

**M I N U T E S**  
**ORMOND BEACH PLANNING BOARD**  
**Regular Meeting**

February 13, 2020

7:00 PM

**City Commission Chambers**  
22 South Beach Street  
Ormond Beach, FL 32174

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, SAID PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PERSONS WITH A DISABILITY, SUCH AS A VISION, HEARING OR SPEECH IMPAIRMENT, OR PERSONS NEEDING OTHER TYPES OF ASSISTANCE, AND WHO WISH TO ATTEND CITY COMMISSION MEETINGS OR ANY OTHER BOARD OR COMMITTEE MEETING MAY CONTACT THE CITY CLERK IN WRITING, OR MAY CALL 677-0311 FOR INFORMATION REGARDING AVAILABLE AIDS AND SERVICES.

**I. ROLL CALL**

Members Present

Harold Briley, Vice Chair (absent)  
G.G. Galloway  
Al Jorczak  
Mike Scudiero  
Angeline Shull  
Lori Tolland  
Doug Thomas, Chair

Staff Present

Steven Spraker, Planning Director  
Becky Weedo, Senior Planner  
Noel Eaton, Senior Planner  
Randy Hayes, City Attorney  
Marcella Miller, Recording Technician

**II. INVOCATION**

Mr. Galloway led the invocation.

**III. PLEDGE OF ALLEGIANCE**

**IV. NOTICE REGARDING ADJOURNMENT**

NEW ITEMS WILL NOT BE HEARD BY THE PLANNING BOARD AFTER 10:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 10:00 PM MAY BE CONTINUED TO THE FOLLOWING THURSDAY OR TO THE NEXT REGULAR MEETING, AS DETERMINED BY AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD MEMBERS PRESENT (PER PLANNING BOARD RULES OF PROCEDURE, SECTION 2.7).

## V. APPROVAL OF MINUTES

**January 09, 2020**

**Mr. Jorczak moved to approve the January 09, 2020 Minutes. Ms. Shull seconded the motion. The minutes were unanimously approved.**

## VI. PLANNING DIRECTOR'S REPORT

Mr. Steven Spraker, Planning Director, advised the Board about the pre-submittal neighborhood meeting regarding the property at 11 Pearl Drive. They are seeking to do land use and zoning changes. The neighborhood meeting will be at the Holy Child Fellowship Hall at 1225 West Granada Boulevard on February 24, 2020 at 7:00 p.m. Mr. Spraker introduced Ms. Noel Eaton, new Senior Planner who has worked in Montana and Texas. Ms. Eaton has both Planning and Building experience. She is currently doing building review but will be in front of the board soon.

## VII. PUBLIC HEARINGS

### A. **PP 2020-015: Pellicer Acres, 519 Leeway Trail: Preliminary Plat**

Mr. Steven Spraker, Planning Director, stated that this is a request for a preliminary plat titled Pellicer Acres and their request to subdivide a 25± acre tract into (5) lots each (5) acres in size at 519 Leeway Trail. It is at the intersection of Warden Trail and Baja Trail within the REA (Rural Estate/Agricultural) zoning district. Within the zoning district, 5 acre lots are permitted. Mr. Spraker continued that there is no central water, sewer, roads or stormwater. They are seeking to subdivide into 5 acre parcels which is within the Land Development Code. The preliminary plat goes before the Planning Board and then to the City Commission. If approved it will come back as a final plat, and then they are able to subdivide the land. Mr. Spraker concluded that staff is recommending approval and believes that it meets the criteria of the Land Development Code.

Mr. Galloway stated that he is fine with it.

Mr. Jorczak commented that this is the second piece of property in that area that the City subdivided. He asked if there are any water issues that would be encountered on the other parcel. He commented that he is agreeable with the split of the lot. Mr. Spraker replied as single-family residential properties develop that are not in the subdivision each property has to do their own stormwater retention plan prepared by a professional engineer. He added that as they go to develop the lot each one of the lots will have their own stormwater system that way they are ensuring that they are not draining on other properties.

Ms. Shull asked since they will have their own well and their own septic, being that the City is developing a lot more in that area if there is any way to look at how much water is available underground for the wells. Mr. Spraker replied that they are 5 acre lots so the density is low. This area of the City was annexed from Volusia County and is an unrecorded subdivision. Mr. Spraker continued that the REA allows them certain rights, and he does not anticipate them running out of well in order to serve water. He added that if they did there could be an extension, but the extension would be at the cost of the property owners which would be a substantial price tag.

Mr. Scudiero asked if it will result in a higher use of the land with Ms. Pellicer in a rural designation now. Mr. Spraker answered that it would.

Mr. Galloway stated that a lot of the lots to the north and south of the property have already been subdivided into 5 acres tracts. He continued that Ms. Pellicer is only asking for the rights to do what other people before her have done.

**Mr. Scudiero motioned to approve PP 2020-015: Pellicer Acres, 519 Leeway Trail: Preliminary Plat. Ms. Tolland seconded it.**

**Vote was called, and the motion was approved (6-0).**

**B. PBD 2020-013: 321 Hand Avenue, All Aboard Storage: PBD Rezoning and issuance of a Development Order**

Mr. Steven Spraker, Planning Director, explained that this is a request at 321 Hand Avenue. The project is an existing warehouse mini-storage facility and has been in existence since the 1980s. He commented that the site is somewhat unique being that 321 is the subject property but when it was originally developed in the 1980s there was a concept to develop in the property at 317 Hand Avenue. They did not take in 317 Hand Avenue but they did maintain an easement over the adjoining property for both access and stormwater. He continued that there is an access easement that goes off of the property at 321 Hand Avenue, with a separate property at 315 Hand Avenue. Mr. Spraker stated that there were complaints about RV and boat storage that generated a list of code enforcement city wide. Several properties were listed and reported for having RV and boat storage. Mr. Spraker continued that as code enforcement worked through the list they found some properties were in compliance, as in the example of ADC Warehouse on South Yonge Street that went through a Planned Business Development and had RV and boat storage. Some properties were not in compliance such as the public storage across from Winn-Dixie Supermarket. They were sited and the RV and boat storage has stopped there. Mr. Spraker stated that this item is seeking to bring the property into compliance through the Planned Business Development process. He added that there is no site construction, building or site improvements.

Mr. Spraker explained the exhibit shown on the overhead of the parking lot and the area that cannot be used for recreational vehicle or boat storage due to it being on the access aisle. He commented that the property owner at 321 Hand Avenue does not own it. The two areas of recreational vehicle or boat storage are in front of the property and to the rear of the property. Mr. Spraker continued that the storage is only within the parking spaces that they have and are not able to put large RVs in. Smaller trailers, campers and boats only can be stored. There has been concern about the adjoining property which is under enforcement for outdoor storage and operation without a Business Tax Receipt. The two actions being sought are rezoning from a B-5 Service Commercial District to the Planned Business Development, and the second is the issuance of a Development Order that would allow them to add this use. No square footage or site improvements are being added. Mr. Spraker stated that the tentative City Commission dates would be March 17, 2020 and April 7, 2020. He added that the applicant is in attendance for any questions.

Chairman Thomas asked if they could put a six (6') foot fence up on Hand Avenue. Mr. Spraker replied that yes it could be a 6 six (6') foot white or tan PVC fence, and stated that if there is an interest in shielding the visual aspects it can be a condition of the Planned Development. Mr. Thomas asked about the possibility of the fence

going to an eight (8') foot fence. Mr. Spraker answered through the Planned Development criteria the Planning Board could require the screening as a condition of the recreational vehicle or boat storage.

Ms. Shull asked if there is a size limitation on the boats and RVs that are stored there. Mr. Spraker answered that there is not, but that the parking spaces are 9 feet by 20 feet which means longer RVs will be unable to fit. He added that the applicant may be able to speak on what they are actually storing.

Mr. Thomas asked about the backside of the property where RVs are being stored at currently and how it goes deeper to the north than the fence on either side of it, and asked about what looks like an enclave for ten parking spaces. He continued with the question of why they could not expand there on either side and not allow storage in the front of the facility. Mr. Spraker replied that it appears based on the survey that is the stormwater for the property so they would be unable to do it there and impact the stormwater unless they provide other stormwater.

Mr. Andy Clark, All Aboard Storage, stated that he is in attendance to answer questions and is open for suggestions. He continued that they are trying to legitimize what they have been doing for 30 years. Mr. Clark added that there is a lot of vegetation on Hand Avenue and thought they could put more bushes in. He stated that they are trying to utilize the existing parking spaces that are there. Mr. Clark continued that they are all smaller boats and trailers and expressed interest in getting in touch with 317 Hand Avenue to inquire if they are interested in selling as he has a need for expansion.

