

MEETING MINUTES OF THE  
PLANNING AND ZONING BOARD MEETING  
MONDAY, MAY 24, 2010 AT 7:00 P.M.  
TOWN HALL BUILDING, 4240 HIGHWAY US1, GRANT VALKARIA, FLORIDA 32949

The Planning and Zoning Board Meeting of May 24, 2010 was called to order at 7:00 p.m. by Chairperson Whitehouse, followed by the Pledge of Allegiance, and roll call to the Members with the following present:

Chairperson Don Whitehouse  
Vice Chairperson Dan Robino  
Board Member Denni Burr  
Board Member Christine King  
Board Member Ron Jenkin  
Board Member Allen Webb  
Alfred Strandgard (Alternate 1)  
David VanAsdale (Alternate 2)

Town Administrator Richard Hood  
Administrative Assistant Jessica Williams

MOTION TO EXCUSE BOARD MEMBER KING AND BOARD MEMBER WEBB

Motion by Board Member King, second by Board Member Burr and vote unanimous to excuse Board Member Thiem due to a previously scheduled vacation.

CHANGES TO AGENDA

There were no changes to the agenda.

PRESENTATION

Presentation by Scott Glaubitz, B.S.E Consultants RE: Orbit RV Park Expansion

Town Administrator Hood explained that Mr. Scott Glaubitz, BSE Consulting Engineers was present to do a presentation regarding the expansion of the Orbit RV Park located on Highway 1. Town Administrator Hood explained that the site plan had been approved by Brevard County in 2003 and has since expired. Mr. Hood explained that this item was brought before the Planning and Zoning Board in September of 2007 for review for an extension but was tabled due to a lack of staff comments. The item was then never brought back before the Board.

Mr. Scott Glaubitz explained that he was representing the new owners of Orbit RV. When the new owners purchased the property they believed that there were 53 sites available to operate at the park; however they learned that they only had 38 sites available. Mr. Glaubitz showed the Board the site plan that was previously approved by Brevard County and explained that the new owner would like to move forward with a plan that did not include the pavement and use softer elements such as millings. Mr. Glaubitz explained that they would like to ensure that have sufficient room in between the units for fire safety. Mr. Glaubitz explained he was looking for direction from the Board to see if they would be willing to allow softer elements such as millings in the site plan.

Alternate Board Member VanAsdale explained that he remembered when this was previously brought up that there was a concern regarding the septic tank capacity. Mr. Glaubitz explained that the previous owners were utilizing 53 sites though only 38 were recorded and the septic had functioned properly. Mr. Glaubitz explained that he contacted Vern at Brevard County and he

recommended having a local septic contractor to check the septic tank capacity and certify it. Town Administrator Hood explained the state requires the entire site to be brought up to code in order to add the additional sites. Mr. Hood explained that Mr. Glaubitz was willing to do whatever is necessary; however he is not sure what the Board will require. Mr. Hood explained that all necessary permits will be required. Mr. Glaubitz stated that the new owner is currently not using the unrecorded sites. Board Member Burr explained that when this was brought before the Board in 2007 that she walked the property and though the units were not there the hook ups were still there and the grass was yellowed as if they were previously there. Board Member Burr explained that the septic issue is a concern for them. Town Administrator Hood explained to the Board that the State Department of Health would determine what was required for the septic and they would then issue any permits. Mr. Hood explained that Mr. Glaubitz was looking for guidance as to the appearance of the site. Town Administrator Hood explained that with the current zoning it would meet the density. Vice Chairperson Robino explained that he would like to see a softer appearance and a green area. Mr. Glaubitz stated that all projects start this way and though zoning requirement allow a certain number of units with the other requirements such as septic setbacks and stormwater the number of units allowed does not always fit. Board Member Webb stated that he would want to see a stabilized material not marl.

It was the Board's consensus to allow a softer appearance to the site plan of Orbit RV.

