

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
NOVEMBER 11, 2008**

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

- FRANK SEVERINO, CHAIRMAN**
- GARY HUTTMANN, VICE CHAIRMAN**
- JIM RUSSELL, SECRETARY**
- TAVER CORNETT**
- JEFF GOVE**
- STONY SIXMA**
- JAY YOUNG**

STAFF PRESENT

- MIKE DYER, Assistant County Attorney**
- BECKY MENDEZ, Senior Planner**
- SCOTT ASHLEY, Planning Manager**
- JOHN H. STOCKHAM, Planner III**
- CHRISTIAN NAGLE, Planner II**
- YOLANDA SOMERS, Zoning Secretary**

APPROVAL OF MINUTES

NONE

PUBLIC HEARINGS ON SPECIAL EXCEPTION AND ZONING CASES

Chairman Severino explained the procedure for forwarding the Commission's decisions to the County Council and invited the public to speak for or against any of the cases being heard.

Mike Dyer, Assistant County Attorney, explained that decisions by this body on special exception cases and cases which rezone real property from one classification to another pursuant to the Zoning Ordinance are recommendations only to the County Council and do not constitute a final hearing. New evidence may be introduced at the County Council public hearing. Decisions on variances made by this body constitute final action, subject to an appeal to the County Council. What this means is that no new evidence may be presented at the time of the County Council public hearing on appeal. An aggrieved party that appeals such a decision is confined to the record made before this body. Hearings by this body on rezonings, special exceptions and variances are quasi-judicial in nature meaning that this body is acting

1 more like a court and must take into account all oral, written or demonstrative evidence
2 presented. Their decisions on these cases must be based on competent, substantial evidence
3 in the record. Competent, substantial evidence has been defined, as that evidence a
4 reasonable mind would accept to support a conclusion.
5

6 **Disclosure of Ex Parte Communications**

7 Members of the Volusia County Planning & Land Development Regulation Commission Board
8 are asked to please disclose, for the record, the substance of any ex parte communications that
9 have occurred before or during the public hearing at which a vote is to be taken on any quasi-
10 judicial matters.
11

- 12 • Jay Young stated none
- 13 • Taver Cornett stated none
- 14 • Jim Russell stated none
- 15 • Frank Severino stated none
- 16 • Gary Huttman stated none
- 17 • Stony Sixma stated none
- 18 • Jeff Gove stated none

19 **CONTINUED ITEMS**

20
21
22 **Z-08-037** - Application of **Rafael Gonzalez, Agent for Owner, Victor M. San Inocenio,**
23 **Owner**, requesting a **Rezoning** from the A-1 (Prime Agriculture) zoning classification to the A-4
24 (Transitional Agriculture) zoning classification. The property is located on the east side of State
25 Road 415, at its intersection with Sorento Road in the community of Samsula; ± 14.785 Acres
26 (Nagle) 8201-00-04-0010 **30-day continuance requested**

27
28 Member Sixma **MOVED** to **CONTINUE** Zoning case Z-08-037 for 30 days. Member Huttman
29 **SECONDED** the motion. Motion **CARRIED** unanimously.
30

31 **S-08-072** – Application of **Robert Foster, Attorney for Owners, James and Linda Taylor,**
32 **Owners**, requesting a **Special Exception** for a nonexempt excavation on A-1 (Prime
33 Agriculture) zoned property. The property is located on the west side of Oak View Plantation
34 Road, approximately 600 feet south of its intersection with Rudman Road in the community of
35 Osteen; ±10 acres (Stockham) 8330-00-00-0330 **Tentatively schedule for the December 18,**
36 **2008 County Council at 2:00 p.m.**
37

38 This item could not be heard because DUE PUBLIC NOTICE requirements had not been met.
39

40 Member Sixma **MOVED** to **CONTINUE** Special Exception case S-08-072 for 30 days. Member
41 Huttman **SECONDED** the motion. Motion **CARRIED** unanimously.
42

43 **V-08-073** – Application of **Robert Foster, Attorney for Owners, James and Linda Taylor,**
44 **Owners**, requesting **Variance** to Section 817.00(o)(2)(iv)(C) for a north property line setback
45 from the required 150 ft. to 100 ft.; for a south property line from the required 150 ft. to 50 ft.; for
46 an west property line setback from the required 150 ft. to 40 ft. from any abutting property; and

1 a **Variance** to Section 817.00(o)(2)(iv)(D) from the required 150 ft. to 35 ft. from any natural or
2 man-made surface water body, watercourse, or wetland on A-1 (Prime Agriculture) zoned
3 property. The property is located on the west side of Oak View Plantation Road, approximately
4 600 feet south of its intersection with Rudman Road in the community of Osteen; ±10 acres
5 (Stockham) 8330-00-00-0330

6
7 This item could not be heard because DUE PUBLIC NOTICE requirements had not been met.