Chairman Thomas asked Mr. Clark about the enclave in the back with the cars and the ten parking spots, where it appears there may be more land. He continued that there are ten parking spaces in the back and ten parking spaces up front, and asked about the fence indentation of 6, 8 or 10 feet more, and if that is the property line where it would give more space to store RVs. If so, then the front area could be for customers and cars. Mr. Clark replied that he will look into it, and suggested possibly storing cars only along Hand Avenue. Chairman Thomas commented that his neighbor to the east is shocking in which code enforcement is handling currently. He suggested an eight (8') foot masonry wall as opposed to the vinyl fencing. Mr. Clark stated that he likes the chain link fence for security to be able to see into the property. Chairman Thomas commented that Mr. Clark's location on Nova Road with the wall is a lot nicer to look at than the chain link fence.

Ms. Tolland expressed her concern on the attractiveness of the property and commented that the City is trying to aesthetically improve Hand Avenue. She suggested putting the larger storage units in the back more hidden and the smaller storage units up front. She continued that she would like to see either fence or masonry wall as it needs more coverage with vegetation. Ms. Tolland concluded that is where she would like to see this project go as well as future projects.

Ms. Shull agreed with Ms. Tolland on the greenery. She added that she too was concerned about the size of the RV and boats being parked and likes the idea of the larger vehicles towards the back and the smaller ones towards the front. Ms. Shull concluded that she is not opposed to a wall.

Chairman Thomas told Mr. Clark that his other sites are very nice and wants to bring this one up to the same standards. Mr. Clark stated that he is open for direction and

will put the smaller vehicles up front and can add the suggestions into the language of the Planned Business Development.

Mr. Galloway commented that the board is trying to clean up something that should have been cleaned up a long time ago. He continued that public storage should be allowed to have vehicle and boat storage and feels it is up to staff to dictate the size. Mr. Galloway stated he has every faith from this company for what they do in the community that they will make it right. He apologized that the City has to clean up the language which in turn makes property owners have to come to the City because somebody has a complaint about how vehicles are being parked. Mr. Clark commented that it looks a lot better than it did ten years ago with the new fencing and the new gates. He stated that he is willing to work with staff and make sure there is appropriate screening and control the cars being up front, and possibly expand the back area. Mr. Clark agreed that the property also needs more landscaping up front.

Mr. Scudiero asked Mr. Clark if he heard correctly that it has been like this for 30 years and just now reared its ugly head as an issue. Mr. Clark answered yes, and that it is an older property and needs some fixing up for sure. Mr. Scudiero asked if this property is the oldest of the three properties. Mr. Clark answered that the property on Yonge Street is older.

Mr. Jorczak commented that Hand Avenue gets a lot more traffic being that it is being designed as a major artery in and out of the City. He continued that most of the areas that are in that area are attractively done. He added that he would be more comfortable with an eight (8') foot masonry wall which will give more flexibility with the vehicles that go in. With a twenty (20') foot RV with its elevation of Nova Road is going to be higher than an eight (8') foot wall but will be screened. Mr. Jorczak concluded long term that the masonry walls do so much more aesthetically for the City.

Mr. Galloway stated that the concern is to make it more aesthetically pleasing and trusts that the applicant can do that.

Mr. Kevin Robinson, 340 Hand Avenue, suggested putting a dumpster up as there are homeless people that go through the trash. He stated that he hears vehicles getting broken into in the back of the property. There were a lot more trees, but 10 years ago they had it painted and took the trees out. Mr. Robinson commented that he can see and hear it from his house. He would like to see the parking in the back and the retention pond in the front. He added that it is the lowest part of all of Hand Avenue and has lived there for 15 years where it floods during storms. Mr. Robinson continued that the site is an eye sore and he agrees with an eight (8') foot masonry wall. There is trash thrown around, including furniture. He added that he cleans up all of the trash and cleans out all of the gutters. Mr. Robinson concluded that he can get signatures in support.

Mr. Galloway asked Mr. Robinson if the problem is coming from 321 Hand Avenue. Mr. Robinson confirmed that was correct. He added that the homeless tear up televisions and trash that are thrown away and that there is trash everywhere.

Ms. Tolland asked Mr. Robinson where his house is. Mr. Robinson replied that it is across from 340 Hand Avenue, the neighbor to the power substation on Thompson's Creek. He added that there is garbage in the pond in front of the site next to the cut down trees, and that it is nothing great to look at.

Chairman Thomas asked Mr. Clark if what Mr. Robinson was saying is that people clean out some of their storage units and put it out on the street curb for pick up. Mr. Clark stated that he was not aware of that and will not allow it. He also added that he will clean out the retention area better as well, and ensure trash is not left out in the road. Chairman Thomas commented he did not notice a dumpster when he visited the property. Mr. Clark replied that he did not think that they had a dumpster and does not encourage dumping trash as people overload them. He continued that they have to take anything that they do not want off of the property because it becomes a problem. Chairman Thomas suggested a dumpster be placed behind the fence, then the people that owned units would have access and be able to use it. Mr. Clark stated that the front parking spaces are 9 by 20 feet so motorhomes and RVs will be unable to be parked there. Chairman Thomas reiterated his earlier comment regarding the back of the property where the enclave is with the fence and goes to the back line all the way across in the back with more room for RVs to keep from putting any out front.

Mr. Galloway stated that his concern is that if there are 10 property owners behind him that are having to pick up trash, as a direct result as the users of the property, he hopes Mr. Clark will consider a two or three yard dumpster to let the neighborhood know he is trying to relieve the problem. Mr. Clark agreed and commented that he would have to screen it somewhere and have it accessible to the garbage truck for pick up.

Mr. Scudiero expressed that 30 years is a long time to be in violation and hears the concerns of the homeowners across the street. He added that if he were him he would address it prior to it getting to City Commission. Mr. Scudiero commented that it is a busy street and is only going to get busier with it being on a residential section to the west and on an industrial section to the east. He continued that he wants to allow a business owner that has been a good citizen and has had other properties for 30 years to be able to come into compliance. Mr. Scudiero concluded that he will support it.

Ms. Tolland stated that she agrees with the property owner's rights to continue doing what he is doing but thinks it should be done in a more attractive way. She continued that she worries in how the City is growing and keeping the major thoroughfares clean and aesthetically pleasing. Ms. Tolland expressed uncertainty if it should be approved with conditions or if it should be sent back to the Planning Director to get specific verbiage. She added that there were good comments that should be taken into consideration. Ms. Tolland concluded that she in support of a wall of some sort as well as more vegetation.

Ms. Shull agreed with Ms. Tolland and commented that they need more vegetation. She continued that it is time to get into compliance and put the wall up as it is almost like a gateway into Central Park. She expressed that it should not be the first thing seen driving into the park, as it is too pretty of an area.

Ms. Jorczak commented that it is only appropriate for where the board wants to take the City to do a much better job of screening it and it can be put in as a stipulation to move forward.

Chairman Thomas asked Attorney Hayes how he would legally like the Planning Board to handle. Attorney Hayes replied that looking at the criteria in the staff report concerns are with visual impacts and aesthetics, criteria 4, 7 and 9. He continued that the board has the power to recommend reasonable conditions to the approval. The

board's determination is a recommendation to the City Commission. Attorney Hayes stated whether the board prefer a masonry wall over a vinyl fence that it is for the board's determination as well as the vegetation and landscaping. The recommendation can be made as a reasonable condition. He commented that the board can also deny it. Attorney Hayes commented that continuing the matter for further discussion between the applicant and the Planning staff will not accomplish a lot, but bring everyone back to a Planning Board meeting. He concluded that it sounds like the board has made their mind up to what a reasonable condition might be.

Chairman Thomas asked the meeting attendees if they have driven on Clyde Morris Boulevard where Ormond Beach and the City of Daytona Beach meet. He then asked if everyone noticed a difference between Ormond Beach and Daytona Beach. Chairman Thomas commented that Ormond Beach has a nice masonry wall and that Daytona Beach has a wooden fence, the reason for his push for the masonry wall.

Mr. Galloway commented that the aesthetics are important but is not sure about the term concrete block and hopes an applicant would be able to show staff natural greenery, shrubs in front of a hurricane fence grown up to an eight (8') foot hedge. He added that most people put shrubbery in front of a concrete wall and stated that he does not have a problem with a hurricane fence as long as there is strict landscaping requirements to aesthetically make the fence more pleasing. Chairman Thomas commented that he has seen where greenery was planted in front of chain link fence and how in 10 years the greenery is not there and no one tells them to plant the greenery back in front of the fence. Mr. Galloway replied that this request is coming before the board because somebody complained to code enforcement. He added that code enforcement should go back to that person and say that the shrubbery is in violation of code enforcement.

Ms. Tolland asked if a landscape plan approved by the City has to be done for the wall and vegetation, and asked if the board could make a recommendation of the planning material. Mr. Spraker replied that if the board wants to include landscaping that it should be within the recommendation. A viburnum hedge to be grown in front of the wall could be a suggestion. He continued that they are not building anything or doing any additional square footage-wise so there is not ability for staff to force the landscape.

