

STAFF REPORT

GENERAL INFORMATION	NATIONAL ADVERTISING COMPANY & GLENN N. SMITH, ESQ., APPELLANTS 1675 DIXON ROAD LONGWOOD, FL 32779	SEMINOLE COUNTY LAND DEVELOPMENT CODE (LDC); SECTION 30.1251
BACKGROUND / REQUEST	<ul style="list-style-type: none"> • The subject outdoor advertising sign is an existing nonconforming billboard, which is an unpermitted use in the A-1 (Agriculture District). • On August 20, 2004, a visual inspection of the sign, following Hurricane Charley, revealed that the billboard had been dismantled by the appellants for repairs and/or reconstruction following damages by the storm event. A stop work order was thereby issued by the Building and Fire Prevention Division. • In a letter dated August 26, 2004, the Planning Manager informed the appellants of the billboard's nonconformity in the A-1 District and the inability to replace or repair the structure, which visually appeared to have more than 50 percent of its components damaged following Hurricane Charley. <ul style="list-style-type: none"> ○ Section 30.1249(c)(5) of the Seminole County Land Development Code states that the number of advertising signs in unincorporated Seminole County shall be reduced if an existing structure which is nonconforming due to zoning is removed by destruction, damage or any other casualty of fifty (50) percent or more of the support structure or fifty (50) percent or more of the sign face. • The appellants were provided 30 days to remove the billboard or the matter would be referred to the Code Enforcement Board. • On September 24, 2004, the appellants appealed the Planning Manager's decision to the Board of Adjustment for interpretation and argued that billboards are permitted uses in the A-1 District. • The Planning Division is also working in collaboration with the Building and Fire Prevention Division to institute further code enforcement action against the appellants for billboard reconstruction in violation of a stop work order. 	
STAFF FINDINGS	<ul style="list-style-type: none"> • Staff has determined the billboard was issued a Department of Transportation (DOT) permit in 1969, the year when the state began regulating outdoor advertising signs. Staff believes the existing billboard was erected in 	

that year, since there are no other available Building records to confirm or deny the same.

- In 1969, outdoor advertising signs were a permitted use in the A-1 District, which staff believes encompassed billboards at the time. Subsequent amendments to the code rendered the existing sign a nonconforming use.
- The appellants allege that by virtue of (attached) Executive Order No. 04-182, which declared a state of emergency throughout the State of Florida and authorized emergency repair/replacement/restoration of structures damaged by Hurricane Charley (including billboards), the subject billboard was legally repaired and/or replaced.
 - The Executive Order authorizes the repair, restoration or replacement of structures (including billboards) affected by Hurricane Charley without prior notice to the Department of Environmental Protection. Because the existing advertising sign is not located in an environmental resource area where a permit is required by the Department of Environmental Protection, staff does not believe the order is applicable.
- The appellants further assert that outdoor advertising signs are allowed in any non-residential zoning district, including A-1 under a code section that is irrelevant to determining the conforming status of the billboard in question since the same is not a part of an approved billboard agreement.
- Part 7, A-1 (Agriculture District) of the LDC prohibits the establishment of outdoor advertising signs (billboards) either by right, through limited use or special exception.
- Staff has determined the existing billboard to be a nonconforming sign, erected prior to the adoption of the current standards which prohibit the same.
- Section 30.1251 (Reconstruction of Damaged or Destroyed Existing Structures) of the LDC prohibits the reconstruction of a nonconforming billboard (due to zoning).
- Field visits on August 20, 2004 confirmed damages to the existing billboard, which visually appeared to require reconstruction. The attached photographs depict the visual findings of the field visits, including repairs to the structure that were being conducted at the time of inspection by staff. Some of the photographs show that the billboard was completely dismantled.
- In the attached memorandum dated December 6, 2004, the County Attorney's Office issued an opinion supporting

	<p>the Planning Manager's decision to deny the reconstruction of the subject billboard in the A-1 District based on its nonconforming status.</p> <ul style="list-style-type: none"> • As stated in the memorandum, the Board of Adjustment made its decision whether to uphold or reverse the Planning Manager's decision that the billboard is nonconforming due to zoning.
BOARD OF ADJUSTMENT DECISION	At its December 13, 2004 regular meeting, the Board of Adjustment affirmed the Planning Manager's denial of the reconstruction of a nonconforming outdoor advertising sign in the A-1 (Agriculture District).
STAFF RECOMMENDATION	Based on the stated findings, staff recommends the Board of County Commissioners uphold the Board of Adjustment's affirmation of the Planning Manager's denial of the reconstruction of a nonconforming outdoor advertising sign in the A-1 (Agriculture District).

- ATTACHMENTS:** LEGAL OPINION FROM COUNTY ATTORNEY'S OFFICE
PHOTOGRAPHS & SUPPORTING DOCUMENTATION
APPEAL APPLICATION TO BOA
CORRESPONDENCE
EMERGENCY ORDER
PROPERTY APPRAISER REPORT
SITE MAP
APPLICABLE LDC SECTION
DECEMBER 2004 BOARD OF ADJUSTMENT MEETING MINUTES



COUNTY ATTORNEY'S OFFICE
MEMORANDUM OPINION

TO: Mike Hattaway, Chairman, Board of Adjustment
Lila Buchanan, District 1, Board of Adjustment
Mike Bass, District 1, Board of Adjustment
Dan Bushrai, District 2, Board of Adjustment
Wes Pennington, District 4, Board of Adjustment
Alan Rozen, District 5, Board of Adjustment
Bob McMillan, County Attorney
Don Fisher, Deputy County Manager
Matt West, Planning Manager
Earnest McDonald, Principal Coordinator, Planning and Development

DATE: December 6, 2004

FROM: Arnold W. Schneider, Assistant County Attorney

APPLICATION: Board of Adjustment Meeting of 12/13/2004

AGENDA ITEM

Continued hearing re: appeal of the Planning Manager's decision regarding reconstruction or repair of a nonconforming outdoor advertising sign.

ISSUES

The Board of Adjustment (BOA) has raised several concerns, however, the question before the BOA is whether to uphold or reverse the Planning Manager's decision that the subject billboard is non-conforming due to zoning.

ANSWER

The agenda package includes a letter dated August 26, 2004 from Mr. West to Mr. McHugh which makes three essential points: (1) the subject billboard was damaged more than 50%; (2) the subject billboard is located in an A-1 zone and is therefore non-conforming, and (3) failure to remove the billboard will result in Code Enforcement proceedings. In response an appeal letter dated September 23, 2004, was received, a copy of which is in the agenda package. The appeal letter raises two points: (1) the billboard was not non-conforming due to zoning as LDC §30.1253(d) (adopted by Ordinance 2003-20) authorizes billboards in any area having non-residential zoning (A-1 not carrying a residential designation), and (2) a State of Florida Emergency Order

authorizes replacement of the structure. Noticeably absent is any claim that the billboard was not damaged or that the damage was less than 50%.

It is the opinion of this office that neither point on appeal has any merit and that the Planning Manager's decision should be upheld. Each point will be addressed separately.

LDC SECTION 30.1253(d)

While the appellant correctly states the essence of the particular LDC subsection, the citation is taken out of context. Ordinance 2003-20 created LDC §30.1253 to authorize sign agreements whereby at least four (4) existing signs would be taken down in exchange for permission to construct one (1) new sign. As part of such a sign agreement, a new sign is allowed to be constructed in any non-residential zoning district if the Board of County Commissioners finds such location to be in the public interest. It is this office's opinion that subsection (d) cannot be read independently of the balance of section 30.1253 and, accordingly, is of no benefit to appellant as there is no sign agreement, four old (4) signs have not been removed and replaced by a single new sign and the Board of County Commissioners has not approved the location of the instant sign as being in the public interest.