8
9 Member Sixma **MOVED** to **CONTINUE** Variance case V-08-073 for 30 days. Member
10 Huttman **SECONDED** the motion. Motion **CARRIED** unanimously.

11
12 **CONSENT AGENDA**

13
14 NONE

15
16 **NEW BUSINESS**

17
18 NONE

19
20 **OLD BUSINESS**

21
22 NONE

23
24 **VARIANCE AND SPECIAL EXCEPTION APPLICATIONS**

25
26 **NEW BUSINESS**

27
28 **V-08-065** – Application of **Charles & Anna LaFleur, Owners**, requesting a **Variance** to Section
29 801.01(d) to allow the cumulative area of an accessory building or structure square footage
30 from the maximum allowed 472.6 sq. ft. to 864 sq. ft.; and a Variance to Section 801.01(e) for a
31 rear yard setback from the required 20 ft. to 13.8 ft. for an accessory structure that exceeds 500
32 sq. ft. in floor area on R-4 (Urban Single-Family Residential) zoned property. The property is
33 located on the east side of Hill Avenue, approximately ±600 ft. south of its intersection with
34 State Road 44, near DeLand; ±32,550 sq. ft. (Nagle) 7015-08-00-0020

35
36 **Scott Ashley, AICP, Planning Manager**, presented staff report. He summarized the staff
37 report by describing the request and property. The applicant has constructed an accessory
38 structure on the property without permits and has been cited by Compliance staff. While
39 attempting to come into compliance by obtaining a building permit, it was discovered that the
40 structure did not meet the required yard setback requirements because the size of the structure
41 requires the accessory structure to meet principal structure setbacks. The square footage of
42 the accessory structure exceeds the allowed fifty percent of the principal structure’s 945 square
43 feet. The building is already constructed which is the result of the owner’s action, and literal
44 interpretation of the Ordinance does not deprive the owner of common rights in the zoning
45 classification. The minimum variances requested are the minimum necessary to leave the

1 existing building where it is. Staff cannot support the request; however, staff has provided
2 conditions of approval if the Commission is so inclined.

3
4 **Member Huttman** inquired about condition # 3 if granted, what is the purpose of this
5 condition.

6
7 **Mr. Ashley** replied that staff does not know if the building has been built in accordance with the
8 Florida Building Code.

9
10 **Mike Dyer, Assistant County Attorney**, stated that it is a given that structures must comply
11 with the Florida Building Code, and that staff has offered the condition to draw attention to that
12 fact.

13
14 **Member Russell** referred to the photo presented by staff and inquired if the overhang was part
15 of the square footage of the accessory structure.

16
17 **Mr. Ashley** replied no.

18
19 **Member Severino** inquired about the eligibility to build another accessory structure on the
20 property as discussed on page 4 of the staff report.

21
22 **Mr. Ashley** replied that the property would not be eligible to add other accessory structures to
23 the property without increasing the square footage of the principal structure. It is a
24 typographical error, it should say not eligible.

25
26 **Charles LaFleur, 195 S. Hill Ave, DeLand**, stated the building is our hurricane shelter, and it is
27 used primarily for storage and a workshop. In the future we would like to remodel the principal
28 structure to increase the square footage once his other home on Blue Lake Avenue is sold.

29
30 **Member Young** asked the applicant about his occupation.

31
32 **Mr. LaFleur** replied he was a Carpenter subcontractor.

33
34 **Member Young** stated as a contractor, did you know you needed the permit.

35
36 **Mr. LaFleur** replied he didn't think anyone would care about the building because it sits so far
37 from the road.

38
39 No public participation.

40
41 **Member Severino** asked if staff had received any complaints from the neighbors.

42
43 **Mr. Ashley** replied just the original compliance complaint.

44
45 Commission and staff discussed whether the applicant could meet the condition of having to
46 obtain a permit within 60 days, whether to add a condition about no additional detached

1 accessory structures, and precedent setting. There was a concern that the applicant may not
2 be able to comply with this condition through no fault of his own. Staff suggested that the
3 commission could delete the 60 days from the condition. The additional condition would be
4 unnecessary language because the property is already over the maximum allowed square
5 footage for accessory structures and the applicant may be coming back in the future for a
6 special exception for a garage apartment. Each variance stands on its own merit and would not
7 create a precedent.