Attorney Hayes suggested that it can be made as a condition for the applicant to produce a landscape plan for consideration by the City Commission at the final hearing of the matter. It would give the staff and applicant the opportunity to sit down and work through matters and the City Commission can have the recommendation and final say.

Mr. Clark stated that another option he could suggest is to not let anyone park in the front of the business as opposed to putting the wall, vegetation and landscape plan in. Ms. Tolland asked Mr. Spraker if Mr. Clark is in compliance with the recommended buffer. Mr. Spraker replied that the buffer width is there and the tree count is likely there, but the understory shrubs and plantings are not.

Chairman Thomas reiterated Ms. Shull's comment on this area being the gateway to Central Park and added that on Hand Avenue people take a lot of pride in their yards and property. He commented that what solidifies him on the matter is the difference between Ormond Beach and Daytona Beach on Clyde Morris Boulevard. Mr. Galloway asked the board if they were aware of the price of block lately. He

continued that the end user ends up paying for the wall, not the developer. He added that his concern is that a wrought iron fence can be built a lot cheaper than a block wall. Mr. Galloway stated that it should be an option to weigh the cost of the wall and removing the cars from the front to the back.

Ms. Shull stated that when applicants come before the board and are planning a new building and when the commercial building is next to residential they are directed to put up a wall. She continued that the business is next door and across the street from residential properties and asked how it is different from what is being asked. Mr. Galloway replied that WaWa did not put a wall up. Ms. Shull answered that they did put a wall up behind them. It was determined that a stucco, pre-stressed wall is behind the WaWa.

There was discussion on wall types. Mr. Spraker commented that there are a lot of places using pre-cast walls with panels, which is what WaWa and Realty Pros did and is acceptable. Mr. Galloway suggested for the board to be careful with what they say is a concrete wall.

Mr. Scudiero stated he was with Mr. Galloway, and also agrees with Ms. Shull on the area being the gateway into Central Park and added that there is a power station 100 feet away which is uglier than anything the applicant can do with their property. He commented that he did not want to create that type of expense for a small businessman.

**Ms. Shull made a motion to approve PBD 2020-013: 321 Hand Avenue, All Aboard Storage: PBD Rezoning and issuance of a Development Order, with the condition of (1) building a six (6') foot masonry wall in the front of the property with (2) a landscape plan is to be presented to staff for approval and (3) the extension of the back section of the property for additional parking, if applicable. Ms. Tolland seconded the motion. Vote was called, and the motion was approved (5-1). Mr. Galloway voted against the motion.**

**C. PBD 2020-026: 501 South Nova Road, All Aboard Storage: PBD Rezoning and issuance of a Development Order**

Mr. Spraker, Planning Director, stated that this site is an All Aboard Storage and is located at Division Avenue and South Nova Road. Behind it is a stormwater retention pond. The property had a Planned Business Development overlay district. It was mentioned that before 2004 they were overlay districts and not zoning districts. Mr. Spraker continued that the requests go from the B-8 with the overlay to the Planned Business Development to allow RV and Boat Storage. He added that the facility has a wall that screens the existing RV and boat storage. The original 1995 site plan envisioned a building that has not been built yet but it provides a screening for the RVs. Mr. Spraker showed an exhibit of the proposed locations that may change minimally but will not take up parking or block access. He showed an exhibit of the front of the South Nova property and the gate going into the complex as well as the side along Division Avenue. Mr. Spraker concluded that staff is recommending approval of the rezoning from B-8 with the overlay district of Planned Business Development to Planned Business Development to allow the RV and Boat Storage and recommends the Development Order as a permitted use maintaining the approvals from the original 1995 Resolution that allowed the development.

Chairman Thomas asked the applicant Mr. Clark if he was interested in speaking.

**Mr. Galloway made a motion to approve PBD 2020-026: 501 South Nova Road, All Aboard Storage: PBD Rezoning and issuance of a Development Order. Ms. Shull seconded the motion. Vote was called, and the motion was approved (6-0).**

**D. PBD 2020-014: 509 South Nova Road, All Aboard Storage: PBD Rezoning and issuance of a Development Order**

Mr. Spraker, Planning Director, explained that this is the site directly across the street with the same request to seek RV and boat storage. The facility was built for mini-warehouses and went through as a Special Exception. He continued that the storage use is along the building and is behind the gate. Mr. Spraker concluded that staff is recommending approval with the two actions staff is seeking of the access from Nova Road with no storage in front of the facility, only behind the walls, rezoning to the Planned Business Development and maintaining the original approvals of the 1984 and 1985 Resolutions.

Chairman asked the applicant Mr. Clark if he was interested in speaking.

**Audience Comments**

Ms. Connie Colby, 108 Roble Lane, stated that she passes the property every day and does not have a problem with what they are proposing but is concerned about drivers coming north on Nova Road turning into Division Avenue with a trailer on the back of a vehicle. The first entrance is not more than a cars length from the intersection. She continued that there are also cars parked waiting for the light to change going into the church parking lot where there is not a lot of room. She commented that she was not sure what the solution is but that it could cause a lot of traffic problems at the location with larger vehicles trying to turn in and out.

Mr. John Cox, 330 Collins Street, stated that he is at the northeast corner behind the retention pond. He continued that he has a pool and stated that he does not have a problem with them storing RV and boats but that the lot is covered asphalt and not a lot of earth there for the water to drain away. Mr. Cox asked what would happen with the grease and oil. He commented that it will go into the retention pond where it goes into his yard and pool. Mr. Cox continued that whomever engineered it that it was poorly done. He stated when it rains it fills in the retention pond, and commented that he assumes it goes through a pump because it becomes empty. Mr. Cox expressed his concern and asked if there is a plan in effect of containment being that it is all asphalt. Mr. Galloway asked Mr. Cox if he contacted the City or the City Engineer about the matter. Mr. Cox replied that he has not contacted the City, and that he only communicated with the business owner directly numerous times over the past four to five years. Mr. Galloway stated this is the reason why the Planning Board is here. He continued that between the City and the applicant the situation can be taken care of. Mr. Cox commented that he asked the City what it was, and that it was just recently established as a retention pond last year and it was vegetation prior. Prior to that there was a lot of trash in it and drains in his pool with a lot of trash, dirt and debris. Mr. Cox stated that he has pictures and videos of it. Chairman Thomas advised the applicant that they will work on getting some answers.

Ms. Susan Dowling, 339 Collins Avenue, expressed her concern about the retention pond and how it fills with water and the debris goes into Mr. Cox's pool. Ms. Dowling asked the board where on the small piece of property the RVs and boats will go. Chairman Thomas showed Ms. Dowling in the yellow area on the slide overhead. Ms. Dowling stated that she was concerned about the small area of space and stated that there is asphalt in the back and feels it will overflow. Chairman Thomas asked Mr. Spraker how it would be handled if Mr. Clark put more vehicles in a different location onsite. Mr. Spraker replied that it would have to show that it is not impacting parking, drive aisles or any other aspects. He continued that the property has been historically storing smaller trailers, not large RVs. Mr. Spraker stated that he would be more than willing to go out with Engineering and the applicant to see what has been done in the back. He commented that the property was built in the 1980's and is not sure the strength of the stormwater but will look and see what is going on between the two properties.

Mr. Galloway stated the reason this is up for discussion is because a complaint came in and this is cleaning up the Ordinances, and is not so much that the applicant plans to put 25 vehicles on the property. He continued that it is the cleanup of 25 situations within the City where vehicles were being stored. Mr. Galloway trusts that the applicant is not trying to bamboozle the board to turn the site into a parking lot of boats and cars, but believes the applicant with his reputation is showing exactly what he plans to do. Mr. Galloway expressed his concern with the retention pond.

Mr. Scudiero commented that he is not sure where else the property can put vehicles without blocking the garage base. He continued that he does not think it is going to be an explosive introduction of more boats and RVs.

Ms. Susan Dowling, 339 Collins Avenue, asked if there is only room for small vehicles onsite what the purpose of the meeting was. Chairman Thomas replied it is for housekeeping. Mr. Galloway stated that Mr. Spraker should explain why someone turned in 25 different businesses. Mr. Spraker answered that the Land Development Code only allows RV and boat storage in the I-1 zoning district. He continued that it is a very specific use and does not allow them to be by B-8 where they allow mini-warehouses. The applicant has been historically doing it and a complaint came into the Planning and Code Enforcement Departments. The only way to maintain what they have is to go through the Planning Development process. Mr. Spraker commented that they are not seeking to increase what they historically had, they are trying to legitimize it and bring it into compliance with code. Mr. Spraker concluded that they are seeking to introduce a use into their existing self-storage facility. Ms. Dowling commented that she understood, and that they are trying to correct a past mistake. Ms. Dowling stated that there are many different ways to look at something and if you are doing something wrong and make it legal she is not sure. Mr. Galloway stated that no one thought they were doing anything illegal or the City would not allow them to do it. He explained that what happened was that a private individual made several complaints about multiple locations and stated the real problem is the retention pond. Mr. Galloway concluded that it will be taken care of.

