applied to because the variance will legitimize the existing location.

>> Yes.

>> I wanted to make sure we were clear on that.

>> Either of those structures are damaged –.

>> Still back in conforming –.

>> Right.

>> As long as we are discussing the the thing I have a problem with on the 50 percent is we've determined the reason for the variances I think, is because of the contour of the property and if anything were ever to be built back again, we would be right back here again. If it is destroyed more than 50 percent. This is something else I've got on the agricultural properties, if this was agricultural use, yet a nursery or whatever we would not be here this morning. We have no restrictive zoning that require a five foot setback and this is the problem I have had these along with they are not quote, unquote for use. Most people buy these properties to get that leniency to be able to have animals and things, may not be considered an agricultural exemption but yes, it is an agricultural use. As far as a 50 percent, I don't know why you are

doing that because the contour of the property itself will not allow anything any closer. I mean, if you want to keep it, that is fine but I don't think there is a need for it, the code automatically puts it as 75 percent, I would like for you to consider that 50 percent.

>> Well, the way I'm looking at this, the permits had been pulled at the original – when this is originally done they would know that and had been dealt with. I think at some point in time, it is board needs to kind of start like okay, you did it, let's just go build a, go and ask for forgiveness and we are going to be forgiven no penalties with this case I'm going to stay where I am with the 50 percent.

>> I think from the applicant perspective we will go with the discretion of the board whether 50 or 75 the law is still there. I think it's not going to be an issue.

>> Thank you. Any other questions? Mr. Frank Costa?

>> I need a clarification from the attorney. I was under the impression and it could be a false impression the code stated 50 percent but you just said 75 percent replacement, correct?

>> Yes. I'm reading from section 72.206 types of conformity subsection 3 for nonconforming structure. As is in any classification a lawful structure existing on the affected date of adoption or amendment of this article be built because of dimensional requirements because of density the requirements may still be is provided, I'm going to stop D if it is damaged in excess of 75 percent except as provided for in section 73, 202 structure will comply with this article 72, 302 to do with her cane type damaged and is an exception and that is when it goes to 50 percent. There is a two-tiered system usually deal with her cane damaged but the typical standard is 75.

>> That is a little clearer to me. But ask putting that blanket 50 percent statement we are basically overriding the existing code and hamstringing the existing property owners, there is no reason for us to add that as a condition because it is already there by code, correct?

>> The commission has jurisdiction over structures subject to a variance because this is an extraordinary request you can put a condition to mitigate the incompatibility or damage the variance may potentially cause, kind of treating it as a nonconforming structure in the event it is damage be on the threshold that conforms to the way the normal code conforms to the way the code requires. It is within this commission's purview to put that condition as a reasonable mitigation to the variance request.

>> Thank you, I look forward to meeting you in person one day soon, hopefully. I have another question, stricture.

>> Go ahead, Mr. Costa.

>> Variance one that structure it is applied to, is that by the current owner or before the current owner?

>> Before the current owner.

>> What about variance three?

>> The current owner constructed that structure.

>> Thank you.

>> Ms. Van Dam?

>> I think historically we have used the 50 percent or the property owner built the structures without obtaining a building permit. That is where the 50 percent came from given the fact that was done by the property owner, that did not obtain a building permit. I think that is historically what we started with the 50 percent and I am in favor of leaving it at 50 percent.

>> Thank you, Ms. Van Dam. Mr. Young, do you want to comment?

>> No, I will agree with Ms. Van Dam on that point. We have 50 percent.

>> We have a motion and a second with staff recommended conditions with exclusion to number three we also have an added condition if the buildings are destroyed by more than 50 percent they would adhere back to the current code. Am I correct in saying that, Mr. Bender?

Yes. Okay. We'll take a vote at this time. Ms. Shelley?

>> Yes.

>> Mr. Young?

>> Yes.

>> Mr. Costa?

>> Yes.

>> Ms. Van Dam?

>> Yes.

>> Mr. Bender?

>> Yes.

>> And myself is also a yes, Ronnie Mills.

>> Appreciate your time.

>> I will move on to the next case, please click next case is Z-20-061, application of Michael Woods attorney for Workman Land Group LLC requesting a rezoning in the general commercial B-4 to B-5.

>> Ms. Summers if you will give us a staff report.

>> The applicant is requesting rezoning from B-4 general commercial zoning classification to B-5 which is have a commercial zoning classification. The purpose is because the existing tractor supply, it is the existing tractor supply site which they have moved and the site is vacant. The office headquarters of flagship would like to move into this location primarily to use it as an office however they do have fleet vehicles and they do store certain construction forms for their tilt wall business will need a place to store those forms and certain materials. That triggers it to be considered a contractor's shop/storage equipment yard which is not allowed in the existing before but is allowed in existing B-5, B-5 allows more commercial uses the property is located at the southwest side of North Woodland Boulevard our US Highway 17 approximately 750 feet northwest of its intersection with Glenwood Road. Currently his own B-4 which requires one acre lot size 150 foot lot with conforms at 3.5 acres with 233 feet of lot with conforms to the proposed B-5. The setbacks for both zoning district are generally the same, except for the rear they are prepared to really create headquarters into this building. There may be some renovation of the building to provide some sort of dressed up entrances for the offices. But other than that it is supposed to remain the same footprint as it currently is.