THE EMERGENCY ORDER

Appellant cites First Amended Emergency Final Order OGC NO. 04-1258 dated August 20, 2004, as authority to rebuild the sign. Again, this is of no benefit to the appellant. While it is true that Section 6.a.(1)(f) defines structures to include billboards and Section 6. authorizes the repair, replacement or restoration of structures, that authority is "subject to the limitations in this order." Section 11 contains a significant limitation: "Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, water management district, or local permits or other authorizations that may be required." Clearly, the Emergency Order does not supersede County regulations or authorize reconstruction of billboards not allowed under County regulations.

THE BOA DECISION

The BOA must decide whether to uphold or reverse the Planning Manager's decision that the billboard in question was non-conforming due to zoning. In our opinion, nothing argued by the appellant is sufficient to support reversing that decision. In our view, the issue of the extent of damage to the sign is not before the BOA. If the matter is taken to the Code Enforcement then that issue may be important to the considerations and conclusions of that Board.

CHIKIN. 4 MOR YEERS.

New Chargrilled Sandwich Chick-fil-z

VIACOM

000377

061-1-2004



OCT 7 2004

1675 DIXON ROAD
Viacom Outdoor/Glenn N. Smith

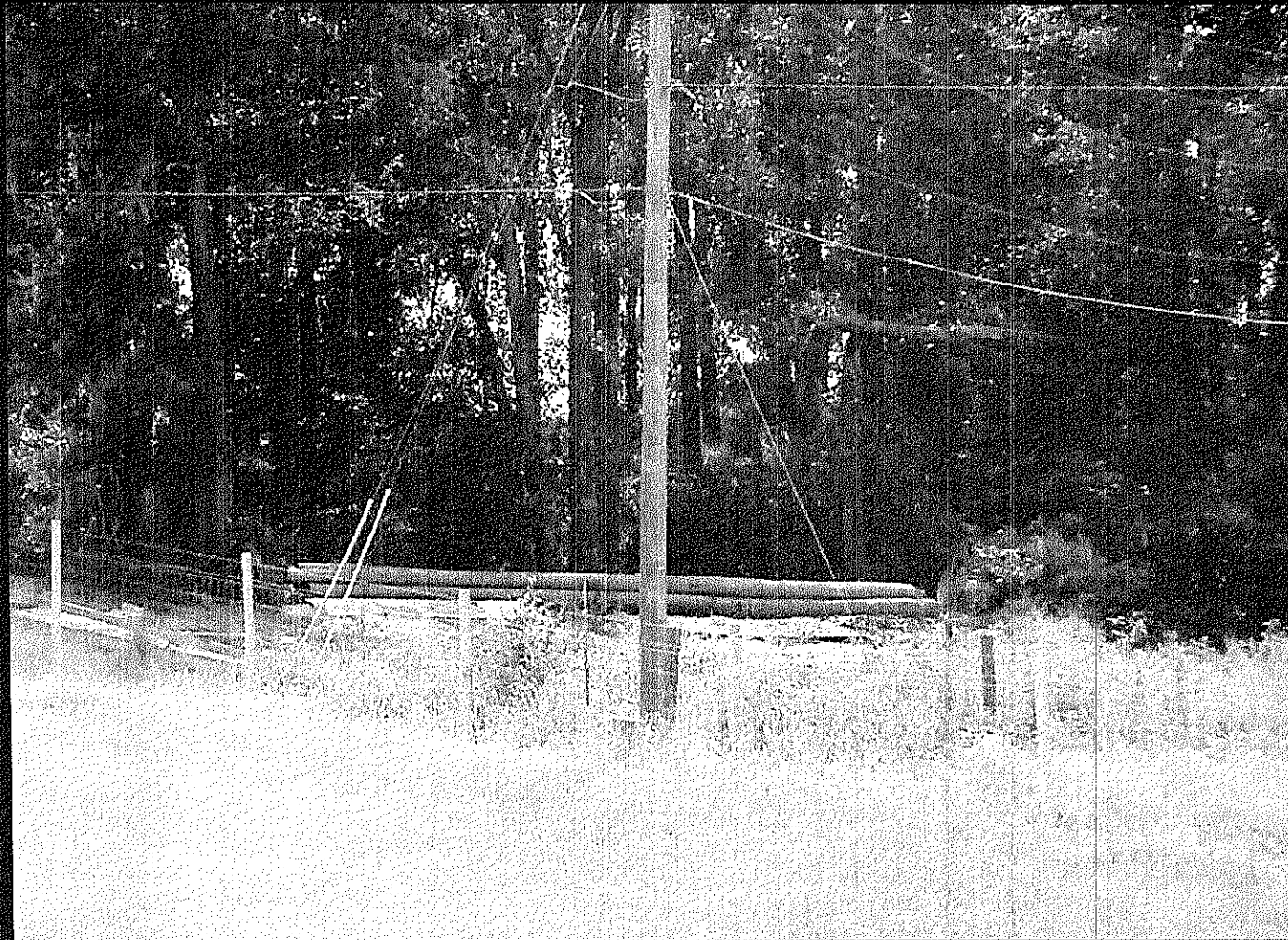


Photo taken on 8/20/04

BA2004-002

1675 DIXON ROAD
Viacom Outdoor/Glenn N. Smith

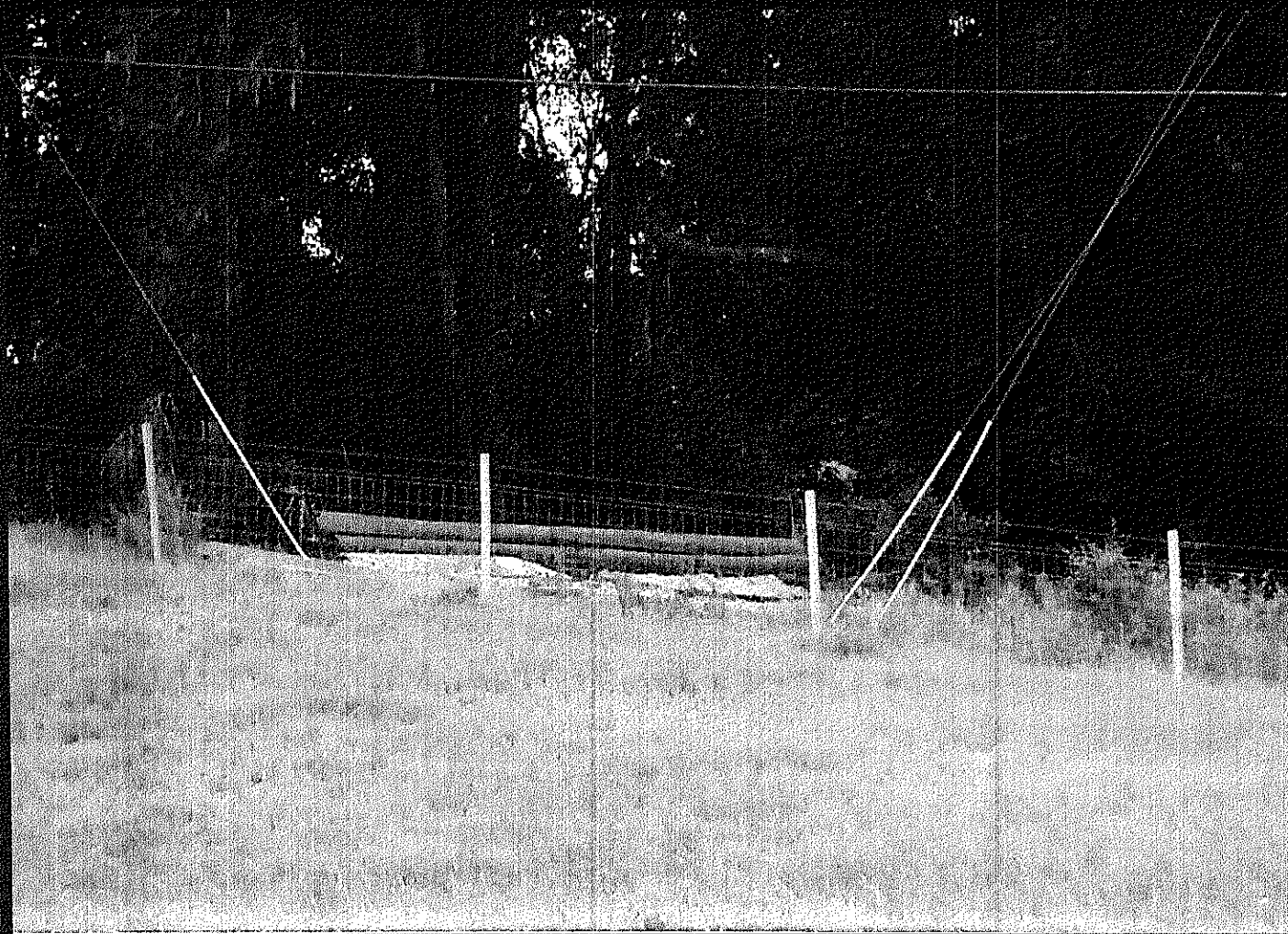
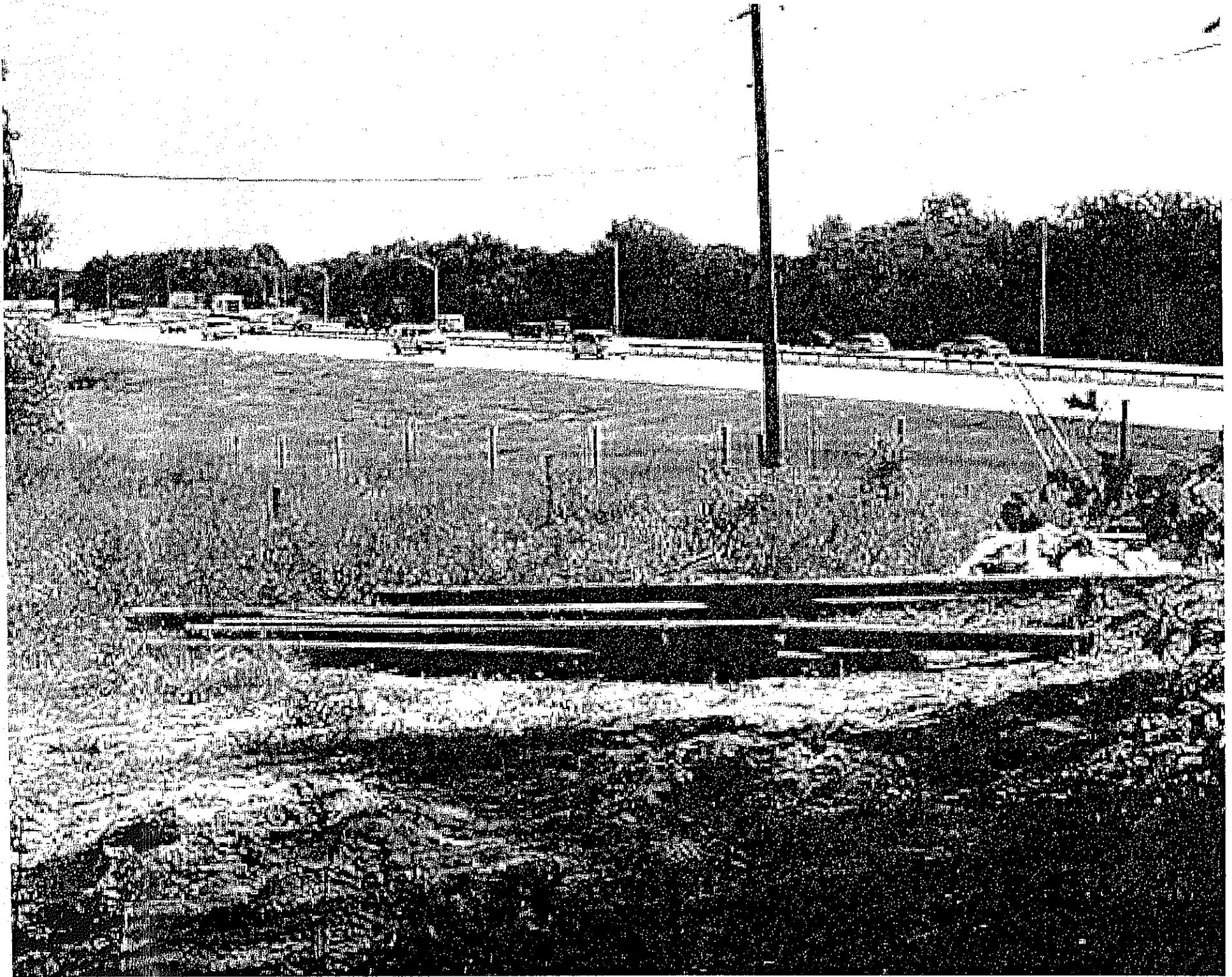