Chairman Thomas asked Mr. Clark if he would like to speak.

Mr. Clark stated that they will make sure that they get it right. He commented that the City asked him where the trailers were being parked. Mr. Clark explained and showed that the trailers were being parked along the building. He added that he will see what the retention pond needs and handle it.

Ms. Tolland asked Mr. Clark what type of garbage would be in the retention pond. Mr. Clark answered that they cleaned it up because there was overgrown brush and litter in it, not furniture from his customers.

Chairman Thomas stated that he agrees with Mr. Galloway and told the applicant that he has great businesses in the City and they are just trying to bring Hand Avenue up to his standards that he has set in the City.

Chairman Thomas entertained a motion.

**Mr. Jorczak made a motion to adopt PBD 2020-014: 509 South Nova Road, All Aboard Storage: PBD Rezoning and issuance of a Development Order. Ms. Tolland seconded the motion. Vote was called, and the motion was approved (6-0).**

**E. SE 2020-017: 1089 N. U.S. Highway 1, Boot Hill Saloon Outpost: Special Exception for Outdoor Activity**

Ms. Becky Weedo, Senior Planner, reviewed the Special Exception application for 1089 N. U.S. Highway 1, Boot Hill Saloon Outpost to allow three outdoor activity uses under certain conditions. She continued that within the staff report each of the requests are considered under the umbrella of outdoor activity and are described and analyzed separately within the report. Ms. Weedo stated that staff is requesting a separate vote for each use.

Ms. Weedo showed the aerial slide shown overhead of the Boot Hill Saloon Outpost location and the adjacent as well as the adjacent uses with residential behind the property, Hog Pens to the south, Tomoka Center to the north, and Coastal Business Park across the street. She continued that the property owner purchased the Boot Hill Saloon Outpost in 2005 and participated in itinerant activities during recognized special events with live outdoor music in unincorporated Volusia County. Ms. Weedo added that the onsite restaurant burned beyond repair in 2008 and the property owner continued operating itinerant vending and live outdoor music during recognized special event periods through itinerant and host permits from Volusia County. On August 9, 2014 the City of Ormond Beach adopted the North US 1 Interlocal Service Boundary Agreement (ISBA) which became effective on August 28, 2014. Ms. Weedo continued that even though the subject property is in the unincorporated area, the City of Ormond Beach has land use and zoning jurisdiction over the property based on the agreement. The property has continued itinerant vending and outdoor live music activity with approvals through city permits since 2015. The property was placed on the amortization list and was not able to establish a permanent use prior to the expiration date. This is the reason the owner has submitted the Special Exception application.

Ms. Weedo stated that even though the owner failed to establish the permanent business by the amortization date, she has worked to reestablish the bar by making

site and building improvements including the landscaping and parking. She continued that the property owner has been working on bringing the business into compliance and is anticipating opening the Boot Hill Saloon Outpost this month. The applicant has discussed a master plan to eventually construct a large restaurant building on the property. Ms. Weedo explained that until the site is further developed the owner would like to continue the itinerant vending and outdoor live music similar to what was allowed and permitted prior.

Ms. Weedo reviewed the request 1A – Itinerant Vending during Recognized Special Events layout slide shown overhead which illustrates the proposal of up to 24 maximum itinerant vendors including food trucks with maximum operating hours from 9:00 a.m. to 10:00 p.m. during recognized special events. A site plan and vendor list is required for each event to obtain the necessary permits. There is a 100 foot buffer planned between the vendors and the residential properties to the east.

Ms. Weedo reviewed the request 1B – Live Outdoor Music during Recognized Special Events layout slide shown overhead which illustrates the proposal of live outdoor music from 2:00 p.m. to 10:00 p.m. during recognized special events. The layout shows the location of the live outdoor music to be staged under a tent nestled in the trees.

Ms. Weedo reviewed the request 2 – Monthly Live Outdoor Music layout slide overhead which illustrates the proposal of live outdoor music up to four times per month on either Saturday or Sunday from 2:00 p.m. to 5:00 p.m. The layout shows the location of the live outdoor music on the deck as part of the Boot Hill Saloon Outpost. Ms. Weedo stated that for the live entertainment requests, the City completed a sound test on January 23, 2020 at 5:00 p.m. as part of the review and Special Exception criteria. The purpose of the test was to establish a decibel level that would be acceptable on a continuous basis. A four-piece band was staged on the deck with speakers facing south. Ms. Weedo explained that there was very little variation in decibel when music was playing and when music was not playing due to the normal noise of traffic on N. U.S. Highway 1. She continued that the music at the time of the sound test was in compliance with the adopted maximum decibel limits on the residential and north side of the property. The highest decibel was 75 on the south side with and without music playing. On the west side along the highway the highest decibel was 85 with no music and 90 with music playing. Ms. Weedo commented that it is understood that outdoor music can be altered easily. She added that the sound test did not show an impact based on the location of the stage. Ms. Weedo continued that over 15 people attended the neighborhood meeting not including staff or owner representatives. The majority of participants were from the Bear Creek Community. Some of the homeowners in Bear Creek were concerned and opposed to the additional noise that would be created by allowing outdoor music at the Boot Hill Saloon Outpost location, even with restrictions. Ms. Weedo added that complaints were primarily based on the existing outdoor music allowed at Iron Horse Saloon and Beaver Bar during recognized special events as well as air traffic noise. Others commented that they enjoyed the special events with live outdoor music and look forward to Boot Hill Saloon Outpost providing live music at their location again. One person even asked if they would be allowed to have the music played longer on the Saturday or Sunday per weekend for potential birthday or holiday celebrations.

Ms. Weedo explained the Public Hearing notification process summary and expounded on how for the neighborhood meeting the applicant mailed out letters, a News Journal ad was published and notices were posted to the City of Ormond Beach website, and the information was also included in the City Manager Weekly Report. A follow up e-mail was sent to the neighborhood meeting attendees providing additional information on the Public Hearing schedule. Ms. Weedo continued that for the Planning Board meeting the applicant posted the property, letters were mailed, a News Journal ad was published, notices and board packets were posted to the City website as well as a meeting reminder and staff report e-mailed to neighborhood meeting attendees. For the upcoming City Commission meeting letters will be mailed, an appropriate News-Journal ad will be published, and notices will be posted on the City website.

Ms. Weedo stated that staff requests that the Planning Board vote on this application with three separate votes for the proposed outdoor activities. For the **first vote**, staff recommends approval of the itinerant vending with the following conditions: **1.** During recognized special events of up to 24 vendors, including food trucks operating from 9:00 a.m. to 10:00 a.m.; **2.** Submittal of a detailed site layout plan 21 days in advance; **3.** Obtain Master host and vendor permits; **4.** Food vendors comply with all applicable local and state laws; **5.** Prohibit activities detailed in Section 2-89 of the LDC; **6.** Compliance with Section 2-89 of the LDC related to preparation, setup, inspections, and vacation of premises; **7.** The Special Exception is valid through March 3, 2023 (three years) pending approval by the City Commission on March 3, 2020.

Ms. Weedo explained the site plan shown overhead of Request 1A – Itinerant Vending during Recognized Special Events and the location of the vendor tents proposed by the applicant. She commented that staff analyzed the application against the required criteria of the Land Development Code. Within the conclusion of the staff report there are lines of reasons both for and against the proposed outdoor activity for consideration. For the **second vote**, staff recommends approval of the outdoor live entertainment with the following three conditions: **1.** Hours of entertainment during special events from 2:00 p.m. to 10:00 p.m.; **2.** If there are two code violations pertaining to the outdoor entertainment, the applicant will lose the right to continue to have outdoor entertainment as described in the conditions stated in the staff report; **3.** Since the live outdoor music is tied to special events, the special exception is valid through March 3, 2023 pending approval by the City Commission on March 3, 2020.

Ms. Weedo explained the site plan shown overhead of Request 1B – Live Outdoor Music during Recognized Special Events proposed by the applicant. The band will be staged under a tent nestled among the trees. Staff analyzed the application against the required criteria of the Land Development Code. Ms. Weedo stated that within the conclusion of the staff report there are lines of reasons for and against the proposed outdoor activity.

For the **third vote**, Ms. Weedo explained that staff recommends approval of the monthly outdoor live entertainment with the following two conditions: **1.** Hours of entertainment up to 4 times per month on either Saturday or Sunday afternoon from 2:00 p.m. to 5:00 p.m.; **2.** If there are two code violations pertaining to the outdoor

entertainment, the applicant will lose the right to continue to have outdoor entertainment as described in the conditions stated in the staff report.