With that, staff finds it is consistent with other criteria for rezoning. It is consistent with the plan, future land use both B-4 and B-5 are considered assumed compatible with the land use designation. It is not anticipated to create any additional impacts to the environment or natural resources. It may have a positive effect on the economy because we do not have a vacant storefront there. It will bring additional individuals, people that work there, into the local economy. No appreciable impact to governmental services. The impacts were already absorbed within the existing tractor supply. We do not find it to be detrimental to the health, safety and welfare. With that, staff recommends that the board forward this application to the County Counsel with a final recommendation of approval.

SPEAKER: Thank you, Miss Jackson. Any questions for staff? Mr. Young, your microphone is still hot, would you like to make a comment?

SPEAKER: Number.

SPEAKER: Okay. Hearing none, is the applicant present? Can I get your name and address for the record, Mr. Woods?

SPEAKER: Actually good mornin, Michael Woods. On behalf of the applicant merely here to answer questions but also thanked staff for working with us on this. They do poured concrete across the country and have been working for facility for a site like this probably going on a year and and a half or two years. We have looked at other locations before and challenge has always been the definition of the contractors yard. In this instance it is basically trucks, gooseneck trailers may be longer in between projects for their concrete forms. But mostly for this operation, materials always delivered on-site. As we look to other locations in the past, some have gone forward to staff some have died before we got to conversations. Contractors are a broad definition. We are working really well here, it is really ideal by taking in a existing vacant building and if you're familiar with the supply on this location with their display area, that's where the vehicles will park and the amount of material that will be there is probably less than what tractor supply you sticky back there. We're just very happy and fortunate to be able to do this as Susan said. There will be interior renovations were configuration for the offices both for tractor supply and potential expansion of their tractor supply. I'm sorry! Tilt wall. Otherwise just happy to answer questions and were happy that we can kind of find the right place and right fit. And not have to deal with PD, that's nice.

SPEAKER: Do we have any questions for Mr. Woods? Mr. Frank Costa.

SPEAKER: Nevermind have questions for staff when we get back to that point.

SPEAKER: All right, Mr. Woods.

SPEAKER: Thank you.

SPEAKER: We will see if we have any public participation in this case. Ms. Summers? Either by web or attendance.

SPEAKER: No, sir.

SPEAKER: No public participation. I will close the four to avoid participation in open up for commission discussion. Mr. Frank Costa would you like to ask staff a question?

SPEAKER: Yes I would. I find the lack of ground-level pictures disturbing. Even though another site and I've been there many times before they opened the one closer to myself, my problem is I do not see mentioned whatsoever of the storage of the tilt wall, equipment or materials or trucks. I do not see mentioned in any kind of screening from the road itself. Tractor supply had all stored off to the side he could not really see past the building. Will that be an issue with this particular variance?

SPEAKER: And Steph opinion should not be a problem. Is there any way to zoom in on this? If you see -- you can see where the existing storage yard is on the side of the building. It is sort of going off into the corner area of the lot. It might be a wetland or a retention area to the side there but it is significant distance and sort of buffered from the roadway. I do not think it will be very visible. It will not be any more visible than the display area was for tractor supply. Current evaluation of that was that it was not going to be a concern.

SPEAKER: I tend to agree with you. You cannot see mine but my concern is, there is no restriction on the open parking that truck supply had along Woodland Boulevard to keep them from parking or for staging additional, which they call these, forms for the tilt walls. That would be my only concern is that all of a sudden it becomes a cluttered area on the Boulevard.

SPEAKER: At areas designated for parking, they would not be allowed to store their tilt wall construction equipment there. The fleet and a material storage hasn't been in the storage yard area.

SPEAKER: Okay that is clear for me thank you.

SPEAKER: And am very familiar with the property and to the north where the septic system is, just north to the parking lot and also the actual parking area that you are talking about. It does sit back off the highway quite a bit to wear even if something was parked there or whatever, it is pretty obstructed from the view when you're going down the road unless you are right in front of it.

SPEAKER: I think traveling south and on will and you won't see it all because there is that corner of trees that will block your view. Traveling north, you are actually you know further away on the other side of the road. I think by some landscape buffers.

SPEAKER: Yeah, it is. That's why I'm mentioning this, because back when it was tractor supply it sat back off the road a little bit. You was almost on it before you knew you were there. So I don't think that will be a problem, Mr. Costa. Dust with my experience with that property. Mr. Binder?