8
9 Member **Huttmann MOVED** to **APPROVE** case **V-08-065** with the following modified
10 conditions:

- 11
12 1. The property owners or authorized agents shall apply for and obtain all required
13 building permits.
- 14
15 2. If the subject accessory building is destroyed or damaged in excess of 75 percent of
16 its value, as assessed by the Volusia County Property Appraiser, such destroyed or
17 damaged accessory building shall not be reconstructed, except in full compliance
18 with the setback requirements and all other requirements of Zoning Ordinance 80-
19 8, as amended, notwithstanding this Variance approval.
- 20
21 3. The property owners shall comply with and maintain the property and subject
22 accessory building in compliance with applicable Building Code and Zoning
23 Ordinance 80-8 requirements.
- 24
25 4. The subject accessory building shall not be further enlarged, expanded, or used for
26 living quarters or as a dwelling, garage apartment, or guesthouse.

27
28 Member **Sixma SECONDED** the motion. Motion **CARRIED** unanimously.

29
30 **V-08-066** – Application of **Treacy Quick, Agent for Owners, Irene Tietz Trust, Owner**,
31 requesting a **Variance** for a waterfront yard setback from the required 4 ft. to 1 ft. to construct a
32 wood deck and a portion of a second floor balcony; and a Variance for lot coverage from the
33 maximum allowed 35% to 39% on R-3 (Urban Single-Family Residential) zoned property. The
34 property is located on the west side of John Anderson Drive, approximately 100 feet south from
35 its intersection with San Jose Drive, near Ormond Beach; ± 5,500 sq. ft. (Nagle) 3228-02-00-
36 0182

37
38 **Scott Ashley, AICP, Planning Manager**, presented the staff report by summarizing the
39 request which is to allow an addition to an existing single-family home on a narrow 50 foot lot
40 on the north peninsula. There were variances approved in 2001 so that the single-family
41 dwelling could be built on the subject property. The proposed deck and the balconies will
42 extend into the setbacks, as well as exceed the maximum building lot coverage allowed by the
43 Ordinance. There is a seawall and a drop of about six to eight feet which creates a safety
44 concern. With regards to the five criteria for granting variances, there are special
45 circumstances related to the shape of the land, the request is the result of the applicants'
46 actions, literal interpretation of the Ordinance does not deprive the owner of common rights in

1 the zoning classification, and this request is not the minimum necessary to make reasonable
2 use of the property since the owners already have reasonable use through the approval of
3 previous variances. Staff cannot support the request; however, staff has provided conditions
4 for consideration by the Commission if they are so inclined to approve the request.

5
6 **Treacy Quick, 802 East 23rd, New Smyrna Beach**, stated the deck in the back has a step
7 drop off which is a safety issue. The property's north angle decreases the lot area of the
8 property and it is unique to this property. The deck would be about 20 inches off the ground.

9
10 **Member Gove** asked whether the variance for the lot coverage was dependent on the screen
11 enclosure.

12
13 **Becky Mendez, AICP, Senior Planner**, replied that the top part of the second floor balcony will
14 then have columns. Staff recommends it not be screened in however the applicant is
15 requesting that it is screened. If it is screened in they will need the 39% coverage, if it is not
16 screened in then you will still have an overhang the columns, staff would recommend that the
17 39% variance be granted. The applicant is going to request that it become a screened
18 enclosed room. We were trying to limit the scope of the variance as much as possible. It is a
19 very tight site, and the applicant has stated it is an irregular shape lot and it is a big house on a
20 small lot.

21
22 **Member Gove** clarified they would still need the lot coverage variance.

23
24 **Ms. Mendez** replied because there is going to be concrete on the bottom and it is an overhang
25 with columns, staff still considers it as impacting the lot coverage whether or not it is screened.
26 Staff recommendation is not to allow it to be screened enclosed because we are trying to limit
27 the impacts. Maybe the impacts will have already occurred if you allow the second floor
28 balcony to be constructed as it is purposed and the screening doesn't matter but as it is
29 designed right now the lot coverage variance is needed.

30
31 **Member Gove** commented that if the lot coverage variance is granted, whether it is screened
32 or not doesn't seem to matter after all it is behind the house.

33
34 Commission and staff discussed condition number 2 and 3 which pertain to the enclosing the
35 area. Clarification of condition number 2 pertains to the rear accessory deck and is intended so
36 that the deck cannot be extended, enlarged or enclosed without another variance. Condition
37 number 3 addresses the enclosing of the balcony area. The commission discussed whether to
38 limit the material used to enclose the area, with the intention on just allowing it to be screened
39 in and not sunroom or glass room type enclosure.

40
41 **Member Russell** asked Mr. Quick if he understood the conditions and if he accepted them.

42
43 **Mr. Quick** replied affirmatively.