Ms. Weedo explained the site plan shown overhead of Request 2 – Monthly Live Outdoor Music showing the location of the live outdoor music proposed by the applicant. Staff analyzed the application against the required criteria of the Land Development Code. Ms. Weedo stated that within the conclusion of the staff report there are lines of reasons both for and against the proposed outdoor activity.

Ms. Weedo concluded that the Land Development Code requires the application be reviewed by the City Commission. The City Commission hearing date is scheduled for March 3, 2020. Staff received public comments by e-mail after the Planning Board packets were mailed and the advertising was completed. Copies have been provided of the e-mail documents and placed on the dais in front of the board members for the record. Ms. Weedo added that the applicant is in attendance for any questions.

Ms. Shull asked Ms. Weedo about the direction of the ground layout that specifies where the vendors will be, and if the west is where U.S. Highway 1 is. Ms. Weedo replied yes, west is U.S. Highway 1, and also showed Ms. Shull overhead where the residential area was as well as the 100 foot buffer.

Chairman Thomas asked the applicant if they were interested in addressing the board.

Ms. Karin Gehris, applicant and President, Jackson Hole Saloon and Grille, Incorporated, d/b/a Boot Hill Saloon Outpost, stated that she purchased the property in 2005 and had plans of changing the property at that time but then had a fire in 2008 which destroyed the plans. She continued that now they have the option of rebuilding and changing the structure. Ms. Gehris stated that she is now asking for approval to be able to continue with the same outdoor activity as they have always carried through from 2005 forward with the restrictions Ms. Weedo aforementioned.

### **Audience Comments**

Ms. Judy Garrett, 29 Old Canyon Lane, stated that she attended the sound test and she noticed that there were two small speakers set up although in the past they have had large amplifiers. She checked the noise level on the app on her cell phone and it almost ran into the red mark of 80 and Mr. Spraker was there and commented that a lot of the noise was from the road. Ms. Garrett added that she questions the building and the fact that it burned down in 2008 and now 12 years later in 2020, there has not been anything or anyone that has tried to rebuild on the site and finds it hard to believe that it is actually going to happen and added that “it may”. Ms. Garrett stated that she would like to see proof that it is going to happen. The owner stated that it is going to be a restaurant serving food, music within the restaurant, a deck put on the restaurant where music will be played. Ms. Garrett commented that Mr. Spraker told her that there is no way the City can force the owner to build a building even though it was stated at that, and that the owner could go through their three year license and nothing could be done. Ms. Garrett continued that this area of U.S. Highway 1 is a blight to Ormond Beach. She added that since the City of Ormond Beach took it over in 2014 there have been less deaths, there have been more policing to try and curtail some of the things that have gone on there, but what she is afraid of is that now the

applicant has applied for three more events other than Biketoberfest and Bike Week, and questions what is going to stop other facilities for applying for the same thing. Ms. Garrett added that what she is seeing is instead of having two and a half weeks of it, they are going to have five to six weeks, and every weekend and does not feel it is fair to the homeowners. She stated that she does take exception that the Planning staff stated that the proposed use would not substantially or permanently depreciate the value of the surrounding properties, create a nuisance, create excessive noise or visual impact on surrounding neighborhoods and disagrees. Ms. Garrett concluded that Ormond Beach is correct in wanting to have permanent buildings along U.S. Highway 1 and supports it but asked if this area is an area that Ormond Beach wants to brag about, and commented that she did not think so and would like to work on it to make it right and as beautiful as the other areas.

Mr. Michael Tabet, 37 Sherrington Drive, stated that he and his wife live in Ormond Lakes and moved there in 2001 and are one of the more tenured couples there. He continued that they moved in prior to the Boot Hill Saloon burning down in 2008. From 2001-2008 they enjoyed all of U.S. Highway 1 up to Destination Daytona, vendors and entertainment. Mr. Tabet commented that he does not think the entertainment is that loud at all compared to the regular street and now there are more traffic problems with the number of people moving into Ormond Beach. He explained prior to moving into Ormond Lakes they researched the area and due to the entertainment chose to move into Ormond Lakes. They knew all the pros and cons and considered the entertainment a pro. Mr. Tabet asked that the board consider establishing the past and added entertainment and vendors to the area.

Mr. Hildebrand, 14 Sherrington Drive, stated that he is in attendance with his wife Susan and explained that they are in the area because they grew up in Pennsylvania and Ohio and love July and August at the Jersey Shore and did research and discovered that they can have 11 months of that kind of weather in Ormond Beach where they can drive on the beach. Mr. Hildebrand continued that they live one and three quarters of a mile north of the Boot Hill Saloon, 22 minutes from the beach, 25 minutes from the Dog Beach in Flagler and are so happy. He added that the day before they became Ormond Beach residents they had their first experience with biker culture. He explained after driving 1500 miles he had a tire destroyed in front of the Boot Hill Saloon and how bikers assisted him as well as bought him beer and burgers and sat by the vehicle with him until AAA came to assist. Mr. Hildebrand commented that now they go to biker bars all of the time. He continued that they joined the Ormond Beach Heritage Association, attended meetings to find out about the community. Mr. Hildebrand stated that he and his wife are big race fans and being close to Daytona Beach was important to them. He added that they also joined the Motor Racing Heritage Association who raised funds that built the Ormond Garage replica at the Birthplace of Speed Park. Mr. Hildebrand commented that he found the fact that he could not see the rocket annoying while being a part of the Motor Racing Heritage Association. The rocket is a steam powered vehicle that the City of Ormond Beach owns a replica of and it sits in the Ormond Garage. Mr. Hildebrand expressed his admiration for the Main Street Station and its history and how it was built in 1936 that is used routinely as an entertainment venue. He added that they had a car show on Sunday. He continued that the bikers have as about as much money invested in their bikes as he does in his house, and they are not what you see on television, they are grandfathers, grandchildren and children. It would be wise to

encourage them to come to Daytona Beach and Ormond Beach all year round for an affordable family vacation. Mr. Hildebrand urged the board to have a bigger vision, expressing how this will be the first of many applications that they get due to the change of the nature of the properties on U.S. Highway 1. He continued that he would like for the community to think about a vision for that stretch of Route 1 to become an international drive for gear heads focusing on high tech auto, high tech recreational vehicles, high tech electric vehicles, and asks that the biker community expand their focus to not only biker people as there is a car community out there as well that are local that like to show their cars off and people like to come to see them and that this is a way to attract traffic all year round, not only five weeks. Mr. Hildebrand commented that there is a local market here that is not being served and should be expanded to a higher tech and broader environment. Electric cars are going to be the performance car to have five years from now. The technology that Porsche, Audi, and GM is coming out with is going to make the Tesla look like a shopping cart. He concluded that they love to show their cars off and have a lot of money and people like to see them. Mr. Hildebrand concluded that the first stretch of Clyde Morris Boulevard is a parking lot and that Lot 7 is full of cars with guys watching the duels that he cannot watch right now. Chairman Thomas replied that he knew and that he had to give up tickets for it.

Mr. Brian Holt, 106 Deer Run Lake Drive, stated that he is favor of Boot Hill Saloon and Outpost to have vendors during special events as well as limited music other times of the year. He added that he feels that Boot Hill Saloon has set an example by dramatically improving the property. He continued that a lot of money has been spent on the property. If able to compare what it looked like prior to what it looks like now after the money that has been spent on the improvements it has dramatically improved. It now has paved driveways, and the improvements indicate the potential new businesses or prospects and how the US1 corridor is changing with opportunity for special redevelopment in that area. Mr. Holt stated that the special events are critical to the City and the County and the patrons from the special events invest in the community by buying homes, booking hotel rooms, and going to restaurants. He concluded that he is favor and explained how bike week alone is a \$75 million dollar price tag for the County, and added with Boot Hill Saloon being a legendary name, it is something to be proud of.

Ms. Gloria Gentry, 310 Wall Avenue, stated that she lives behind the Broken Spoke and that had the petition of signatures signed. She continued that she has lived there since 1973 and has seen the area grow. She added that she is representing her neighbors due to it being a race day, and concluded that they are all 'for it'. Chairman Thomas stated that in the 30 years he has been on the board he has never seen such a large list of petitions in favor of something.

Ms. Susan Hurrell, 40 Old Canyon Lane, explained that she tolerates bike week and biketoberfest. She expressed at the decibel levels the music is played at, they hear the music from the Iron Horse Saloon and the Beaver Bar. She added that she has impact glass in her house and can hear the music inside of her house and can hear what songs are being played and can sing to the songs they play which she feels is obnoxious and only tolerable. She added to have it occur more frequently will decrease property values. Ms. Hurrell suggested the board consider it wisely and that it is not a bunch of people drinking, that they 'live' there.