SPEAKER: I agree but I guess my question would be, we cannot count on those always being there. Someone can come develop the site next to it. If you're headed south those trees could disappear. And so, we cannot just bank on those trees being there for obstructing the view. Even though I would agree with everything pretty much that has been said. It is well concealed at this current time. Is there anyway to put some kind of language in this thing that would ensure that they will not do something in that front parking lot?

SPEAKER: We can put that condition. While we cannot condition rezoning. I would say that this site has to have its own landscape buffers. It cannot remove any trees off the site. And if that

property to the north develops, they also have to have both front and side landscape buffers. He would have to keep some of those trees. They would want to because they do not want to have to replace them. I think even if the site were to develop, it is very likely that corner will not get developed because that would be a difficult area. Not to say it is impossible and it could not happen but it would not be expected.

SPEAKER: Ms. Van Dam?

SPEAKER: Just for complete clarification, you are saying that there are provisions that will prohibit them from parking will not parking but from putting the forms and other materials in the area that was used as parking?

SPEAKER: They will need that for parking number one. But also with contractor storage equipment, that's why there is a separate zoning classification for it. Because they had to have a contractor storage yard. That is where they would keep that material. If you want to doubly ensure that they do not park any of the fleet vehicles or construction materials in the parking area, we cannot add that as a condition because we cannot condition a rezoning. But they would be code enforced for something like that and be required to put it in the storage yard.

SPEAKER: So there's a specific storage yard and that storage yard is specified so that it will not allow them to put materials anywhere but in that storage yard?

SPEAKER: Okay Ms. Van Dam, -- I just want to add.

SPEAKER: We did a site review for this. There's a final site plan, they do have a storage area, that is where the tractor supply had the material. The front area, there is street parking, they did put seasonal products in that parking lot. But that would be a code enforcement issue as Ms. Jackson indicated. That is required offstreet parking. If they start putting materials and trucks and things of that nature, it takes up the parking because it is smaller and majority is what could be an enforcement issue. Because it was built, most of it is for renovations they will not be able to review the site to add or increase landscaping or anything like that. You can't condition that as well as Ms. Jackson indicated. As far as staff, they would be. They will be putting up walls and extra things like that. We probably have more parking at the site that would be required today because code has changed as the building was built. If there is any problems with parking or storage it will be a code enforcement issue.

SPEAKER: Okay. Does that satisfy everyone's questions? Mr. Frank Costa?

SPEAKER: Just clarification, if you notice often the difference between B-4 and B-5 with regards to an landscape buffers. Are there the same or do they change?

SPEAKER: I will defer to Scott.

SPEAKER: The landscape buffers are the same.

SPEAKER: Okay. Thank you.

SPEAKER: Okay. Any other questions? All right. We will, I will entertain a motion. We do not a public participation is that correct Ms. Summers? I think you already asked the question.

SPEAKER: That's correct, no public participation.

SPEAKER: Okay we will close the floor for that. We have discussed this on the commission side so I will entertain a motion.

SPEAKER: I move to forward z20061 to the County Counsel with recommendation of approval.

SPEAKER: Second.

SPEAKER: Miss Shelley, second? Is that correct?

SPEAKER: Yes, sir.

SPEAKER: We have a motion to forward the rezoning application to County Counsel for final action with recommendation of approval. We also have a second. I will take a roll call on that at this time.

(roll call for vote)

That will be forward to County Counsel for recommendations of approval. Okay we will move on to the next case here. Not a case I guess it is an ordinance amended.

SPEAKER: Yes ordinance 020 – 062 proposed ordinance 2020-10 amending mobile home park MH1 classification for additional use and to provide associated dimensional requirements.

SPEAKER: Thank you, Ms. Van Dan. Ms. Jackson? Are you handling this this morning?

SPEAKER: Yes. So, this is a very unique situation. What we are proposing to do is add a use to an existing zoning classification and specifically for this Terra Mar Village subdivision. Basically, this particular subdivision is located in the Edgewater area. The Terra Mar village sections 1, two and three. Sections 1 and two were platted. You can do home, manufactured, modular or mobile homes. They are zoned MH five which allows for that. The Terra Mar Village section 3 which is the one closest to the left that you see on your graphic in front of you. That section is zoned MH1, at the time it was considered mobile home park. For those you lease them and you place your mobile home on them. MH1 does not allow standard single-family or manufactured modular, it only allows mobile homes. To be developed on those properties. And the setbacks for MH1 are different than for MH5. you can see, I wish that you could see my drawing. Can you cursor -- section 3 where the little red things going around there going toward the water. Those particular lots, their individual property owners on those properties that would like to be able to put manufactured modular homes. And rather, so we have options we could rezone just those particular lots or we could do a PUD for the whole thing. But in that we would have to do with a lot of nonconforming structures and a lot of people that would not understand what's going on with their property so in order to, and another very key situation is that with this particular section 3, there was a court ordered final judgment that they had, they were going to go through the platting procedure but never completed it so the county did not approve a final plat. But they still have the drawings for that. In 1994, there was a final judgment that said that that did constitute a final plat and it was recorded in the official record books. So people could individually by the lots. But even though they could individually by the lots, like a normal subdivision, it was still zoned MH1, we did not rezone that to MH5 so you can still only put mobile homes on it. But that MH1 enjoys lesser setbacks then MH5. Because half of it was already developed with a mobile home we kept the, we wanted to keep those setbacks so we do not create additional nonconformities in the section of the Terra Mar Village. In order to, because this is recognized as a platted lot and in order to allow the development similar to what the MH5 allows, staff is proposing that we add the use to the MH1