Photo taken on 8/20/04

BA2004-002







Seneca County Building Department

STOP WORK ORDER

TO: *Mr. [Name]*

FROM: *Seneca County Building Department*

DATE: *04-10-01*

RE: *1111 [Address]*

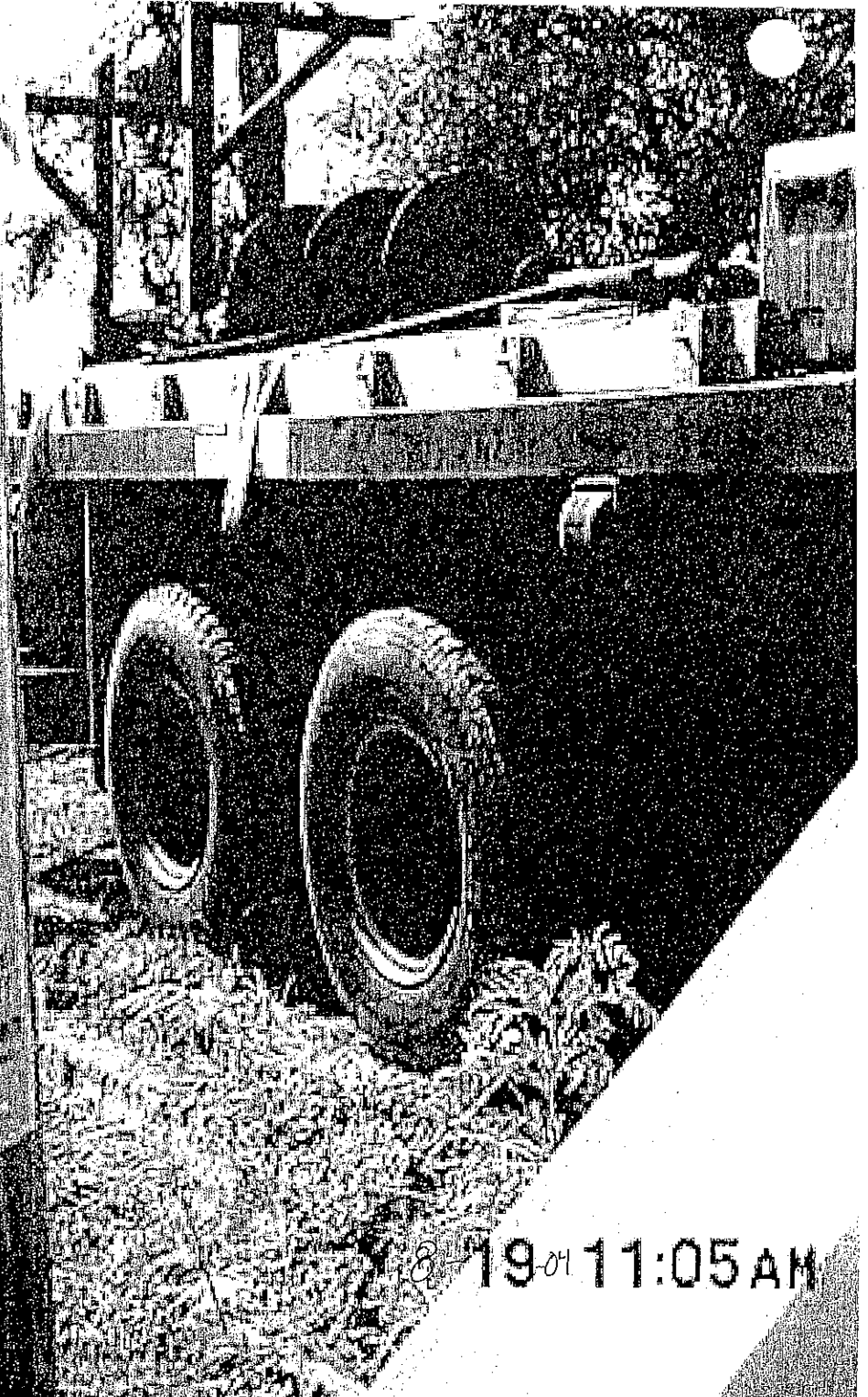
THIS ORDER IS ISSUED IN VIOLATION OF THE SENeca COUNTY BUILDING CODE, SECTION [Number].

IMPORTANT NOTICE

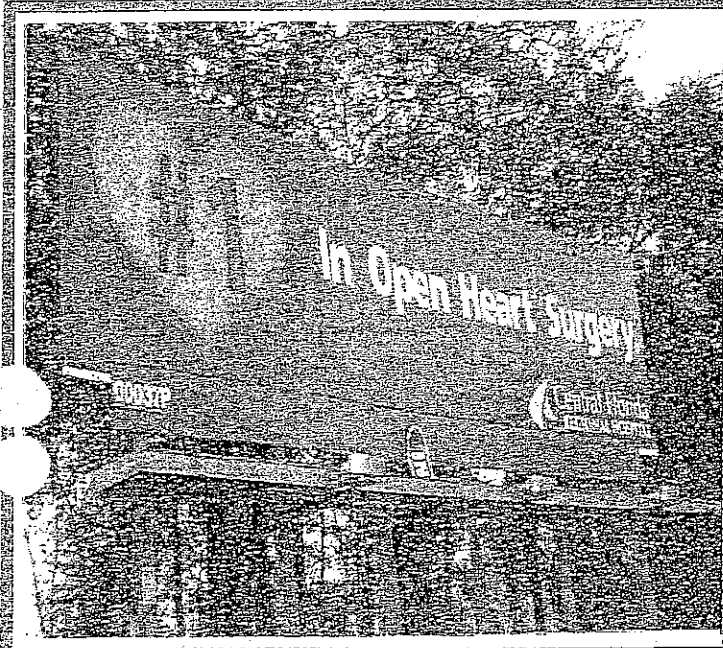
IF YOU DO NOT STOP WORK IMMEDIATELY, THE SENeca COUNTY BUILDING DEPARTMENT WILL TAKE LEGAL ACTION TO ENFORCE THIS ORDER.

Larry Golden

Jack [Name]



8-19-01 11:05 AM



Street Name 1675 Dixon Rd.
Parcel # 26-20-29-300-0010-0000
Zoning A-1
BB Owner Infinity
Conforming? No - const., zoning, separation

Mapkey	St Name	Parcel Number	Zoning	B/B Owner	B' ID	State ID #'s	Type of Construction	Lights	# of Faces	Sq.ft.	Hgt.	Photos taken
1	SR 436 W	1821295010A00001B	C-2	Infinity	243 - 243 W	AM 026 AM 024	Mono-pole	1 Up Each Side	6		30'	2
2	1133 SR 436 W	1721295010C00010A	C-2	Lamar		AN 806 AN 807	Mono-pole	4 Up Each Side	2		30'	2
3	9439 Forest City Cove	21212950300000010	C-2	Eller	5744 5745	AY 752 AY 753	Mono-pole	3 Up Each Side	2		30'	2
4	SR 434 S	21212950200000010	PUD	Eller	5842A	AZ 320	Mono-pole	2 Up Each Side	6		30'	2
5	795 Hillview Drive	21212950200000010	PUD	West Towne			Mono-pole	Internal	4		16'	1
6	SR 436 w	1621295010000006B	M-1	Eller	7036 7035	AG 430 AG 431	Mono-pole	3 Up Each Side	4		50'	2
7	I-4 235 Wymore Rd.	142129300014D0000	City	Eller			6 T-pole	4 Up	2			2
8	I-4	14212930001400000	R-3	Unknown			2 T-pole		4			
9	Raymond Ave.	11212930000400000	A-1	Infinity	01164P 01165P	AQ956 BD008	12 T-pole V	3 Up Each Side	2			
10	Raymond Ave.	11212930000400000	A-1	Infinity	01160P 01161P		12 T-pole V	3 Up Each Side	2			
11	I-4	R / W - Howard Ave.	R-1AA	Infinity	01162P 01163P	BD121 BD122	8 T-pole	3 Up Each Side	2			
12	111 Wekiva Springs Ln	032129300006A0000	C-2	Lamar	BV257 BV256		Mono-pole	3 Up Each Side	2			
13	R-434 Markham Woods	SCX-SC Trails	C-2	Eller	1101 62493	BL940 BL939	4 I-beam	4 Up 4 Down	3	Sept.2002		
14	301 Markham Woods	02212930000800000	A-1	Eller	548	BJ743	6 T-pole	4 UP One Side	1			
15	I-4	352029300014A0000	A-1	Lamar	1028-1		6 T-pole	None	1			
16	Ferne Dr.	35202950100000270	A-1	Infinity	00884P	BM106	6 T-pole	4 Up Each Side	1			
17	I-4	35202950100000200	A-1	Infinity	00885P	BM107	6 T-pole	3 Up Each Side	1			
18	I-4	35202950100000200	A-1	Infinity	00886P	BM108	6 T-pole	3 Up Each Side	1			
19	Penelope Dr.	35202950100000150	A-1	Infinity	00914P	BM109	6 T-pole	3 Up Each Side	1			
20	Penelope Dr.	35202950100000150	A-1	Infinity	00887P	BK244	6 T-pole	3 Up Each Side	1			
21	I-4	26202930000100000	A-1	Lamar	940-1	BM140	6 T-pole	None	1			
22	1675 Dixon Rd.	26202930000100000	A-1	Lamar	1051-1	BD007	6 T-pole	None	1			
23	1675 Dixon Rd.	26202930000100000	A-1	Infinity	02739A	BM113	6 T-pole	3 Up Each Side	1			
24	1675 Dixon Rd.	26202930000100000	A-1	Infinity	0037P	BM103	6 T-pole	3 Up Each Side	1			