Ms. Tolland stated that she noticed on the petition list that there are some names that are on the peninsula side and not the Boot Hill side. She added that some of the names are eight names from the same family. She suggested that the board look at that, but expressed that the petition looks great. Ms. Shull stated that the pages she was looking at are right behind the Boot Hill Saloon. Ms. Weedo advised Ms. Tolland that she was correct and explained that there were two petitions, one of them from people in the community that are interested in being able to attend the events and how the other petition is from the residents that live behind the Boot Hill Saloon.

Mr. Galloway asked Chairman Thomas if the board was going to vote in three separate votes and if they are going to talk about it all at one time or based on each individually. Chairman Thomas asked Attorney Hayes for direction. Attorney Hayes explained it was the board's discretion but stated it may be easier to compartmentalize them. The board unanimously decided one at a time would be best.

Ms. Tolland asked what is allowed at the Iron Horse Saloon for comparison. Ms. Weedo replied that the LDC adopted and amended in 2015 for the itinerant vending and live outdoor music allowed activity to occur during the recognized special events of Bike Week, Biketoberfest, race weeks, and July 4<sup>th</sup>. She continued that this request is asking for all of those special events with the addition of Jeep Beach and the Turkey Run. Ms. Weedo added that the live outdoor music entertainment was also allowed during those special events and is what is being asked for here. In addition to the live outdoor music they are asking for acoustic or other types of musicians on a Saturday or a Sunday and have the ability to participate in community or charity events. Mr. Thomas asked if the Turkey Run and Jeep Beach were added if it would also be in place for other places. Ms. Weedo replied no, that it is site specific. Ms. Tolland stated that it would set a precedent and that other places would have to go through the Special Exception process and be heard by the board.

Attorney Hayes explained to the board that they are here based on events that occurred in 2010 when the City acquired jurisdiction over unincorporated properties in the County based on the County's lack of enforcement of certain events which does not strictly pertain to itinerant vendors but some land uses that they were approving and that the City had to clean up (Cheaters). Attorney Hayes continued that in 2010 the City put the County on notice that they were going to renegotiate that agreement which culminated in an interlocal agreement between the City and the County where the City took over the jurisdiction of properties and the unincorporated territory of the County along North U.S. Highway 1 and allowed the City to annex some of the properties and bring them into the jurisdiction and apply the City's land use codes to the uses. It also included the itinerant uses of concern to some of the residents at the time in which one of them was Iron Horse Saloon. The City worked with the property owners of some of the businesses and came up with a set of criteria for itinerant vendors in the North US 1 corridor which was part of the interlocal agreement that was approved in 2014. In 2015 it was codified in the Land Development Code. Attorney Hayes explained that what they were trying to accomplish at the time is cleaning up the County's mess and attempted to identify the permanent businesses on the North US 1 corridor on a year round basis that were engaged in itinerant vending activities during special events. A list was created and those properties were grandfathered in perpetuity so that they are allowed to engage in itinerant vending during the events. Attorney Hayes commented that the County also approved itinerant vending permits on vacant properties and properties where

there was no permanent business and the goal was not to allow that to continue in perpetuity. The City adopted a five year amortization schedule, within which they could establish a permanent building on those sites but that if they did not do so they would be forever foreclosed from having itinerant vending on those properties again. Attorney Hayes stated that the idea was to encourage property owners to improve their properties and to engage in permanent businesses in which some have. He continued that his reading of the material is that the property owner missed the deadline but has continued to make improvements to the property and is asking for a Special Exception Permit in order to continue in the itinerant vending activities. The Land Development Code specifies the uses that are and are not allowed. Attorney Hayes expressed that a couple of the uses that the property owner is asking for are not in the Land Development Code and suggested to the board that if they are inclined to do it they can go back and amend the code to include them.

Ms. Catherine Forrester, 37 Old Canyon Lane, stated that when she moved to Ormond Beach and knew the City was about bikers and Nascar and was aware of the negatives and positives. She continued that on an average a biker spends two thousand dollars. She commented that was very good but has also been in support of that area to be classy not trashy. Ms. Forrester asked if a traffic impact study had been done for the area being that there is a lot of traffic and people have died crossing the street. Ms. Forrester asked who will pay for the police when the events take place and if everyone in Volusia County will have to pay out the cost for the people that decide to have a good time in the area. Attorney Hayes replied that the County is responsible for traffic control on the State and County roadways. Ms. Weedo answered that each of the hosts are required to have a pedestrian and security plan and pay for the sheriff's deputies that do the detail.

Mr. Galloway stated that he is a property rights activist and he does not have a problem with itinerant vending but does have a problem with giving them additional days that other people have not also received. He expressed that he does not feel it is fair to let a new applicant have three extra times, when other applicants and vendors have been there continuously. Mr. Galloway stated that he is fine with one extra time as long as they are treated the same as everybody else. He concluded that he is fine with the dates they are already permitted.

Mr. Jorczak commented that he agrees with Mr. Galloway and wonders if the events will help the development of that area over the long run or if it will improve the economics for the applicant. It will generate additional traffic over the weekend. He added that the City did a good job of laying out the compliance of this event with the other businesses out there. He concluded that once the door is opened there will be more activity, more traffic and more impact.

Ms. Shull stated that she agreed with some of the aforementioned comments but does not see speed weeks, Turkey Run, or Jeep Beach Week bringing a lot of traffic into the area and commented that the bikers are the biggest draw there. Ms. Shull agreed that she did not think it was fair that the other people have done their job, got their applications in on time, and is not sure if the owner has written plans. Mr. Spraker stated that they are establishing their permanent business now and future plans.

Ms. Tolland commented that she is in agreement with Mr. Galloway and Mr. Jorczak and thinks they should start slow, and with where the other businesses are.

Mr. Scudiero stated that he does not like the addition, but is fine with race week, Bike Week, and Biketoberfest. He does not think Jeep Beach will bring many people to that area as they are bigger on beachside.

Chairman Thomas expounded on Jeep Beach and Turkey Run and how popular they are now. He continued that cars and people will be on U.S. Highway 1 regardless if music is allowed or not. He agreed with Mr. Galloway that it is not fair to the people that are there now to come back and say that they are permitted for this, but others are not, and make them apply for an application and the cost of it. Chairman Thomas concluded that he feels the board is all in agreement to stick with the dates that they have.

Mr. Galloway stated if they come back, he is not saying he is not in favor but for everyone to play on a level playing field.

Attorney Hayes stated that if the board does not have a problem with adding the Turkey Run and Jeep Beach, another way to address this would be to add those events to the Land Development Code and then grandfather within the code provision those properties that have been issued Development Orders. This way separate applications would not have to come before the board, if interested.

Mr. Galloway commented that it gets back to the principal of why it was not offered to other businesses two to four years ago and now have a new applicant that has not even built a new building yet with others that have been paying huge tax dollars on a building property. Mr. Scudiero replied that he did not think Jeep Beach existed more than a few years ago.

Attorney Hayes stated that the regulations are a direct byproduct of the fight with Volusia County over specific uses that started in 2010. Jeep Beach Week and other events were not around then, and there were no events on North U.S. Highway 1 related like the Turkey Run. Attorney Hayes concluded that it comes down to what the vision of what the Planning Board and City Commission have for the North US1 corridor.

Chairman Thomas asked if any of the other establishments in that area have asked for anything since this item has come up. Ms. Weedo answered no, that she has not been contacted. She also added a comment to what Attorney Hayes mentioned about recognized special events and how they were what the County adopted previously. The City adopted what the County had previously adopted. Ms. Weedo commented that the Ormond Outpost Special Exception was approved for itinerant vending for the recognized events and two weekends per month. They too wanted to participate in Jeep Beach, as they have recreational vehicles. Chairman Thomas stated we are modifying things and allowing things that were not available to the original people that came in under the three or four events.

Mr. Galloway stated that if it can be assured that it can be grandfathered in and will go across the board to everybody that he has no problem with it.

Ms. Shull asked if Destination Daytona is included in the section of U.S. Highway 1 and if they have all of the aforementioned events. Mr. Spraker answered yes, they are a recognized host vendor, and that they do, as well as additional events through

their Development Order that was approved through Volusia County. Mr. Spraker stated that there are two issues, an agreement that during the recognized host event it is appropriate for this site to have it, the second is if the corridor should be expanded for additional events. He continued that there may not be policy direction or the ability for it tonight and it can be looked at corridor wide and include any Special Exceptions that they were given after, including this one, if approved. More policy direction may be needed from both the Planning Board and the City Commission.