zoning classification that manufactured modular homes be allowed as an allowable use, however, the criteria is that the subdivision has to have been approved specifically prior to the December 1994 date which is the date that this was recorded. And there are no other subdivisions that meet the criteria. It is going to only affect this particular subdivision. We can go through the differences in the setbacks and so forth but basically, for mobile home park it was still apply to the setbacks for that will still apply to section 3 even though there are a little bit smaller than what would be allowed in a MH5. But the purpose of that is to not create further nonconformities for all of the existing homes that are already there. We did not feel that was fair to the rest of the people that have already developed on the lot. Staff does recommend approval of this, that the commission find this consistent with our company has a plan and forward to County Counsel with recommendation of approval.

SPEAKER: Thank you.

SPEAKER: Happy to answer any questions.

SPEAKER: Thank you Ms. Jackson, Ms. Shelley did you have a question?

SPEAKER: Yes. Is this being administratively done? Or is it a request?

SPEAKER: Well, we have been working at this issue for at least a good year. It started as a request from some of the property owners of the vacant properties there. He wanted to be able to put in regular home, manufactured modular home on their property and we could not allow it. In continuously working at the issue and doing lots of research and trying to figure out how to accommodate this, this is the solution we came up with.

SPEAKER: Super! Thank you so much.

SPEAKER: Ms. Van dam? Mr. Young?

SPEAKER: Yes I have one question for staff. Putting a date on this thing, bothers me a little bit because it says that it's allowed only if it is before that date. And I can see attorneys getting, coming in and saying hey, this date, let's move it up to cover something else and I'm just concerned about changing a zoning just with a date. That's my big question about it. You are really not changing the zoning except for this one group. You are -- that look like a problem?

SPEAKER: No, that is actually to avoid further problems. We did that purposefully to limit it to just this particular subdivision. There are no other cases like this in the county. Normal mobile home, MH1 zoned property is not subdivided and you cannot buy individual lots. Because there was a court order final judgment on this, that allowed them to record the subdivision of this property, that is why this would apply to this only.

SPEAKER: Okay.

SPEAKER: I have a question, Ms. Jackson. You are telling us that for them to do a rezoning to MH5, if we did administrative rezoning, it would make too many nonconforming properties?

SPEAKER: Some are built to the setbacks and so forth of MH-1 which is less than what MH-5 requires. If we rezone the whole subdivision, through MH-5, create all of the properties to be nonconforming. If therefore want to do something to their property and get a permit to do it, we would be bringing them in here for variance after variance after variance. So this is the best

situation for those existing property owners. We could have carved out a piece of this subdivision along the rear but it is very unusual to have a subdivision split zoned.

SPEAKER: Right.

SPEAKER: It is not a common situation. We felt that that may cause a lot of confusion for property owners there. Why does that guy get to do manufactured modular but I am in the same subdivision and I don't get to do that?

SPEAKER: The other thing I have a question on his lot coverage. The lot coverage is more restrictive on MH-5 then it is MH-1. Is it not? Or is the same.

SPEAKER: Lot coverage be 25 percent maximum lot coverage.

SPEAKER: Either one?

SPEAKER: Yes.

SPEAKER: Okay. I guess the reason I mention this is because of the setbacks, when there was specifically a mobile home by general view of it, modular homes can be a lot wider than most mobile homes. Am I correct in saying that?

SPEAKER: I would think that you are, yes.

SPEAKER: That would make it more intense on the property closer to the setbacks they could put a larger home. But you're telling me that the lot coverage would be more concerned, would restrict that because it would be limited to 35 percent. Is that right?

SPEAKER: Yes.

SPEAKER: Any other questions for staff? Any public participation on this, Ms. Summers?

SPEAKER: No, sir.

SPEAKER: Okay I will close this to public participation and open up for commission discussion were, I guess this will go through is a referral to counsel, is that correct?

SPEAKER: Yes this goes on to counsel.

SPEAKER: I have just one question. When the county is doing an action like this, do notify like his other, did you put up signs over there so that the people in that subdivision would know that this was taking place for if they wanted to have a comment they could?

SPEAKER: What was the notification requirements?