1960 ZONING CODE

SECTION 4. A-1 AGRICULTURE & COUNTRY HOME DISTRICT

A. Description of Districts

This district comprises certain lands and structures located in those portions of the county coming within the jurisdiction of the Zoning Commission, that are still predominantly rural. Lands in the A-1 Agricultural and Country Home District, are largely devoted to the production of citrus fruits, cattle grazing, general farming and swamp land. Regulations in this district are minimum on the uses for agricultural operations such as live stock raising, storage of fertilizer, saw mill and other operations.

As the need and demand for additional open land suitable for urban development is determined by the Zoning Commission, selected portions of this district may be rezoned for more intensive forms of development.

B. Permitted Uses

Within any A-1 Agriculture and Country Home District, no building, structure, land or water shall be used, unless otherwise permitted by this resolution, except for one or more of the following uses.

1. Single family dwellings with their customary accessory uses.
2. Tenant dwellings, one family and two family, in accordance with building site area regulations.
3. General farming and citrus cultivation and production, and horticulture, including nurseries, greenhouses, truck farming and dairies.
4. Cattle grazing.
5. Home occupations.
6. Sale of products and commodities which are raised on the premises, providing such structure is set back at least twenty-five (25) feet from the front and/or side line of the property.
7. Riding stables when located on a tract of land of not less than ten (10) acres and provided, further, that no structure, pen or corral housing animals shall be closer than two hundred (200) feet from any property line.
8. Churches and structures appurtenant thereto.
9. Schools.
10. Clinics.
11. Clubs, including country and golf clubs, gun clubs, fishing clubs or similar enterprises.

12. Outdoor advertising signs located, erected and maintained pursuant to the Sign Regulations of Seminole County.
13. Individual house trailers may be parked in an A-1 Area after approval by the Board of Adjustment, provided, the lot or parcel of land meet the requirements of Sec. 4-E of this Resolution for an A-1 area for a single family residence.

C. Conditional Uses (Special Exceptions).

When after a review of an application and public hearing thereon, the Board of Adjustment finds as a fact that the proposed use is consistent with the general zoning plan and with the public interest and not detrimental to the character of the neighborhood, the following uses may be permitted provided however, such uses may be subjected to or limited by conditions of the Board of Adjustment.

1. Cemeteries, mausoleums, crematories.
2. Veterinary hospitals and kennels.
3. Hospitals, sanitariums and convalescent homes.
4. Privately owned and operated recreational facilities open to the paying public. A comprehensive plan for such facilities shall be submitted to the Board of Adjustment prior to the issuance of a permit.
5. Athletic fields, stadiums, race tracks and speedways, driving ranges, swimming pools.
6. Airplane landing fields and helicopter ports with accessory facilities for private or public use.
7. Restaurants, cafeterias, and gift shops.
8. Chicken brooder houses designed to accommodate in excess of 100 birds, having no structure housing poultry located nearer than 200 feet to a property line.
9. Motels and Hotels on State Highways.
10. Trailer Parks. Plans for Trailer Courts or Parks in accordance with Trailer or Mobile Homes Parks Regulations, shall be submitted to the Board of Adjustment for review and public hearing.
11. Sawmills and Planing Mills.
12. Sewage Disposal Plants and Sanitary Land Fill Operations.

D. Building Height Regulations.

No building or structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except silos, granaries, windmills, barns and other structures incidental to the operation of a farm or other agricultural enterprise may exceed the above height limit, provided in Section 16.

E. Building Site Area Regulations

The minimum building site area for each single family dwelling in the A-1 Agricultural and Country Home District shall be 10,000 sq. ft. and the lot shall have a minimum width at the building line of 100 ft. except as stated in Section 16.

F. Yard Regulations (Front, Rear and Side)

1. The following minimum front, rear and side yards shall be observed:

- (a) Front yard of not less than twenty-five (25) feet in depth measured from the street, road or highway line to the front of the building.
- (b) Rear yard of not less than twenty (20) feet in depth.
- (c) Side yards shall be provided on each side of every main structure of not less than seven and one-half (7½) feet from side lot lines except where a side yard abutts a road or street, there shall be a setback from right of way line of twenty-five (25) feet.

1. Auxiliary buildings shall observe the same side yard requirements as for the main structure and the rear yard requirements shall be the same as the side yard. No auxiliary building shall project beyond the front of the main structure.

2. Where set back lines have been established for the preservation of health, safety, the general welfare, the front and side yards shall be measured from said line.

- (a) See setback provisions on specific roads which are supplemental to this resolution.

G. Off Street Parking

See Section 24.



SEMINOLE COUNTY PLANNING & DEVELOPMENT DEPARTMENT
PLANNING DIVISION
1101 EAST FIRST STREET
SANFORD, FL 32771
(407) 665-7444 PHONE (407) 665-7385 FAX

COPY

APPL.NO. BA 2004-002

APPLICATION TO THE SEMINOLE COUNTY BOARD OF ADJUSTMENT

Applications to the Seminole County Board of Adjustment shall include all applicable items listed in the Board of Adjustment Process Checklist. No application will be scheduled for Board of Adjustment consideration until a complete application (including all information requested below) has been received by the Planning & Development Department, Planning Division. Applications for SPECIAL EXCEPTION shall only be received for processing following pre-application conference.

APPLICATION TYPE:

RECEIVED

VARIANCE

SPECIAL EXCEPTION

MOBILE HOME SPECIAL EXCEPTION

~~EXISTING PROPOSED REPLACEMENT~~

~~MOBILE HOME IS FOR~~

~~YEAR OF MOBILE HOME SIZE OF MOBILE HOME~~

~~ANTICIPATED TIME MOBILE HOME IS NEEDED~~

~~PLANT TO BUILD YES NO IF SO WHEN~~

~~MEDICAL HARDSHIP YES (LETTER FROM DOCTOR REQUIRED) NO~~

APPEAL FROM DECISION OF THE PLANNING MANAGER

	PROPERTY OWNER	AUTHORIZED AGENT
NAME	National Advertising Co.	Glenn N Smith Esq.
ADDRESS	2687 S. Design Court Sanford, FL 32773	Ruden, McClosky P. O. Box 1900 Ft. Lauderdale, FL 33302
PHONE 1		954-572-2466
PHONE 2		
EMAIL		

PROJECT NAME: _____

SITE ADDRESS: 0.445 miles E. of Markham Road and I-4

CURRENT USE OF PROPERTY: Billboard

LEGAL DESCRIPTION: A portion of Sec. 26TWP 20S RGE 29E E1/4 of SE 1/4 of ST RD. 400 (less Dixon Rd) where Billboard is located

SIZE OF PROPERTY: approx 1/16 acre(s) PARCEL I.D. 26-20-29-300-0010-0000

UTILITIES: WATER WELL SEWER SEPTIC TANK OTHER _____

KNOWN CODE ENFORCEMENT VIOLATIONS None

IS PROPERTY ACCESSIBLE FOR INSPECTION YES NO

This request will be considered at the Board of Adjustment regular meeting on November 15, 2004 (mo/day/yr), in the Board Chambers (Room 1028) at 6:00 p.m. on the first floor of the Seminole County Services Building, located at 1101 East First Street in downtown Sanford, FL.