PUBLIC HEARING – VARIANCE NO. V-2010-01 (Board Action)

PROPERTY DESCRIBED AS FOLLOWS: 29-37-14-00-00771.0.0-0000.00

Further Described As Being Located At 1440 Valkaria Road, Grant Valkaria, Florida

Property Is Zoned AU, Agricultural Residential Zoning Classification

Total affected acreage: 1.52 acres

Applicant: James W. Morgart

Variance Requested: A variance to Brevard County Code Chapter 62, Section 62-1334(5)b as adopted by the Town of Grant Valkaria at time of incorporation to allow a detached garage to the front of the front building line of the principal building.

(For the record Legal Advertisement was published in the Florida Today Newspaper on May 6, 2010 and was posted on the property.)

Town Administrator Hood explained that the current request was made by Mr. James Morgart of 1440 Valkaria Road. Mr. Hood explained that this request is necessary due to a change of interpretation of County Codes. When Mr. Morgart originally permitted and built his home, Brevard County allowed accessory structures in the front of the principal structure on property zoned Agricultural Residential, AU. This interpretation was made because of the state farming laws. The detached accessory structure was approved as a part of Mr. Morgart's plan for his residence. Mr. Morgart finished his home and the slab for his accessory structure but had not completed the structure. Since that time the interpretation from the County has changed and this exemption only applied to those Agricultural Residential properties that have their agricultural exemption and operate a bona-fide agricultural business. Because Mr. Morgart's plans were previously approved and Mr. Morgart has expended money based on the previous interpretation, the Town Attorney has advised me that Mr. Morgart has a hardship claim which would qualify

him for a variance. Mr. Hood explained that Code Enforcement went out because Mr. Morgart was constructing the detached structure without a permit and Mr. Morgart has since come in for a variance.

Chairperson Whitehouse declared the public hearing open.

Mr. James Morgart explained that he was building his house in 2004 when hurricane Jean and Francis came through. He explained that after drying in his roof multiple times the house became priority and the accessory building was placed on hold.

Vice Chairperson Member Robino stated that he had no objections to the variance.

Chairperson Whitehouse closed the public hearing.

Motion by Vice Chairperson Robino, second by Board Member Jenkin and vote unanimous to make a recommendation to Council to approve Variance No. V-2010-01.

PUBLIC HEARING - ORDINANCE NO. 2010-04 (Board Action)

AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, PERTAINING TO ADULT ENTERTAINMENT AND SEXUALLY ORIENTED BUSINESSES (COLLECTIVELY AND FREQUENTLY DESCRIBED HEREIN AS SIMPLY ADULT ENTERTAINMENT ESTABLISHMENTS); CREATING DIVISION 1; PROVIDING FOR A SHORT TITLE; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PENALTY AND ADDITIONAL REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INTERPRETATION AND CONSTRUCTION OF THE ORDINANCE; PROVIDING FOR LEGISLATIVE AUTHORITY; PROVIDING FOR PREEMPTION, APPLICABILITY OF THE ORDINANCE, PURPOSE AND PRESUMPTIONS OF FACT; PROVIDING FOR PROOF OF ALCOHOLIC CONTENT OF BEVERAGES; PROVIDING FOR ADMINISTRATIVE RESPONSIBILITIES AND POWER OF ADMINISTRATIVE AGENCIES; PROVIDING FOR GENERAL REQUIREMENTS FOR LICENSED ESTABLISHMENTS; PROVIDING FOR LOCATION REQUIREMENTS; PROVIDING FOR RESTRICTIONS ON ADVERTISING; PROVIDING FOR DESIGN OF ENTRANCE AND SIGN CRITERIA; PROVIDING FOR PROSCRIPTIONS; PROHIBITING THE ADMISSIONS OF MINORS IN LICENSED PREMISES; PROHIBITING THE SALE OF ADULT MATERIALS TO MINORS; CREATING DIVISION 2; PROVIDING FOR SPECIFIC LICENSING REQUIREMENTS; PROVIDING FOR THE CLASSIFICATION OF ADULT ENTERTAINMENT LICENSES; PROVIDING FOR THE DISQUALIFICATION FOR A LICENSE; PROVIDING FOR APPLICATIONS FOR ADULT ENTERTAINMENT LICENSES; PROVIDING A CONTINUING DUTY OF A LICENSEE TO DISCLOSE INFORMATION TO THE TOWN; PROVIDING FOR INVESTIGATIONS; PROVIDING FOR THE APPROVAL OR DENIAL OF AN APPLICATION; PROHIBITING MULTIPLE LICENSES FOR A SINGLE PREMISES; PROVIDING FOR REQUIREMENTS FOR LEASED PREMISES; PROVIDING FOR REGULATORY FEES; PROVIDING FOR THE DISPLAY OF LICENSE; PROVIDING FOR TERM AND RENEWAL; PROVIDING FOR LICENSE TRANSFER; PROVIDING FOR