SPEAKER: Where required by statute for rezoning that are county initiated or -- to do 1/4 page ad in lieu of notifying all adjoining property owners. We did that.

SPEAKER: Mr. chair, just to clarify, this is not a technical rezoning. What you are doing is, you are changing, this a legislative action. We are changing the fundamental aspects of the MH-1 zoning district by adding an additional use to the MH-1 zoning district that says that if it is a subdivision, that existed prior to December 22, 1994, and zoned MH-1 prior to December 22, 1994, that there is this additional use that persons can have on their property which is a modular home. It is not a technical rezoning. And so, the statutory provisions are identical to what Ms. Summers says when it is an administrative rezoning. But the fundamental action that this commission is taking is, your recommending legislative change to the rules of the MH-1 rezoning district.

SPEAKER: Thank you, sir. Any other discussion on this? I do not see any. Like to tackle this?

SPEAKER: I will try. I would like to say that what we find is consistent with the comp plan and submit it to the County Counsel for final action. Ordinance 20 – 062.

SPEAKER: Okay.

SPEAKER: Is that the right ordinance number?

SPEAKER: The ordinance number is 2020 – 10.

SPEAKER: That was the case number, the ordinance is actually 2020 – 10.

SPEAKER: Yes.

SPEAKER: Okay. So case number 020062. We will submit the County Counsel with the action for final action.

SPEAKER: Okay. Do I have a second?

SPEAKER: I will second.

SPEAKER: I've also got a second. Is there any discussion on the motion?

SPEAKER: I just have one question. We are submitting it for final action, he did not say with the recommendation of approval.

SPEAKER: With recommendation of approval, I'm sorry.

SPEAKER: That is why I did not second.

SPEAKER: Okay. Do we still have a second? Ms. Van Dam? Okay. All right, we will take a roll call that we have a motion for this to County Counsel in consistent with the comp plan for ordinance 2020 – 10. Case number zero – 20 – 062. At this time, I will take a roll call.

(roll call for vote)

All right, that takes care of that. What we will do now is move onto, we don't have any old business to consider, do we Ms. Summers? Any old business? Okay. Do we have any other public items?

SPEAKER: No, sir.

SPEAKER: Any staff items?

SPEAKER: No, sir.

SPEAKER: Okay. Any staff comments?

SPEAKER: I do have a comment because I'm a little concerned that you are not getting your agenda packages. We are trying to get the agenda out earlier and so it should get to you before the weekend. We were trying to get the agenda done on Tuesday before so it should be mailed out that day but it might be mailed out Wednesday. You should get it within two days I would think. But if you are not getting them and we do not know it, we can print a package and drive it to you if you would like that. Unless you can get it off-line. But if we could make a, tried to set up a system where if you don't have it by Monday, please call us, we will print it out and get it to you Monday evening. So that you have time to review it but if we don't know that you did not get it, I know that you did not get yours when we did that. We printed that and brought it to you, correct? Do we know that Mr. Young did not have his package?

SPEAKER: Yes we've been working with the planning board since late Tuesday night? And Wednesday.

SPEAKER: Tuesday.

SPEAKER: The travel stipends were mailed after the packages. So I'm not really sure what's going on but have another idea.

SPEAKER: We did not have any, I don't think any of the commissioners actually got their packets. Other than being delivered to Ms. Van Dam but I've heard some concerns about that and you know, obviously this is not the first time or else we would figure out --

SPEAKER: A little more often than we used to I don't understand what's going on but we will fix it. You have my email address, shoot me an email Monday morning if you do not have it.

SPEAKER: Emails were sent out and I saw them, by Mr. Young. I sold them for Mr. Costa and Ms. Shelley, did you send run out?

SPEAKER: Yes, I did. I just sent it back to y'all.

SPEAKER: I think that Mr. Bender did too. I responded by did say I can actually see what was going on online. I can understand people wanting the packets in order because they let us go and look at the different sites. And we do not have a tablet or whatever to go along with this. We like to refer back to the packets. As far as us printing them out not necessarily this one but a lot are very intensive and we do not have commercial copiers or they don't have commercial copiers. But if they wanted a copy of that, so it is just an added expense and we do not get a lot anyway.

SPEAKER: I understand I would be happy to get them out to you. Please include me on your emails and I will ensure that happens.

SPEAKER: okay, I just that one of the cases today. Under that Mr. Young was having difficulties with one of the cases because he did not have the packet. I was going to let him continue if you wanted to do so. I think that is not necessary.

SPEAKER: I have a problem, a lot of times, hefted think about this thing when I'm talking with somebody and so I make notes on the packet for questions to be asked and without a packet, I don't have my notes. I made some notes on the agenda, I do print out the agenda always. But again, 30 or 40 pages, 50 pages on a little inkjet that takes about two minutes at page is a long time to print.

SPEAKER: We will fix this problem.