I hereby affirm that all statements, proposals, and/or plans submitted with or contained within this application are true and correct to the best of my knowledge.

SIGNATURE OF OWNER OR AGENT

DATE

I:\projects\boa\master forms & lists\boa applications\boa application.doc

ADDITIONAL VARIANCES

VARIANCE 2:

VARIANCE 3:

VARIANCE 4:

VARIANCE 5:

VARIANCE 6:

VARIANCE 7:

VARIANCE 8:

APPEAL FROM BOA DECISION TO BCC

	PROPERTY OWNER	AUTHORIZED AGENT
NAME		
ADDRESS		
PHONE 1		
PHONE 2		
E-MAIL		

NATURE OF THE APPEAL _____

BCC PUBLIC HEARING DATE _____

FOR OFFICE USE ONLY

PROCESSING

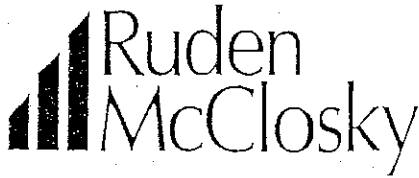
FEE _____ COMMISSION DISTRICT _____ FEE / ZONING _____

LOCATION FURTHER DESCRIBED AS _____

PLANNER _____ DATE _____

SUFFICIENCY COMMENTS _____

RECEIVED
APPEAL LETTER



200 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FLORIDA 33301

POST OFFICE BOX 1900
FORT LAUDERDALE, FLORIDA 33302

(954) 527-2466
FAX: (954) 333-4066
GLENN.SMITH@RUDEN.COM

September 23, 2004

Seminole County Board of Adjustment
Att: Seminole County Planning & Development Department
Planning Division
1101 East 1st Street
Sanford, Florida 32771

Re: Billboard North of Wekiva Assembly Church on Westbound Lane of I-4 between
Lake Mary and Longwood (Parcel ID #26-20-29-300-0010-0000; State ID
#BM103)

To Whom It May Concern:

We represent National Advertising, the owner of the above-referenced billboard.

Matt West, the Planning Manager, sent a letter dated August 26, 2004 to Richard McHugh of Viacom Outdoor indicating that the Planning Division determined that the subject billboard was more than 50% damaged as a result of Hurricane Charley, was non-conforming and located in an A-1 agricultural zone that does not permit billboards. Mr. West states, therefore, that this billboard may not be replaced or repaired.

Mr. West's position conflicts with Section 30.1253(d) enacted in Seminole County Ordinance 2003-20 which provides that outdoor advertising signs may be permitted in any non-residential zoning district. A-1 agricultural districts do not carry residential designations. Secondly, Mr. West's decision is contrary to the State of Florida Department of Environmental Protection First Amended Emergency Final Order issued on August 20, 2004 in which the Department found that Hurricane Charley created a state of emergency throughout the emergency area (including Seminole County) and found that immediate action by Florida citizens was necessary to repair, replace and restore structures damaged by the hurricane. Under Section 6(a)(1)(f), this includes billboards.

Appellants have included their Application for Appeal from the decision of the Planning Manager along with the August 26, 2004 letter from the Planning Manager, Seminole County Ordinance 2003-20, the State of Florida Department of Environmental Protection First Amended Emergency Final Order issued on August 20, 2004, the property appraiser information and a

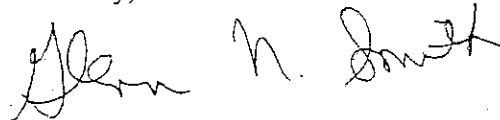
Seminole County Board of Adjustment
September 23, 2004
Page 2

photograph of the billboard from the Department of Transportation's database. A check for \$185.00 is enclosed for the Application Fee.

Applicant requests that it be allowed to repair the subject billboard.

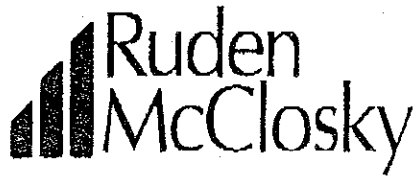
If you have any questions concerning the above, please do not hesitate to contact the undersigned.

Sincerely,



Glenn N. Smith

GNS:lad
Enclosures



200 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FLORIDA 33301

POST OFFICE BOX 1900
FORT LAUDERDALE, FLORIDA 33302

(954) 527-2429
FAX (954) 333-4029
WILLIAM.MCCORMICK@RUDEN.COM

December 10, 2004

CONFIDENTIAL SETTLEMENT PROPOSAL

Via Facsimile (407) 665-7259

Arnold Schneider, Esq.
Assistant County Attorney
1101 East First Street
Sanford, Florida 32771

Re: Billboard North of Wekiva Assembly Church on Westbound Lane of I-4 between Lake Mary and Longwood (the "Billboard") (Parcel ID #26-20-29-300-0010-0000; State ID #BM103) (the "Property")

Dear Mr. Schneider:

It was a pleasure speaking with you this morning. As we discussed, Viacom is interested in working with the County to resolve the outstanding issues relating to the Billboard. At your request, I submit the following written proposal for consideration by the County.

By way of background, the Billboard is located in an A-1 zoning district, and was damaged during Hurricane Charlie. The damage was minor, and was repaired by Viacom, admittedly without first obtaining a permit. Subsequently, a notice of violation (the "Notice of Violation") was issued by Matt West, the County Planning Manager, alleging that the Billboard was repaired in violation of §30.1246 of the Seminole County Land Development Code (the "LDC"). Pursuant to LDC §30.43, Viacom appealed to the Board of Adjustment the Planning Manager's underlying determination that the Billboard is not permitted in the A-1 zoning district and is, therefore, nonconforming and subject to the provisions of §30.1246 (the "Appeal"). Viacom maintains that, while not appearing in list of permitted uses for the A-1 zoning district contained in LDC §30.122, the Billboard is "otherwise permitted" in the A-1 district (another criteria provided for by §30.122) by virtue of Ordinance 2003-20 and, therefore, is not a nonconforming structure. Accordingly, the Billboard is not subject to the 50% rule contained in LDC §30.1246, under which the Billboard was cited.

The Notice of Violation was scheduled for hearing before the Code Enforcement Board (Case No. 04-78-CEB - the "Code Enforcement Action") on December 2, 2004. Viacom's Appeal was heard by the BOA on November 15, 2004, and was continued to the BOA's December 13, 2004 hearing. On November 23, 2004, the County filed a Notice of Voluntary

FFL-1337992.1


Arnold Schneider, Esq.
Assistant County Attorney
December 10, 2004
Page 2

Dismissal, without prejudice, in the Code Enforcement Action. Notwithstanding the dismissal of the underlying Code Enforcement Action, Viacom's Appeal remains pending before the BOA.