THE CHANGE OF LOCATION OR NAME OF BUSINESS; PROVIDING FOR THE SUSPENSION OR REVOCATION OF LICENSES; PROVIDING FOR LICENSEE RECORDS AND REPORTS; PROVIDING FOR PROVISIONS RELATED TO THE TRANSFER OF LICENSES; PROVIDING AN APPEAL PROCESS FOR THE SUSPENSION OR REVOCATION OF LICENSES; PROVIDING APPEAL PROCEDURES FOR THE SUSPENSION AND REVOCATION OF LICENSES; CREATING DIVISION 3; PROVIDING FOR WORKER RECORDS; CREATING DIVISION 4; PROVIDING FOR REQUIREMENTS FOR LEISURE SPA ESTABLISHMENTS; PROVIDING FOR THE CONTROL OF COMMUNICABLE DISEASES; PROVIDING FOR EMPLOYEE QUALIFICATIONS; PROVIDING FOR HOME MASSAGE TREATMENT; PROVIDING FOR THE ADMISSION AND TREATMENT OF MINORS, HOURS OF OPERATION, INSPECTIONS AND PROHIBITIONS; CREATING DIVISION 5; PROVIDING REQUIREMENTS FOR ADULT MOTION PICTURE THEATERS; PROVIDING FOR ADMISSION OF MINORS, INSPECTIONS AND PROHIBITIONS; CREATING DIVISION 6; PROVIDING FOR ADMISSION OF MINORS, INSPECTIONS AND PROHIBITIONS; PROVIDING FOR PROVISIONS RELATING TO NOTICE OF SALE OF ADULT MATERIALS AND AUTHORITY TO REQUIRE ADDITIONAL INFORMATION; CREATING DIVISION 7; PROVIDING PROVISIONS FOR ADULT DANCING ESTABLISHMENTS; PROVIDING FOR INSPECTIONS; CREATING DIVISION 8; PROVIDING FOR PROVISIONS FOR ESCORT SERVICES; CREATING DIVISION 9; PROVIDING FOR PENAL PROVISIONS; PROVIDING FOR PROHIBITED ACTS WHERE ALCOHOLIC BEVERAGES ARE PRESENT; PROVIDING FOR PROHIBITED ACTS GENERALLY; PROVIDING FOR PROHIBITED ACTS BY CUSTOMERS; PROVIDING FOR IMMUNITY FROM PROSECUTION FOR TRESPASS RELATING TO DEPARTMENTS, EMPLOYEES, ATTORNEYS, AND OFFICERS OR AGENTS OF THE TOWN OF GRANT-VALKARIA OR ANY LAW ENFORCEMENT OFFICER; PROHIBITING ADULT ENTERTAINMENT ESTABLISHMENTS AS HOME OCCUPATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Town Attorney Bohne explained that the Supreme Court allows local governments to regulate secondary effects of adult entertainment. Town Attorney Bohne introduced and entered a box of supporting information into the record. Town Attorney Bohne explained that secondary effects include crime, reduction of property values, increased prostitution and how it affects children. Town Attorney Bohne explained that as a small community the Town is allowed to use the findings and facts of other large jurisdictions to justify the secondary effects of adult entertainment. Town Attorney Bohne stated that due in order to minimize the secondary effects of adult entertainment on the community Ordinance No. 2010-04 was created to allow adult entertainment in the Adult Business/ Adult Entertainment Establishment Overlay District as described in Section 17 of the Ordinance.