SPEAKER: Ms. Jackson, or Yolanda would you please make sure that we all have Ms. Jackson 's email as well? I always just correspond with you and if Ms. Jackson wants to know as well, she said we have the email but I do not believe I have an email for her. And I also wanted to say, just for clarification for the public, that we all received, and I'm a person that wants to print it. I am big on that, I am like Mr. Young, I like to make my questions and comments on the written packet. So I'm not commenting about that part. Because under that you try your best. But for the sake of the general public who might be listening we all did receive a packet. It was online. So it was a little different but will have the opportunity to read through the items. So I did not want people to think that we did not get anything. We did, it is just not in the form that we prefer it. But I want the general public to know that will received a packet that we can download online to read through and be aware of the items. Thank you.

SPEAKER: That is a good point because I did read it this morning at 5:00 this morning.

SPEAKER: There is some difficulty on some of the commissioners not knowing where to get it at. When they received the emails back as far as, but there was, at the bottom of Yolanda 's email, there was, when we got the webinar that we could attend the webinar, there was a place where you could click on to get that. But not everyone realized that.

SPEAKER: The other problem is that I read it online at 5:00 this morning, but I cannot look at it online and yet the in the webinar at the same time. Because I've only got one computer. That's the problem I have, I cannot see it and --

SPEAKER: I think staff realizes the extent of the problem of not getting it in. I am sure something will be done now. As they stated, if for any reason you do not get it by that Monday, please notify Ms. Summers and copy to Ms. Jackson. Okay, any other comments? All right. Anything else, Ms. Jackson, from the staff?

SPEAKER: No, sir.

SPEAKER: Commission comments. Anybody got comments for the commission?

SPEAKER: I do.

SPEAKER: Go ahead, Mr. Costa.

SPEAKER: For our attorney, can you email me the link to the part of the code that talks about the 75 percent? 50 percent and 75 percent?

SPEAKER: Yes, I would be more than happy to do that.

SPEAKER: Secondly, the staff, I'm not sure with the thought process was there with the one case where you had a code item and tied it to a couple of variances. But I would rather if you going to do that, I have no problem helping you out but at least give us some information, some background. There was nothing whatsoever about the lake house in the whole packet. I would not have had a issue if it was in the packet. Just a note for you.

SPEAKER: Understood.

SPEAKER: Okay. Go ahead, Ms. Shelley?

SPEAKER: Yes, to go along with Frank, I would suggest or request that perhaps we all get a copy of that. Just for the sake of that, of the letting us know about the 75 percent. It would be interesting to get a copy of that. I would like a copy as well.

SPEAKER: Okay, we will send that out to all members.

SPEAKER: Yes, thank you.

SPEAKER: Okay, Mr. Costa, did you have another comment or question?

SPEAKER: No, thank you.

SPEAKER: Mr. Bender, did you have something? Okay. This is just a comment. We're going back to the agricultural zonings and setbacks and we've got more restrictive zonings that do not require setbacks to be as much. I believe if we are not, because in agriculture you wouldn't have it permit for either the structures, am I correct?

SPEAKER: If it was an agricultural building it would not have needed permit and it could have gone anywhere on the lot.

SPEAKER: That's with agriculture exemption?

SPEAKER: Correct.

SPEAKER: At one point did the exemption determine whether it was agricultural or not? Because I know in the past, I've actually built some buildings. I have to confess, back when before that, that at the time being the owner of an agricultural property, that it wasn't needed unless we put electrical or plumbing in it. Then it would not be required to have the electrical and permit for plumbing. When we came back they said as long as you do not have electrical and plumbing that you did not need the permit. But now you are saying that you have to have an agricultural exemption, not agricultural use.

SPEAKER: I believe in state law it talks about it needing to be a bona fide agricultural pursuit. And if that is the case, they are exempted from meeting certain local regulation. I think our attorney would best be --

SPEAKER: That specific statute, there are three of them. 60450 is nonresidential farm buildings on a farm. If your building in nonresidential building, you do not need permits, you do not need to comply with the code but you do need, the proper needs to be for bona fide agricultural purposes as provided in 193461. so the need to classify this as agricultural property and there is a test and it is for let's see, good faith commercial agricultural use of the land. As determined by the property appraiser. That distinction of whether or not they don't have to pull permits is done by another entity then your planning department or even the county itself. It is done by the property appraiser who goes out and determines whether or not there is a good faith commercial agricultural use. Designates as agricultural and so long as it is a nonresidential farm building which that covers a very wide gamut of things that you can build, essentially do not live in it. They do not need to pull building permits, they can build a structure and not have to comply with our codes. Essentially.

SPEAKER: When you go back to the bona fide agricultural use, your tying it to monetary gain from that agricultural use. In other words, if I have a recreational agricultural use for the property, if five goats, horses, anything of that nature, it would be considered agricultural use and I think is bona fide. But your definition says it has to be agricultural exempt. The problem with that is in order to get agricultural exempt you have two gaining monetary gain and have an agricultural industry in other words.