44
45 Member **Gove** **MOVED** to **APPROVE** case **V-08-066** with the following modified conditions:
46

- 1 1. The property owner or authorized agent shall apply for and obtain all required permits
2 including a County Wetlands Alteration permit, per Article XI, of the Land
3 Development Code, Ordinance 88-3, as amended and building permits before starting
4 construction. The applicant shall be required to pay mitigation fees for the entire
5 square footage area of the wood deck and for the ground floor screen room at \$0.85
6 per square foot of impact area to the Volusia County Environmental Trust Fund.
7
- 8 2. The subject open accessory deck shall not be enclosed or further enlarged or
9 expanded without approval of another variance.
- 10
11 3. The second floor open balcony may be constructed and encroach into the rear yard
12 setback, so long as the area underneath the balcony can be screened only with no
13 solid walls.
14
- 15 4. The property owner or authorized agent shall submit revised variance site plans in
16 compliance with the approved variance(s), prior to building permit application.
17

18 Member **Young** **SECONDED** the motion. Motion **CARRIED** unanimously.

19
20 **V-08-071** – Application of **Wendy Wilson and Bart Norman, Owners**, requesting a **Variance**
21 to Section 801.01(d) to allow the cumulative area of an accessory building or structure square
22 footage from the maximum allowed 798.2 sq. ft. to 1,080.4 sq. ft; a **Variance** to Section
23 801.01(e) for a rear yard setback from the required 20 ft. to 16.9 ft. and for an east side yard
24 setback from the required 8 ft. to 7.5 ft. for an accessory structure that exceeds 500 sq. ft. in
25 floor area on R-4 (Urban Single-Family Residential) zoned property. The property is located on
26 the north side of Gardenia Drive, approximately 825 ft. west from its intersection with Sparkman
27 Avenue, near Orange City; ±14,000 sq. ft. (Nagle) 8015-11-03-0120
28

29 **Scott Ashley, AICP, Planning Manager**, presented the staff report by stating that the owners
30 built an accessory structure without a building permit in 2000, and has been cited by
31 Compliance staff. During the permitting process, it was found that the structure didn't meet the
32 required yard setback requirements because the structure is too close to the property lines, and
33 the size of the accessory structure exceeds the maximum allowed by Ordinance. This is the
34 applicants' administrative relief to allow the structure to remain as is. The subject property is in
35 a standard urban residential neighborhood. The building is in the back of the property and
36 encroaches into the required side and rear yards; it is used as a workshop and personal screen
37 room space. The wood deck that is part of the structure encroaches not only into the setback,
38 but a platted easement on the side property line. The unique conditions applicable is that the
39 structure is already existing, the owners did create their owner hardship by constructing the
40 building without a permit or proper review, literal interpretation would not deprive them of rights
41 commonly enjoyed by others because they have no right to build without permits, if a permit
42 had been applied for a building could have been constructed on the property, the request is the
43 minimum necessary to allow the building to remain as is. Staff recommends denial of this
44 request; however, staff has provided suggested conditions for the commission if they are so
45 inclined to approve the request.
46

1 **Bart Norman, 531 West Gardena Drive, Orange City**, stated he had done everything that the
2 County has asked for and are waiting for the permit to be completed.

3
4 No public participation.

5
6 **Member Huttman** commented that this is another case of asking for forgiveness instead of
7 permission. He understands staff's position on enforcing the five criteria and appreciates staff's
8 alternative approach to these types of cases.

9
10 Member **Huttman** **MOVED** to **APPROVE** case **V-08-071** with the following modified
11 conditions as it doesn't appear to be injurious to the surrounding neighborhood:

- 12
13 1. Approval is limited to the accessory structure maximum square footage of 1,075 sq. ft.
14 floor area and to the requested setback dimensions depicted on the property survey
15 prepared by Langford Surveying, LLC dated 4/30/08 revised 10/17/08.
- 16
17 2. The property owners or authorized agents shall apply for and obtain all required after-
18 the-fact building permits.
- 19
20 3. If the subject accessory building is destroyed or damaged in excess of 75 percent of its
21 value, as assessed by the Volusia County Property Appraiser, such destroyed or
22 damaged accessory building shall not be reconstructed, except in full compliance with
23 the setback and size requirements and all other requirements of Zoning Ordinance 80-
24 8, as amended, notwithstanding this variance approval.
- 25
26 4. The property owners shall comply with and maintain the property and subject
27 accessory building in compliance with applicable Building Code and Zoning Ordinance
28 80-8 requirements.
- 29
30 5. The subject accessory building shall not be further enlarged, expanded, or used for
31 living quarters or as a dwelling, garage apartment, or guesthouse.
- 32
33 6. The property owners shall alter and remove those parts of the existing wood deck,
34 which encroach onto the adjoining property and within a platted 7.5 ft. drainage and
35 utility easement along the east property line, as shown on the property survey prepared
36 by Langford Surveying, LLC dated 4/30/08 revised 10/17/08. Required deck
37 alterations shall be completed before issuance of the certificate of completion for the
38 subject accessory building.

39
40 Member **Cornett** **SECONDED** the motion. Motion **CARRIED** unanimously.