Attorney Hayes stated that he sees a potential issue that staff will have to evaluate in that one of the issues that was fought hard with the County is who maintains traffic control during the recognized special events on state and county roads. The County was insistent that the City was going to do that in which the City disagreed. It is in the interlocal agreement that the City does not. Attorney Hayes mentioned that if additional uses are added beyond the footprint of those recognized special events that the county was recognizing, it creates an opportunity for the County to come back and say that the City is not expanding the uses beyond the footprints and is now responsible for paying for traffic control and law enforcement. Mr. Spraker added that it would have to be part of the data analysis of whether or not it is an appropriate change.

Attorney Hayes replied that long term he thinks it is fair to treat the businesses on equal footing. Staff needs to understand all of the potential impacts for increasing a footprint of uses beyond those recognized events that the City was fighting with the County on years ago. Additional costs may impact the City as a result. Attorney Hayes concluded that if the board is so inclined to grant the applicant's request, to grant it solely for the recognized events that are currently described in the Land Development Code. Chairman Thomas agreed and commented that they were looking to do so in the first place.

Mr. Kenneth Gardner, 26 Forest View Way, stated that he owns a four wheel drive lighting company and how Jeep Beach is important to him. He continued that he understands what is being said but asks that it is visited to expand the special events to include it in the future. Mr. Gardner concluded that the other events like Biketoberfest, Spring Turkey Rod and Jeep Beach did not exist or were in their infancy when they bought their property in 2016.

Ms. Kathleen Lazarus, 10 Blockhouse Court, stated that she lives in Ormond Lakes and wanted to speak on what Attorney Hayes said, and that she has lived in Ormond Beach for 30 years. They moved from Ormond Beach to Daytona Beach at one time and returned back to Ormond Lakes after carefully researching the area and the zoning. Ms. Lazarus commented they were particularly excited about the gateway project that was going to create a beautiful commercial mixed residential zone north of the city. She added that they are not Bike Week fans but tolerate it for two to three weeks. She continued that she and her husband wrote letters explaining their concern and how this exception violates the 2015 code which was designed to create the gateway in the north of the city. According to the code a Special Exception has to be compatible with the character of the surrounding area. Ms. Lazarus commented that the surrounding area is not a year round entertainment area. She explained that she loves year round entertainment areas and goes to them but did not want to live in one. The other Ordinance according to Division 2, Section 286 of the Ormond Beach Code says "Outdoor entertainment activity permit shall mean a permit issued for outdoor

entertainment activity, this is to occur on the property of the primary business and for temporary duration as specified in the permit.” Ms. Lazarus stated that temporary duration is not for entertainment every single weekend. She added she needed to speak out concerned about Attorney Hayes comment on how what happens with one business sets precedent, and that it may happen with the whole corridor. Ms. Lazarus commented that they like their corridor and like the way it is after researching it prior to their move to Ormond Lakes. She stated that she likes Bike Week but does not want to live in an entertainment zone. Ms. Lazarus continued that the area has so much to offer, so many good businesses, and good permanent restaurants that pay taxes. She added that there are over 600 houses in their subdivision and most of them live there because they like the environment and asked the board to take time to consider what they are doing to a whole area of the City which has so much potential, better development offering, good strong jobs than an entertainment district.

**Mr. Scudiero made a motion to approve SE 2020-017: 1089 N. U.S. Highway 1, Boot Hill Saloon Outpost: Special Exception for Outdoor Activity, Recommendation #1, 1A, Itinerant Vending, during recognized special events excluding Jeep Beach and the Turkey Run. Ms. Shull seconded the motion. Vote was called, and the motion was approved (6-0).**

Mr. Galloway commented that Attorney Hayes stated something important regarding how staff should address the possibility of adding more events and if it will cost more out of local tax dollars.

There was discussion amongst the board on the entertainment times.

Ms. Weedo commented that the itinerant vending is 9:00 a.m. to 10:00 p.m., the live music is 2:00 p.m. to 10:00 p.m., and other venues do not have a Development Order that restricts them. Attorney Hayes stated that they were permanent businesses. Iron Horse Saloon for instance, is a year round entertainment venue.

Mr. Galloway stated that he received phone calls regarding invasive noise issues and commented on how when River Grille went in they were only allowed a two to three piece band with no amplifier due to the noise level. Another restaurant Topsy Taco was told the same and are limited. In the complaint he was told they did the decibel sound test and was told that if there are two complaints they lose it for all. Mr. Galloway asked what happens if they bring in the large speakers and blast the music out. He continued expressing his concern for the citizens, property rights and invasive noise and the applicant needs to clearly understand the time restrictions and noise level. Mr. Galloway asked Mr. Spraker if the number of band members can be limited. Mr. Spraker answered within the board packet on page 10 the outdoor live music Special Exception applications that have been approved are listed. He continued that the unique thing about this in addition to the code enforcement provision is that it is only for a three year period and is not a permanent approval. If the business willfully violates or shows other bad faith when they come back through the Planning Board and City Commission has the right to restrict or deny their use.

Mr. Scudiero expressed that this is not going to be an ACDC concert, and that it is designed to be a smaller musical situation.

**Mr. Scudiero made a motion to approve SE 2020-017: 1089 N. U.S. Highway 1, Boot Hill Saloon Outpost: Special Exception for Outdoor Activity, Recommendation #2, 1B, Live Outdoor Music during recognized special events excluding Jeep Beach and the Turkey Run. Ms. Tolland seconded the motion. Vote was called, and the motion was approved (6-0).**

Chairman Thomas asked for the board to entertain a motion on recommendation #3.

Ms. Tolland commented that she agrees that the board needs to envision as a board how they want US1 to grow and votes no for recommendation #3, and it is not how she would like to envision US1.

Mr. Galloway stated that he had a lot of calls on this matter. Mr. Spraker stated that there are other businesses that have been approved for this process for outdoor music and that it is within the board's discretion. River Grille is an example of where outdoor music is permitted under certain conditions. He explained that there have been other uses that were allowed outdoor music but that the board can restrict it, deny it, modify it, or put parameters on it, see what happens and let them come back in three years. Other uses that have been allowed have been the Beach Bucket, Ormond Brewery, Riptides, Dimitri's, The Grind, and River Grille. Woodstock was denied.

Mr. Galloway commented that the Beach Bucket closes at 9:00 p.m. He asked about the Beaver Bar. Mr. Spraker replied if they are doing it outside of the scope of special events then they are not permitted.

Mr. Scudiero asked Attorney Hayes about the Iron Horse and their agreement history with the County. Attorney Hayes answered that they were one of the few recognized permitted businesses under the County's jurisdiction. The City did not want to penalize those people and wanted to recognize those uses and grandfathered them in. He continued that the City wanted to eliminate blight by prohibiting vacant land or land with building with no permanent businesses only opening during special events. The City wanted to create an incentive for property owners to improve their properties by creating permanent businesses and created an opportunity for them to apply for these types of applications.

Chairman Thomas asked if there was a way to limit instruments and decibels. Mr. Spraker answered that outdoor music is an outdoor activity, specifically defined in the Land Development Code. While the focus is on North US 1, this is a City wide issue and anyone who wants to do outdoor music has to go through the process of a sound test and Special Exception. Chairman Thomas asked if a limit could be set on daily entertainment music of 55 to 25 decibels as an example. Mr. Spraker replied that it would be a policy decision and would need to be in the Land Development Code. Ms. Shull asked if it could be handled by stating no more than two live performers. Mr. Spraker replied through the current process it is through a Development Order through a Special Exception. He added that the live music could also be done inside.

Mr. Galloway stated that one of the complaints that he received was from a family with young kids about the Beaver Bar and their DJ and how as the night went on the louder he got including profanity. He continued that he was surprised that they are

not permitted to have live outdoor entertainment and that this is happening. Mr. Spraker stated that there has not been a complaint to activate code enforcement or the police. Once the complaint takes place there is an investigation. Mr. Spraker stated that the request is from 2:00 p.m. to 5:00 p.m. four times per month, and it is up to the board to determine if that is appropriate or not.

Mr. Scudiero commented that when you look at the list, considering the times of 2:00 p.m. to 5:00 p.m., four times a month, which it is mild compared to the other exceptions that have been granted over the past 12 years. He continued that he would be in favor of allowing it and putting faith in the staff to properly enforce. There was concern on the decibel levels. Mr. Spraker stated the decibel codes can be found on page 6 of the staff report, next to residential from 7:00 pm – 10:00 p.m. the decibel level is 60 decibels, and next to commercial it is 65 decibels.

Ms. Tolland added that the projects listed on the sheet are established restaurants and is not sure if the Boot Hill Saloon is going to be a restaurant. Mr. Spraker replied that they are licensed as a bar but will serve some food. He added that the Grind is a type D restaurant with their food sales at 25 percent, and the others on the list are restaurants. Mr. Scudiero asked about the Ormond Beach Brewery. Mr. Spraker stated that they are a tasting room with limited food.