SPEAKER: Yes.

SPEAKER: Bona fide use and the actual agricultural exemption, does not go hand-in-hand because there is a difference there. You can have a bona fide agricultural use by having the agriculture and not be considered in the line of agriculture exemption. Because I can't get agricultural exemption if I have for horses. Where if I have a community garden is not considered agriculture. If I do not sell it is not considered agricultural exemption. So at what point is that -- and in the code he says bona fide use. But yet, we type agricultural exempt is not to a bona fide use.

SPEAKER: Actually the statute, 194361, agricultural purposes means good faith commercial agricultural use of the land. It is actually a statutory definition for bona fide agricultural use. We defer to the property appraiser who has jurisdiction over agricultural classifications under Chapter 193 of the Florida statutes. We do not have the expertise to determine what is a bona

fide agricultural use, that is within the property appraiser function and designation. So we have to rely on what they determine as being classified. And there is a value adjustment board, if there is a disagreement over the classification of land, that is the kind of statutory mechanism to our view, my property is classified incorrectly, it should be classified as agriculture.

SPEAKER: And it is, you get an agricultural exemption. But the problem is, the bona fide use, the criteria for our cultural exemption is a lot greater than a bona fide use. The way I read it. And so we are tying everything to the permitting to agricultural exemption. If you don't have agriculture exemption it's not necessary the case. So it didn't used to be that way. That's the reason I mention that. And people were taking advantage of it I know that. But the problem is those that aren't taking advantage of it are being penalized. We are putting a restriction, to separate restriction on agricultural piece of property is more restrictive than the residential. The zoning itself and looking at the zoning, the residential is more restrictive.

SPEAKER: If I can give you a little history.

SPEAKER: Mr. chair?

SPEAKER: Wait Mr. Young, let -- respond.

SPEAKER: Agricultural properties are larger and also they are allowed to be taller and larger square footage was because they have a larger land area. We've gone through process, -- not to get a building permit you go through a -- if you don't provide what is activity occurring, what is the use. In require you to provide a plan -- the state modified the requirements about 10 or 12 years ago that -- we can still enforce setback standards. As long as you can determine, you get to the assessment or if use of the nonresidential exempt process review we can provide information -- (audio muffled)

if someone just wants a garage or separate storage, there have to be setback standards. The residential properties are smaller generally because the lot size. Therefore a lesser setback standard. The structures would be smaller than the home. That won't always be the case in an agricultural situation here is where there's generally larger than a single-family residence.

SPEAKER: You're telling me that you can get an agricultural exemption to build a building without a permit. Without property appraiser agriculture exemption. Is that correct?

SPEAKER: That is correct.

SPEAKER: --

SPEAKER: It is a lot simpler obviously because it's already been reviewed and determined to have an actual agricultural modified agricultural use. You go through the agricultural exempt review form, it is low cost, just tell us with the property, what you're doing. So that in case something does come up or if you want a change in use of structure, we have a record this property was granted ag exemption for whatever this 10 by 30 or 50 by 60 structure so we have kind of a record of how we got on the property so so it doesn't say -- here's why they're building it. -- Why do you need it? I have horses and cattle and whatever sometimes a property appraiser issues exemption on the property because they do it by use. We will -- (audio muffled) it is not a permit, there is no cost, just review process to figure out what is real and what's not for agricultural purpose.

SPEAKER: I don't have a problem with that. I have heard it said right here that if you have an agricultural use exemption from the property appraiser, and we keep on tying that back in there, that is part of it. You can use that and get it, but you are telling me now that we can also get it by going to the agricultural exemption.

SPEAKER: Yes, there is a form they submit and -- what are you using the building for? Because you do have a lot of people who are not always on the up and up.

SPEAKER: Right.

SPEAKER: And insurance for that purpose. We do have a lot of people that convert and then had to figure out how to get there to start with if you have a permit and this is a tracking mechanism as well. It's okay, Ms. Van Dam.

SPEAKER: I agree, I don't have any issue with a farm building not needing a permit. But what I don't want to see happen is that setbacks are done away with. I'm on an agricultural area, one of the primary reasons is for quite frankly, isolation. And we have 50 foot setbacks and I would definitely want to see the 50 foot setbacks maintained. People, in my opinion, people that live in the area like I live in and like you live in, we do it because we want more space. We want to be more alone and I really would not be in favor of seeing those setbacks reduced for farm buildings or any building. So I have no --

SPEAKER: They don't have to comply with setbacks.

SPEAKER: They don't have to comply with setbacks?

SPEAKER: Bona fide ag.

SPEAKER: They were taken away from us to apply regulations on a bona fide nonresidential farm building on a farm. That something we try to review, do you have a farm? We tell people you have to get a permit because you don't have a farm. And there's a definition in the statute what a farm is, activities involved and some people get caught up because I don't have a farm. But any other structure, be it a garage or apartment or house or some other non- agricultural structure has to meet the principal setback standards as identified in the zoning.