As we discussed earlier, the LDC is ambiguous at best, and could certainly be interpreted to permit billboards in all non-residential zoning districts, including the A-1 district where the Billboard is located (as argued by Viacom in the Appeal). Understandably, this potential is of significant concern to the County, as an adverse determination to the County's position could open the door to the erection of new billboards in all of the County's non-residential zoning districts. As I assured you earlier, however, Viacom's Appeal was not filed for this purpose. Rather, Viacom's interest is limited solely to protecting the Billboard that is the subject of the Appeal. In that regard, I propose that if the County would agree to dismiss all pending or potential proceedings relating to the repair of the Billboard with prejudice, Viacom would drop its Appeal, relieving the BOA (and, perhaps the County Commission or circuit court) from deciding the issue of whether billboards are, in fact, nonconforming in the A-1 (and other non-residential) zoning district. By avoiding an immediate administrative or judicial determination of this issue, the County would have the opportunity to make any revisions it may deem necessary to its LDC to more clearly express its intentions. At the same time, Viacom's interest in maintaining its Billboard would be preserved. Of course, in connection with any such agreement, Viacom would be willing to pay the County any necessary permit fees and/or penalties associated with the repair of the Billboard.

Inasmuch as the BOA hearing is scheduled for Monday evening, please advise at your first convenience whether the County has any interest in discussing a resolution along the lines outlined above. As I told you when we spoke, Viacom is committed to working with the County to reach a resolution that is beneficial to both parties, and I think this proposal accomplishes that objective. I look forward to hearing from you soon.

Sincerely,



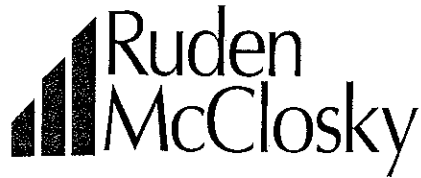
William G. McCormick

cc: Matt West
Viacom Outdoor, Inc.

FTL-1337992:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

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200 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FLORIDA 33301

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WILLIAM.MCCORMICK@RUDEN.COM

December 21, 2004

*Via Facsimile:(407) 665-7385
& U.S. Mail*

Ms. Karen Mathews
Seminole County
Planning / Zoning Department
1101 East First Street
Room 2201
Sanford, Fl 32771

Re: Viacom Outdoor v. Seminole County

Dear Ms. Mathews,

Pursuant to your facsimile correspondence of this morning, enclosed please find this firms check number 91194, in the amount of One Hundred and Eighty Five dollars (\$185.00) payable to Seminole County, in payment of the application fee for Viacom's appeal to The Board of County Commissioners. Thank you for your assistance in this matter.

Sincerely,


William G. McCormick

CC: Viacom Outdoor

FTL:1343213:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

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STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In re:

EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY HURRICANE CHARLEY

OGC NO. 04-1458

FIRST AMENDED EMERGENCY FINAL ORDER

Under sections 120.569(2)(n) and 252.36 of the Florida Statutes, and upon consideration of the State of Florida Executive Order No. 04-182, the FEMA Order No. 1539DR and the following findings of fact, the State of Florida Department of Environmental Protection (the Department) enters this Emergency Final Order (the Order), including Findings of Fact and Conclusions of Law, in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the State of Florida resulting from the devastation wrought by Hurricane Charley (hereinafter "the Hurricane").

FINDINGS OF FACT

1. On the 13th day of August, 2004, the Hurricane struck Florida with reported maximum sustained winds of over 100 miles per hour with storm surges over 10 feet. The Hurricane caused widespread damage within the following locations: Brevard, Charlotte, Collier, DeSoto, Hardee, Highlands, Lake, Lee, Manatee, Orange, Osceola, Polk, Sarasota, Seminole, and Volusia counties, which shall constitute the specific areas covered by this Emergency Final Order. These areas shall herein be referred to as the "Emergency Areas."
2. By State of Florida Executive Order No. 04-182, the Governor declared that a state of emergency exists throughout the State of Florida, based upon the serious threat to the public health, safety and welfare posed by the Hurricane.

3. The Department finds that the Hurricane has created a state of emergency threatening the public health, safety, welfare, and property throughout the Emergency Areas. As a result of the emergency, immediate action by Florida's citizens and government is necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and operations damaged by the Hurricane.

4. The Department finds that an emergency authorization is required to address the need for immediate action.

5. The Department finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted in paragraph 12 of this Order would prevent, hinder, or delay necessary action in coping with the emergency.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Hurricane poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under State of Florida Executive Order No. 04-182 and sections 120.569(2)(n) and 252.36 of the Florida Statutes, the Secretary of the Department is authorized to issue this emergency final order.

3. Suspension of statutes and rules as noted in paragraph 12 is required in order not to prevent, hinder, or delay necessary action in coping with the emergency.

THEREFORE, IT IS ORDERED:

Within the Emergency Areas:

1. Petroleum Storage Tank Systems, Water and Wastewater Plants, and Collection and Distribution Systems

Owners and operators of petroleum storage tank systems, water and wastewater plants and collection and distribution systems, and their licensed engineers and contractors, are

authorized to make all necessary repairs to restore essential services and repair or replace (as necessary) all structures, equipment, and appurtenances of the plants and systems to their pre-storm permitted or registered condition without prior notice to the Department. Within thirty days of commencing the work of such repair or replacement, however, the owner or operator shall notify the Department in writing, describing the nature of the work, giving its location, and providing the name, address, and telephone number of the representative of the owner or operator to contact concerning the work. Where an environmental resource permit is also normally required to repair the above facilities, see paragraphs 6, 7, 8, and 9 of this Order for certain limitations that may exist.

2. Solid Waste Management

a. Owners and operators of solid waste management facilities permitted by the Department before the Hurricane are authorized to make all necessary repairs to restore essential services and the functionality of stormwater management and leachate collection systems damaged by the Hurricane, without prior notice to the Department. Within thirty days of commencing the work of such repair or replacement, however, the permittee shall notify the Department in writing, describing the nature of the work, giving its location, and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Where an environmental resource permit is also normally required to repair the above facilities, see paragraphs 6, 7, 8, and 9 of this Order for certain limitations that may exist.

b. Uncontaminated yard trash may be disposed of in permitted lined or unlined landfills, permitted land clearing debris facilities or in permitted construction and demolition debris disposal facilities.

c. Construction and demolition debris that is mixed with other Hurricane-generated debris need not be segregated from other solid waste prior to disposal in a lined landfill.

d. Except as otherwise specifically provided herein, Hurricane-generated debris shall be disposed of in a Class I landfill or, except for asbestos-containing materials, in a waste-to-energy facility. Non-recyclables and residuals generated from segregation of Hurricane-generated debris shall also be disposed of in a Class I landfill or waste-to-energy facility.

e. Ash residue from the combustion of yard trash or clean wood wastes may be disposed of in a permitted disposal facility, or may be land spread in any areas approved by local government officials except in wellfield protection areas or water bodies.

f. Ash from the combustion of other Hurricane-generated debris shall be disposed of in a Class I landfill. Metals or other non-combustible materials segregated from the ash residue may also be disposed of in an unlined, permitted landfill.

g. Unsalvageable refrigerators and freezers containing solid waste such as rotting food that may create a sanitary nuisance may be disposed of in a Class I landfill; provided, however, that chlorofluorocarbons and capacitors must be removed and recycled to the greatest extent practicable using techniques and personnel meeting the requirements of 40 CFR Part 82.

h. Permitted landfills, waste-to-energy facilities, and transfer stations, within or outside of the Emergency Area, which accept Hurricane-generated debris in accordance with the terms of this Order may accept Hurricane-generated debris for disposal or storage without the need to first modify existing permits or certifications. Operators of landfills shall seek modifications of their existing permits to address any long-term impacts of accepting Hurricane-generated debris on operations and closure which are not addressed in existing permits. Long-term impacts are those, which will extend past the expiration date of this Order. The requests for modification shall be submitted as soon as possible, but no later than the expiration date of this Order. No permit fee will be required for any modifications necessitated solely by the Hurricane clean-up activities.

i. Field authorizations may be issued prior to or following a site inspection by Department personnel for staging areas to be used for temporary storage and chipping, grinding or burning of Hurricane-generated debris. Field authorizations may be requested by providing a notice to the local office of the Department containing a description of the staging area design and operation, the location of the staging area, and the name, address, and telephone number of the site manager. Field authorizations also may be issued by Department staff without prior notice. Written records of all field authorizations shall be created and maintained by Department staff.