41
42 **OLD BUSINESS**

43
44 **S-08-038** - Application of **Michael Burkhead, Agent for TBCOM Properties, Agent for**
45 **Owners, Marco & Veronica Pichardo, Owners**, requesting a **Special Exception** for a
46 Communication tower exceeding 70 feet in height above ground level (180 ft. monopole) and

1 requesting Waivers to Section 817.00(w)(5)(e) Setback and Separation for a range of 990.6 ft.
2 to 648.5 ft. in lieu of the required 1,000 ft. from a dwelling on A-4 (Transitional Agriculture)
3 zoned property. The property is located on the east side of Fifer Drive, approximately 700 feet
4 from intersection with Beckwith Street adjacent to the City of Deltona; ± 2.5 acres (Stockham)
5 8101-00-00-0432 **Tentatively schedule for the December 18, 2008 County Council at 2:00**
6 **p.m.**

7
8 **John H. Stockham, ASLA, Planner III**, summarized the staff report by stating the subject
9 property was adjacent to the City of Deltona and that the communication tower is required to be
10 a minimum from 1,000 ft. of any dwelling; however the County Council may waive up to 500 ft.
11 of this requirement as requested in this application. The closest dwelling would be 629 ft. and
12 the farthest would be 989 ft., with the exception of the property owners' residence, which is
13 addressed in the companion variance case. This tower was proposed on a property to the
14 east about a year ago and during site plan review process the tower was not able to be built. A
15 letter of opposition was received regarding property values, proximity to homes and
16 appearance. Staff believes with the recommended conditions that these concerns have been
17 addressed. There may be environmental issues that will be addressed during final site plan
18 process, since there is a required wetland buffer of 50 feet. The tower would decrease the
19 current signal coverage gap in the area.

20
21 **Member Huttmann** asked if the conditions presented were substantially different than the
22 conditions provided previously.

23
24 **Mr. Stockham** replied that the conditions have been modified for this particular property.

25
26 **James Morris, Storch Morris & Harris, LLC, Attorney for Agent**, asked for the land use map
27 and to point out the former site and it was all wetlands. The site had more wetlands than
28 originally known at the time of approval and that is why the tower could not be built, not the
29 conditions of approval. Camouflage is a primary different condition and has a significant cost
30 impact to the construction. The branches are metal and the foundation requirement would not
31 be cost effective to build. Camouflaging is to make things less apparent. Evidence B –
32 Monopine Exhibit and Evidence C – Monopole Exhibit presented by applicant. Camouflaging is
33 not a requirement by the Code. We agree with all conditions except for the camouflage
34 condition citing 1104(h)(8) and (9). Submitted an appraisal report (Applicant's Evidence A -
35 Appraisal Report) concerning property values with regard to non-camouflage communication
36 towers in the vicinity of homes that would not be negatively impacted. The monopine would
37 make it more apparent to the neighborhood. The monopole would blend into the landscape
38 more effectively. Mr. Pichardo thought the environmental issue in condition # 4 was resolved;
39 however it will be dealt with as conditioned.

40
41 **Mike Burkhead, TBCOMM Properties, Agent for Owners**, stated the location of the tower is
42 to fill a need for wireless service with respect to voice data, high speed data and cell phone
43 use. The voice coverage is not just the need in this area. We have not marketed this tower to
44 the cell tower companies however we have an agreement with T-Mobile for co-location and
45 Verizon has applied for co-location.

1 **Mr. Morris** asked Mr. Burkhead to explain the cost difference between the monopole and
2 monopine towers.

3
4 **Mr. Burkhead** explained that the cost is significantly higher with the monopine style tower. A
5 monopole would be about \$60,000 - \$65,000 and I am not aware of a 180 ft. monopine
6 however I am aware of a 130 ft. monopine tower that cost about \$365,000.

7
8 **Chairman Severino** asked if there was any information to support the difference in public
9 safety with the monopole versus the monopine.

10
11 **Mr. Morris** responded that he didn't believe there was any data on either side of the issue.
12 Which ever type of tower would have to be built to Building Code and the requirements for a
13 monopine would require more structural support because of the wind load of the branches.

14
15 **Member Young** asked about painting the tower.

16
17 **Mr. Morris** stated they would consider that as an option.

18
19 **Member Sixma** asked if the surrounding neighborhood had been contacted.

20
21 **Mr. Morris** replied that the notification to the property owners was for a communication tower
22 and the notice would not generally tell you whether it would be a monopole or monopine type
23 tower.

24
25 **Mr. Huttman** asked the basis for the monopine camouflage condition.

26
27 **Becky Mendez, AICP, Senior Planning Manager** replied that it was an attempt to have it
28 blend with the neighborhood. Staff was trying to make it more aesthetically pleasing. She
29 asked how many co-locaters were shown in the picture of the monopole tower (Exhibit C).