SPEAKER: There is a farm not necessarily getting agricultural exemption from the property but there are other avenues to go through the zoning and the agricultural.

SPEAKER: Yes.

SPEAKER: But we haven't been telling people that. A P with a because they have ag that they just do what they want. Sometimes they get caught because is not always for ag purposes. Just because I have that zoned property I don't need attornment and it turns into code enforcement issues.

SPEAKER: I understand. -- A comment?

SPEAKER: I was going to say what he said but they could get exemption. But this discussion happened back, 13 years ago with the PLDRC when -- was on the board that's 14 years ago because -- they explained people could get an ag exemption but it's limited and we assume they have the appraisers ag exemption that we did not have to look at. We accepted to determine whether it was ag use or non-*UNTRAN15* use. The discussion was 12 or 13 years ago on this PLDRC . it was supposedly settled in.

SPEAKER: What I'm saying we are not telling the good folks to come in here and requesting, they can these variances whether it is for bona fide agriculture use, we are telling them they have to have a exemption from the tax assessors office and that's not the case. They can use up they can also get exemption through zoning group filling out the proper forms.

SPEAKER: That would be staff, mostly staff to --

SPEAKER: We get applications when people submit so I don't have a lot -- most of the time that you hear people and rebuild variances afterwards. I have ag property and people say don't need a permit for that property. You also to look at that situation today in the application in DeLeon Springs, how many were ag structures and what were they converted to. If you change the use of the building from the ag purpose all of those requirements come into play you should go through conversion. They say that you are not exempt from setbacks, you don't need setbacks now. And if you want to change any variances.

SPEAKER: I agree because a lot of people thought I thought that myself for years. Going way back. And if you want agricultural property, as long as you did not put plumbing and electrical in the building, they did not need a permit. I was actually told that. So, but I know it has changed. But it seemed like it went from one to the other and that was my comment here this morning.

SPEAKER: You still do not need a permit as long as you're not doing plumbing and all that. It just for tracking purposes is best to clarify what the building is used for. You do not have to be have the exemption. It certainly helps but if you demonstrate or provide enough information to indicate this is the agricultural purpose it will be used for, staff looks at that and we generally approve those knowing that the zoning land and so forth. But that helps more because we do get sometimes, someone stuck a building 50 by 65 feet from the property line and a neighbor may complain. Well, it is an ag structure and that's why it's there.

SPEAKER: Okay, any other comments? Mr. Frank Costa.

SPEAKER: Will will be allowed to come to the chambers for the meetings?

SPEAKER: You are allowed to come and now I think.

SPEAKER: That was not optional email. Just as a webinar.

SPEAKER: I agree, I was going to ask the same question. I did not know I could come in.

SPEAKER: We stated that last month actually, that we were going to open up the chambers. It was going to be limited and actually, as far as the commission is concerned, we have never said that anyone could not come in. We were doing it to try to meet the --

SPEAKER: Wow! I never realized that. I would have been in.

SPEAKER: Got the impression I got, is that right Ms. Jackson?

SPEAKER: Yes you're welcome to come.

SPEAKER: It was that as long as we knew how many were coming, that we could meet our six foot social distancing and the CDC guidelines.

SPEAKER: Count me in for the next one.

(laughing).

SPEAKER: Thank you, Mr. chair. I would note the governors executive order allows a virtual quorum. It expires June 30. So the next meeting, we need to have a physical quorum present.

SPEAKER: From my point of view trying to juggle what is webinar and what is actually physical! (laughing) I wondered how I was going to do it and I was going to craft something to make a comment that we were going to love it today but you said it expires June 30 so our next meeting, we will be able to listen -- they will be able to listen to us but not participate over the webinar, is that correct?

SPEAKER: You cannot meet quorum using a virtual member. Because will have three physically present here, we do not technically have a quorum without that governors executive order in place. So we need four people.

SPEAKER: Okay, we need some of you guys back! (laughing).

SPEAKER: Are we back up on cases?

SPEAKER: Are we backed up? No.

SPEAKER: No but July does have a lengthy agenda.

SPEAKER: Bring snacks.

SPEAKER: Okay.

SPEAKER: Are you going to accommodate all of us next month then?

SPEAKER: Yes, you just need to be mindful of social distancing while you are sitting at the dais. The seats in the room, they are blocked off to ensure the social distancing. But we are not limited to 10 people in the room anymore. We were not this time so, you are welcome to come back in.

SPEAKER: Are masks required on the dais?

SPEAKER: They are not required, but encouraged.

SPEAKER: We have them available here, if you need them.

SPEAKER: Okay. Any other commission discussion points that we would like to talk about this morning? I do not see any. I will move onto person citizen comments. We do not have anyone speaking on that. This meeting is adjourned!