Mr. Galloway stated that Ormond Brewery, Beach Bucket, Riptides, Dimitri's, The Grind, and River Grille have no more than two people in the band. He added that Paul Scott does not get over 22 decibels when he performs. He continued that he is okay to support it but only if limited to the same number of performers as with the aforementioned establishments, four times a months, Saturday and Sunday.

Chairman Thomas entertained a motion.

**Ms. Shull made a motion to approve SE 2020-017: 1089 N. U.S. Highway 1, Boot Hill Saloon Outpost: Special Exception for Outdoor Activity, Recommendation #3, 2, Live Outdoor Music up to four times per month on either Saturday or Sunday from 2:00 PM – 5:00 PM with the additional condition that no more than two live performers be allowed. Mr. Scudiero seconded the motion. Vote was called, and the motion was approved (5-1). Ms. Tolland voted against the motion.**

**F. SE 2020-021: 1170 N. U.S. Highway 1, Custom Lighting Efx: Special Exception for Outdoor Activity**

Ms. Becky Weedo, Senior Planner, explained that this is a Special Exception application to allow itinerant vending during recognized special events at 1170 N. U.S. Highway 1. Ms. Weedo showed an aerial view overhead of the property of Custom Lighting Efx at 1170 N. U.S. Highway 1 and an aerial of the adjacent uses, Playtex Manufacturing to the north, Luna Creek to the south, The Railroad to the west, vacant commercial and Smiley's Tap across the street. She continued that the property owner has been operating the full service lighting company specialized in LED lights for motorcycles with an emphasis on safety for over eight years. The business was originally located in Holly Hill and moved to Ormond Beach in 2016. Ms. Weedo added that the property owners travel to locations around the country participating in special events to promote their products. The owner would like to

continue developing the site by providing a venue during special events promoting products and services with up to 12 vendors and 2 food trucks from 9:00 a.m. to 9:00 p.m. Ms. Weedo showed a diagram overhead of the proposed vending area. Ms. Weedo concluded that staff recommends approval of the itinerant vending with the following conditions: **1.** During recognized special events of up to 12 vendors, including the two food trucks operating from 9:00 a.m. to 9:00 p.m.; **2.** Submittal of a detailed site layout plan 21 days in advance; **3.** Obtain Master vendor permit; **4.** Food vendors comply with all applicable local and state laws; **5.** Prohibit activities detailed in Section 2-89 of the LDC; **6.** Compliance with Section 2-89 of the LDC related to preparation, setup, inspections, and vacation of premises; **7.** The Special Exception is valid through March 3, 2023 (three years), pending the City Commission approval.

Ms. Weedo stated that the LDC requires the application be reviewed by the City Commission. The City Commission hearing date has been scheduled for March 3, 2020. Ms. Weedo asked if anyone on the board had any questions.

Chairman Thomas asked if the applicant would like to speak.

Mr. Kenneth Gardner, applicant, 26 Forest View Way, stated that they have been vendors for eight years themselves. He continued that they own a brick and mortar company and are retail animals and have dealers and are familiar with the vendor world. He continued that they are trying to help out and make the corridor better. He added that U.S. Highway 1 is an optimal place to create a good environment for vending and want to give opportunities to friends too small to go to the bigger sites.

Mr. Galloway commented he understands why Mr. Gardner had a concern with Jeep Beach and reassured him that he does not have a problem with Jeep Beach and added that perhaps the City will go back and add it.

Ms. Shull asked if they will be offering bike or central parking. Mr. Gardner answered no, that they are too small. He added that the parking will be in the back as seen overhead and have plans to barricade the property. He also added that they have a 6 foot deep ditch on the property.

**Mr. Galloway made a motion to approve SE 2020-021: 1170 N. U.S. Highway 1, Custom Lighting Efx: Special Exception for Outdoor Activity, excluding Jeep Beach and the Turkey Run. Mr. Jorczak seconded the motion. Vote was called, and the motion was approved (6-0).**

## **VIII. OTHER BUSINESS**

Mr. Jorczak asked how the City is doing with traffic calming between A1A and Interstate 95. Mr. Spraker answered that he does not have the exact information and stated that Engineering is working on it for this fiscal year. It is underway and they are doing preliminary work but are having trouble finding a vendor. Mr. Jorczak commented that traffic is moving expeditiously until U.S. Highway 1.

Mr. Thomas commented how he hit all of the traffic lights from the Trails all the way up to the Interstate.

Ms. Shull asked what is connected on the light poles on Nova Road near Publix. Mr. Spraker replied that it could be a wifi connector. Instead of building huge towers, they are using them on utility poles.

## **IX. MEMBER COMMENTS**

Mr. Galloway thanked everyone in the audience for their input and stated there were tough decisions that could have huge ramifications that the board has to look at. He reminded them that it will go on to the City Commissioners. Mr. Galloway commented that he has probably ate 20 steaks at the Iron Horse, and stated that they are not against them and are trying to be fair to all.

Mr. Scudiero suggested going back to Attorney Hayes idea on a future meeting to explore the process to amend the Land Development Code to include other Special Events for consistency.

Ms. Tolland commented that she would like the board to meet with staff to discuss how everyone wants to see the City grow similar to what was done with the Downtown Master Plan Update. Ms. Tolland apologized that she said no on the item she disagreed with. She explained it is not that she does not love music and having fun, but wants to be comfortable in how the area grows. She stated that she would like to see the Comprehensive Plan and would like to have a discussion with the board and staff. Chairman Thomas agreed that there needs to be a workshop. Ms. Tolland expressed interest in knowing more about the major gateways. Chairman Thomas stated that he has requested a joint workshop with the City Commission but has not heard anything.

Ms. Shull stated that she agrees with Ms. Tolland since there is so much growth in the City, and believes it would be great to talk to the commissioners directly and share ideas.

Chairman Thomas asked Mr. Spraker about the possibility of scheduling a meeting for staff and the Planning Board being that they cannot talk to each other about items that come before the board. Mr. Spraker asked what information the board is looking for. He asked if it would be a workshop and general discussion or specific information. The board replied that they are interested in a workshop on the U.S. 1 corridor.

Ms. Tolland added that traffic is always an issue.

Mr. Spraker asked what the board was looking for in a packet. Chairman Thomas replied that they did not want a packet and only a discussion.

Attorney Hayes commented that the City tries to stay ahead of the curve and stated that the board and the City Commission needs to focus their attention on their division for the North US 1 corridor where Ormond Crossings is on the other end. He added that he can give a 20 year history on the Ormond Crossings project too. Attorney Hayes continued that another aspect is western growth, looking at State Road 40 as a dividing line. The growth south of State Road 40 occurs in Daytona Beach, the growth north of State Road 40 occurs in Flagler County and the Flagler County portion of Hunters Ridge. He explained that those two areas out west are separate

but there are some converging points and issues of common interest. He commented that would be a focus for everyone's attention.

Chairman Thomas expressed the interest in discussion with staff and the Planning Board to understand better. Mr. Spraker asked if the board would be open to attending the workshop prior to the 7:00 p.m. meeting at 5:30 p.m. on March 12, 2020 in the City Commission Training Room. Attorney Hayes stated that he and Mr. Spraker will talk about the request with the City Manager. Mr. Spraker advised the board that they will start the discussion with the North US1 corridor and provide general information on Ormond Crossings.

Attorney Hayes reminded everyone of the history of the US1 corridor and how the first agreement with the City and Volusia County that they had for the US1 corridor was in 1991. He added that there was an interlocal agreement between the City and Ormond and Daytona Beach on the first utility service area, Hunters Ridge in 1991. He continued on with Riverbend Golf Course in the early 1990's and then the North Peninsula in the early 1990's, and how a lot of seeds got planted in the late 1980's and early 1990's and now you can see how much Volusia County and the area has grown since the first interlocal agreements. Attorney Hayes concluded that the issues being dealt with now were born back in the late 1980's and early 1990's and beyond, the reason for the importance of the historical context to understand the issues that the City is being faced with.

Ms. Tolland commented that she wants to see it bigger.

Mr. Galloway brought up the subject of Avalon and Ormond Crossings. He commented that Hunters Ridge was only back in 2009 and is only half way done. The two corridors could be up to 10,000 homes.

Ms. Tolland welcomed Noel Eaton, new Senior Planner again.

Mr. Galloway stated that when he heard about water flowing from one person's property into another person's property that it is a wakeup call. He commented that the property was originally a sewing plant. Mr. Galloway concluded that it is important for staff to answer those property owners and offered to assist.

## **X. ADJOURNMENT**

The meeting was adjourned at 10:13 p.m.

Respectfully submitted,

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Steven Spraker, Planning Director

ATTEST:

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Doug Thomas, Chairman

*Minutes transcribed by Marcella Miller.*

DRAFT