Board Member Webb asked what would happen if a residence were to be built in that area. Town Attorney Bohne explained that a single family residence was not permitted in the IU and IU-1 zoning description. Town Administrator Hood explained that there was Commercial to the North of the proposed Adult Business/ Adult Entertainment Establishment Overlay District. He explained that there were homes to the East but they are separated by the railroad tracks and Old

Dixie Highway and to the South you have environmentally endangered lands property separating it from the residences. Chairperson Whitehouse asked if the signs would be limited to onsite signs so there wouldn't be billboards pointing to the facility. Town Administrator Hood explained that as per the Town's sign code billboards were not allowed. Town Attorney Bohne explained that he had the information on a disc and if the Board wanted a copy for review he would provide it.

Motion by Vice Chairperson Robino, second by Board Member King and vote unanimous to recommend approval of Ordinance 2010-04 to Council.

### APPROVAL OF MINUTES

1) Planning and Zoning Board Meeting Minutes of April 26, 2010.

Motion by Board Member Jenkin, second by Board Member and vote unanimous to approve the Planning and Zoning Meeting Minutes of April 26, 2010 as amended adding Vice in front of Chairperson Robino in the roll call.

### NEW BUSINESS

Discussion/ Action RE: Ordinance No. 2010-05 – An Ordinance Of The Town of Grant-Valkaria, Brevard County, Florida; Amending Section 62-2100.5 Of The Town Land Development Regulations As Adopted By The Town In The Town's Charter; Providing For Accessory Building And Accessory Use Standards; Providing For Severability; Providing An Effective Date. (Accessory Structure Ordinance)

Town Administrator Hood explained that the code before the Board will allow one accessory structure the same size of the principal structure but cannot exceed 3000 square feet and 30 feet in height. Mr. Hood explained that this is currently allowed in the Agricultural Residential, AU zoning, but not in the Residential zoning category.

Board Member Burr explained that she was against this on the residential properties of 1.25 acres or less and she expressed this to Council. Board Member Burr explained that to her when they first became a town the surveyed residents and they expressed that they wanted less dense properties. Board Member Burr explained that what this does to her is allow her to place two structures on her property that equal the same size as her home and it will increase the density. She explained that this was unfair to her neighbors and her that believed that they would have wide open spaces. Board Member Burr explained that she was also upset about the height requirement because it is almost two stories she stated that it is like building a Winn Dixie wall. Board Member Burr stated that there are height restrictions on fences and she believed that this is for kindness of neighbors so that they see wide open spaces. Board Member Burr stated that it could be possible to rent this out as a residence and she was concerned with this also. Town Administrator Hood explained that the County code currently doesn't have a height restriction on the accessory structures. Town Administrator Hood stated that the Council set it at 30 feet because of mobile homes. Alternate Board Member Strandgard stated that homeowners associations have greater restrictions so these buildings would not be allowed there. Alternate Board Member Strandgard then asked if Board Member Burr would be able to see this now. Town Administrator Hood explained that today the buildings could be as high as the individual

wanted and each detached accessory building or structure shall not exceed 600 square feet or 50 percent of the living area of the principal building, whichever is greater. Board Member Webb explained that he did not agree with the conversation and stated that the Board was trying to be too restrictive. Vice Chairperson Robino stated that he didn't have any objection to the changes in the accessory structure section of the code. Vice Chairperson Robino stated that people move here because they don't want the restrictions. Town Administrator Hood explained that this was only affecting a small portion of individuals because it is already allowed in the Agricultural Residential zonings which is about 90% of the Town. Board Member Jenkin stated that just because it is allowed doesn't mean that it will fit with the setback requirements and the wetlands that most of the town faces. Town Administrator Hood stated that the structures had to be to the rear of the front face of the principal structure.

Motion by Vice Chairperson Robino, second by Board Member Jenkin and vote 4 to 2 to recommend approval of Ordinance No.2010-05 to Council. (Aye, Whitehouse, Jenkin, Robino, Webb; Nay, Burr, King)

PUBLIC COMMENT

There were no public comments

ADJOURNMENT

Motions by Board Member Jenkin, second by Board Member Webb, and vote unanimous to adjourn the meeting at 9:20 p.m.

(Signature on File)

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Don Whitehouse, Chairperson

ATTEST:

(Signature on File)

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Jessica Williams, Administrative Assistant