30
31 **Mr. Morris** responded that there was one. There is a separation distance requirement between
32 antennas for each co-location.

33
34 **Mr. Stockham** asked about the shortening of the antenna arms.

35
36 **Mr. Morris** agreed that the shortest antenna arms would be used.

37
38 **Mr. Burkhead** stated that the T-arm (closest mount) shortest size is 24" from the tower and that
39 the standard is 48".

40
41 **Member Young** inquired if there were going to be six T-arms.

42
43 **Mr. Burkhead** affirmed the tower is designed to carry six, however if there was no need, then it
44 would not be built for six. There is no coverage in this area and this location has a need.

45
46 **Member Huttman** asked what design was in the photo.

1
2 **Mr. Burkhead** stated it was a one co-locater with standard 48" T-arms.
3

4 **Mike Dyer, Assistant County Attorney**, stated to the commission that staff has given the
5 criteria for approving the special exception. This special exception also has supplemental
6 criteria; there are factors to consider such as height, proximity of tower to residences, nature of
7 uses on surrounding area, topography, tree coverage and foliage, design of tower, visual
8 obtrusiveness, safety aspects, and availability of suitable existing towers. Camouflaging is not
9 a requirement but is a factor of approval if the commission is inclined.
10

11 **Gregory Stubbs, AICP, Growth & Resource Management Director**, asked the commission
12 to remember this discussion, as this is an issue staff is working on and we need to take into
13 consideration the plans of the City if it is adjacent. Staff plans for a population of tomorrow.
14

15 **Member Cornett** recalled there being a monopine tower at Lee Road and U.S. Hwy 17-92 and
16 that it doesn't blend well.
17

18 **Member Russell** stated opposition to the monopine.
19

20 **Dean Swanson, 4201 Fifer Drive, Deltona**, stated opposition to any tower in this location, as
21 he is currently seeking to expand his residential property through the City of Deltona. The
22 citizens have been left out of the compromise with the county and the property owner. He
23 disagreed with the applicant's appraiser's report. The property owner is doing this for monetary
24 reasons. The zoning lady at the City of Deltona stated they would not approve a tower in that
25 location. He stated he didn't need that tower and neither does anyone else. This is an injustice
26 if approved. It will not blend in with the neighborhood and will affect the property values.
27

28 **Member Russell** asked if Mr. Swanson had spoken with the City of Deltona about their letter of
29 no objection.
30

31 **Mr. Swanson** stated he had and was told that the City would not allow a tower in that location
32 and the tower was in County jurisdiction and was not up to the City.
33

34 **Member Russell** referred to the letter for the City of Deltona regarding their request to be
35 included in inspections.
36

37 **Mr. Swanson** replied that he didn't have that letter and the original letter from the City stated no
38 objection because it was out of the City's jurisdiction.
39

40 **Ms. Mendez** explained that she was the person Mr. Swanson talked too at the City of Deltona
41 and that the City allows towers on primarily Public zoned property. The application was revised
42 and the application was sent to the City of Deltona for new comments at which the current
43 planning manager provided the comments in your package.
44

45 **Member Huttman** asked staff about modifying condition # 8 to just require the tower to be
46 camouflaged and not be specific as to the kind of camouflaging.

1
2 **Member Severino** commented that he resides near several towers and that the towers are
3 non-intrusive and benefits the public as well as emergency services.

4
5 **Member Young** commented that communication towers are like power poles use to be and
6 that this is another case of advancing technologies.

7
8 **Member Cornett** moved to recommend to County Council for approval with striking “to look like
9 a tall pine tree, utilizing faux branches and needles per the seven photo illustrations provided by
10 the Foresite Group, Inc.” from condition # 8.

11
12 **Mr. Morris** agreed with the modification.

13
14 **Member Russell** seconded this motion.

15
16 **Member Huttman** asked if the motion maker and second would consider striking “In addition,
17 the tower shall be fitted with camouflaging materials so that it resembles a tall pine tree.” from
18 condition # 5 as well.

19
20 **Members Cornett and Russell** affirmed making the following the motion:

21
22 **Member Cornett MOVED to FORWARD** Special Exception case S-08-038 to County Council
23 with a recommendation of **APPROVAL WITH THE FOLLOWING CONDITION(S)**:

- 24
25 1. The Special Exception approval is for a single, self supported monopole tower with a
26 maximum height not to exceed 180 feet (AGL), and capable of co-locating a maximum of
27 six carriers as shown on the Special Exception site plan sheet Z-3 Site Plan & Tower
28 Elevation prepared by Foresite Group, Inc, dated 04/03/08 revised 09/25/08. The
29 proposed tower shall be located on the parcel in accordance with the submitted Special
30 Exception plan sheet Z-2 Overall Site Plan prepared by Foresite Group, Inc dated
31 04/03/08 revised 09/25/08 subject to Land Development Code requirements and
32 condition # 2.
- 33
34 2. County Council waiver to Section 817.00(w)(5)(e.) *Communication towers. Setbacks and*
35 *separation* to allow a tower separation from residential dwellings to be less than 1,000
36 feet and PLDRC approval of Case V-08-041, which is for a distance of less than 500 feet
37 for the parcel owners’ residence.
- 38
39 3. All permits shall be obtained from the Federal Aviation Administration (FAA), and
40 Federal Communications Commission (FCC) and/or any other applicable federal, state,
41 or local governmental agencies as required and submitted to the Growth and Resource
42 Management Department (GRM). The facility shall be maintained and operated in full
43 accordance with all applicable federal, state and local regulations and permits.
- 44
45 4. Development of the parcel shall be subject to submittal of a conceptual site plan to the
46 Land Development Division for review and approval prior to building permit application.

1 The site plan must comply with applicable Zoning Ordinance and Land Development
2 Code requirements. The subject parcel shall be developed in accordance with the site
3 plans prepared by Foresite Group, Inc, dated 04/03/08 revised 09/25/08 as may be
4 modified by these conditions and/or modified by further County review and/or modified
5 by the FAA/FCC and/or other permitting requirements. In addition, the environmental
6 issues with regard to tree clearing and possible wetland buffer impacts shall be resolved
7 prior to an issuance of a final site plan development order.
8

- 9 5. The tower shall be lighted with dual lighting per the written specifications of FAA
10 Advisory Circular 70/7460-1K Change 2, so that it is visible to low-flying aircraft in low
11 light conditions. ~~In addition, the tower shall be fitted with camouflaging materials so that~~
12 ~~it resembles a tall pine tree.~~
- 13
- 14 6. If the tower is unused for a period of 180 consecutive days, the tower shall be deemed
15 abandoned. Determination of the date of abandonment shall be made by the zoning
16 enforcement official, who shall have the right to request documentation and/or affidavits
17 from the tower owner regarding its usage. Upon such abandonment, the owner/operator
18 of the tower shall have an additional 180 days within which to reactivate the use of the
19 tower or transfer the tower to another owner/operator who makes actual use of the
20 tower, or to dismantle and remove the tower. One hundred eighty days from the date of
21 abandonment with reactivation or upon completion of dismantling and removal,
22 whichever occurs first, any approval for the tower shall automatically expire.
23
- 24 7. The tower owner shall provide an inspection report at least every five years, signed and
25 sealed by a structural engineer licensed by the State of Florida, certifying that the tower
26 is in good operating condition and meets all FCC and American National Standards
27 Institute (ANSI) specifications.
28
- 29 8. The 180 ft. tall monopole tower shall be camouflaged ~~to look like a tall pine tree, utilizing~~
30 ~~faux branches and needles per the seven photo illustrations provided by the Foresite~~
31 ~~Group, Inc.~~
32

33 Member **Russell** **SECONDED** the motion. Motion **CARRIED 6 to 1** (Member **Gove** opposing).
34

35 **V-08-041**- Application of **Michael Burkhead, Agent for TBCOM Properties, Agent for**
36 **Owners, Marco & Veronica Pichardo, Owners**, requesting a **Variance** to Section
37 817.00(w)(5)(e) *Setbacks and Separation* to allow a 180-foot monopole communication tower
38 (404.02 ft. in lieu of the required 1,000 ft.) on A-4 (Transitional Agriculture) zoned property. The
39 property is located on the east side of Fifer Drive, approximately 700 feet from intersection with
40 Beckwith Street adjacent to the municipal limits of the City of Deltona; ± 2.5 acres (Stockham)
41 8101-00-00-0432
42

43 **John H. Stockham, ASLA, Planner III**, presented the staff report by summarizing the request
44 to be the companion case to S-08-038 and that this is for the setback of the proposed tower to
45 the property owners' residence. The County Council can waive up to five hundred feet of the
46 separation distance and this residence is less than that therefore this variance is necessary.

1 This variance must be approved in order for the Special Exception to be relevant. Staff feels
2 that this is the best location for the tower because of the wetlands to the east and to the south
3 of the property and that this variance request has improved through the review process since
4 the tower has been moved further away from the residence. The requested tower is not going
5 to be injurious to the surrounding neighborhood and literal interpretation of the Ordinance would
6 prevent the property owner from placing a tower on his property.
7

8 **Mike Dyer, Assistant County Attorney**, stated that the commission can adopt the facts in
9 evidence, all documents and testimony in the previously heard Special Exception case S-08-
10 038; assuming Mr. Morris had no objection by consensus.
11

12 **Member Severino** commented that there was a consensus to do that.
13

14 **James Morris, 420 S Nova Road, Daytona Beach, FL**, stated he agreed with the staff
15 recommendation in the staff report and the property owner, which is present, has authorized me
16 to agree upon his behalf as well.
17

18 Member **Russell MOVED** to **APPROVE** case **V-08-071** with the following condition:
19

- 20 1. Approval of the Special Exception case S-08-038 and the granting of waivers
21 requested in that application are required for this Variance to be relevant.
22

23 Member **Huttmann SECONDED** the motion. Motion **CARRIED** unanimously.
24

25 **PUBLIC ITEMS**
26

- 27 1. Proposed Capital Improvement Element of the Comprehensive Plan
28Tom Brooks, AICP, Comprehensive Planner II
29

30 **Becky Mendez, AICP, Senior Planner**, summarized the staff report by stating this is a CIE
31 update that must be done once a year with 5 year capital Improvement Program. Senate Bill
32 360 mandates an annual update their CIP element of the comprehensive plan, Growth
33 Management requirements are the class A improvements: water, sewer and road capacity as
34 well as recognizing the 5 year work program for FDOT and School Board, that the county has
35 no control over the work plan programs. This is required to be done once a year before
36 December 31st. This is item is going to county council for adoption on November 13, 2008.
37

38 **Member Huttman** asked if there needed to be more of a guarantee of money for the
39 commuter rail.
40

41 **Tom Brooks, AICP, Planner II**, replied no. The County is allowed to use planned money from
42 the state. If the state does not fund commuter rail, then the commuter rail section would move
43 to Class D (unfunded CIP projects).
44
45

1 Member **Cornett MOVED** to **FOWARD** Ordinance 2008-22 to county council as **CONSISTENT**
2 with the comprehensive plan. Member **Sixma SECONDED** the motion. Motion **CARRIED**
3 unanimously.

4
5 2. Water Supply Work Plan

6John Thomson, AICP, Comprehensive Planner III

7
8 **John Thomson, AICP, Planner III**, presented a PowerPoint presentation, explaining the steps
9 necessary to achieve the state’s requirement of indentifying and choosing an alternative water
10 supply source from those identified by the St. Johns River Water Management District (WMD)
11 and incorporate it into its Comprehensive Plan. Failing that, it had to give the State some other
12 alternative water supply source.

13
14 **Member Cornett** asked about St. John’s Management cutting cup by half.

15
16 **Mr. Thomson** replied that was true and it is being taken in consideration because our demand
17 is going to increase with growth yet St. John’s is going to

18
19 **Member Cornett** asked about the amount of the reduction in overall water level in the river
20 system once utilization of Yankee Lake or some other technical alternative.

21
22 **Mr. Thomson** stated he did not know however the Water Management District is monitoring
23 and implementing that. At this time they are saying there is available water to use as part of the
24 alterative supply.

25
26 **Member Huttman** asked if we were monitoring other counties’ requests of utilizing Yankee
27 Lake.

28
29 **Mr. Thomson** stated that it is being monitored by DCA and St. John’s Water Management
30 District, Seminole county has already adopted their plan and was found in compliance by DCA.

31
32 **Member Russell** asked if in Item 5, the reduction was calculated by current demand.

33
34 **Mr. Thomson** replied that it was by the 2010 projected demand.

35
36 **Mr. Huttman** asked if all the estimates are based on the smart growth like initiatives or more
37 on status quo.

38
39 **Mr. Thomson** replied it is based on our population demand; it does take in account minimal
40 deductions for future initiatives because we know the supply won’t satisfy the demand, however
41 reductions based on initiatives such as the conservation and reuse programs may decrease
42 future demand.

43
44 Member **Huttman MOVED** to **FORWARD** Ordinance 2008-24 to county council as
45 **CONSISTENT** with the comprehensive plan. Member Russell **SECONDED** the motion. Motion
46 **CARRIED** unanimously.

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STAFF ITEMS

Discussion about merging the Land Development and Zoning Ordinances together into the Uniform Land Development Code time line has been reduced to 12 months so the Commission will start seeing some text amendments soon. The commission is invited to provide direction to staff for amendments to sections of the code that may have been troublesome in the past.

COMMISSION COMMENTS

Member Sixma congratulated Chairman Severino on winning the 2008 new young business leader award.

Member Cornett talked about the dominant joint planning commission. The city has outgrown the committee's intention that was created by state statue. He asked if staff could look into this so that a repeal to the statue can be considered.

Member Severino thanked staff for continuing to improve the staff reports and the efforts to ease the working relationship with the public.

PRESS AND CITIZEN COMMENTS

NONE

ADJOURNMENT

Having no further comments from the public, staff or Commissioners, Chairman Severino thanked everyone and adjourned the meeting at 11:47 a.m.