3. Open Burning

The Department authorizes local governments or their agents to conduct the open burning of Hurricane-generated yard trash and other vegetative debris in air curtain incinerators, within or outside of the Emergency Area, without prior notice to the Department. The Department also authorizes the open burning of demolition debris in such air curtain incinerators, provided reasonable efforts are made to limit the material being burned to untreated wood. Within three days of commencing any such burning the local government or its agent shall notify the Department in writing, describing the general nature of the materials burned, stating the location and method of burning, and providing the name, address, and telephone number of the representative of the local government to contact concerning the work. This order does not relieve the air curtain incinerator operator from any requirement to obtain an open burning authorization from the Division of Forestry or any other agency empowered to grant such authorizations. In operating any such air curtain incinerator the pit width shall not exceed 12 feet, vertical side walls shall be maintained and waste material shall not be loaded into the air curtain incinerator such that it protrudes above the level of the air curtain. Ash shall not be allowed to build up in the pit higher than 1/3 the pit depth or to the point where the ash begins to impede combustion, whichever comes first. Refractory-lined air curtain incinerators may operate 24 hours per day. Air curtain incinerators without refractory-lined walls may not charge before sunrise and

must end operation before sunset. Notwithstanding the provisions of this paragraph, the burning of asbestos-containing materials or hazardous waste is prohibited.

4. Air Pollution Sources Other than Open Burning

The Department authorizes the minor repair of any previously permitted stationary source of air pollution that was damaged by the Hurricane to restore it to its previously permitted condition without prior notice to the Department. Within thirty days of commencing such repairs, however, the permittee shall notify the Department in writing, stating the location and nature of the work and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Minor repairs are repairs that would not constitute reconstruction under any definition of 40 CFR part 60, 61 or 63 and that could not affect potential to emit any pollutant. Repairs that would constitute reconstruction under any definition of 40 CFR Part 60, 61 or 63, or repairs that could affect potential to emit any pollutant are not authorized by this Order.

5. Asbestos Clean-up

The Department waives the requirement for prior notification for emergency demolition or emergency cleanup of asbestos-containing material resulting from the Hurricane. Within one business day of commencing such demolition or cleanup, however, the person responsible for such work shall notify the Department in writing. The notification shall be consistent with the information on the Notice for Asbestos Renovation or Demolition, and shall include the location and nature of the work and the name, address, and telephone number of operator on the project. The procedures in 40 CFR 61 Subpart M for handling asbestos-containing material shall be complied with during demolition and cleanup. Asbestos-containing material shall be disposed of in a Class I, II, or III landfill in accordance with rule 62-701.520(3) of the Florida Administrative Code. Burning of asbestos containing material is prohibited.



6.

Environmental Resource, Dredge and Fill, and Surface Water Management Activities

The following activities may be undertaken to repair, restore, or replace structures, land, and submerged contours to the authorized or otherwise legally existing configuration and conditions, subject to the limitations in this order. This order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below.

a. Definitions

(1) For the purposes of paragraph 6 of this Order, the term "structures" includes:

(a) utility infrastructure, including wastewater treatment plants, substations, lift stations, solid and hazardous waste facilities, utility lines (including transmission and distribution), poles, towers, support structures, cables, conduits, outfalls, intake structures, and pipelines;

(b) roads, bridges, culverts, driveways, sidewalks, bike paths, and other similar public and private infrastructure;

(c) public, private, and commercial habitable and non-habitable buildings, and structures ancillary to these buildings, such as garages, cabanas, storage sheds, bath houses, pools, and decks;

(d) piers (including docks, boardwalks, observation platforms, boat houses, and gazebos), and pilings;

(e) shore-stabilization structures, such as seawalls, bulkheads, revetments, breakwaters, and groins;

* (f) fences, signs and billboards; and

(g) buoys, navigational aids, and other channel markers.

(2) For the purposes of paragraph 6 of this Order, the term "drainage systems" includes ditches, canals, ponds, swales, and other surface water conveyances; dams, weirs, dikes, and levees; underdrains, outfalls, and associated

water control structures. Any damage to structures or drainage systems authorized by the Department, and built to permitted design specifications, may be authorized to be repaired to the design that was originally authorized by the Department; minor deviations to upgrade structures or drainage systems to current standards also are authorized;

b. **No Notice Required, Landward of the Coastal Construction Control Line**

The following activities may be conducted without notification to the Department:

(1) Temporary and permanent repair or restoration of structures and drainage systems that are still intact (i.e., not completely destroyed or eliminated) to the conditions, dimensions, and configurations that were authorized or otherwise legally existing immediately prior to the Hurricane, provided the repair and restoration activities do not result in any expansion, addition, or relocation of the existing structure or systems. However, this shall not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

(2) The restoration (regrading, dredging, or filling) by local, regional, and state governments of surface (upland); wetland, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Hurricane, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Hurricane, subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is specifically not authorized by this Order;

(b) In the case of dredging, all excavated material shall be deposited on uplands that are diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, except where such dredged material is used to restore bottom contours and shorelines, exclusive of sandy beaches fronting the

Gulf of Mexico or the Atlantic Ocean, to the conditions existing immediately prior to the Hurricane;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only material from the previous uplands may be used in the restoration, and no change (from pre-existing conditions) in the slope of the land or the type, nature, or configuration of any pre-existing shoreline stabilization materials is authorized (e.g., sloping revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks);

(d) Any restored shorelines that are susceptible to erosion, other than areas seaward of a coastal construction control line, shall be stabilized with vegetation or rock riprap to prevent erosion. Riprap may extend no further waterward than ten feet from the pre-Hurricane mean high water line. If the pre-existing shoreline was stabilized with a seawall, the seawall may be restored within three feet waterward of the pre-Hurricane mean high water line. Debris from the Hurricane or other sources, other than natural rocks and clean concrete rubble, shall not be used to stabilize shorelines;

(e) This shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund before the Hurricane.

(3) Removal of debris, including sunken vessels, and vegetation and structural remains that have washed into waters, wetlands, or uplands by the Hurricane, provided all removed debris are deposited on the uplands or otherwise deposited or burned in accordance with other provisions of this Order.

(4) Activities authorized under subparagraph 6.b. must be commenced before the expiration of this order.

c. Field and Individual Authorization Required

(1) Field authorizations may be issued following a site inspection by Department personnel for:

- (a) activities including the replacement of structures that are no longer intact;
- (b) restoration (regrading, dredging, or filling) of the contours of uplands, wetlands, and submerged bottoms, by parties other than local, regional, or state governments;
- (c) trimming or alteration of mangroves; and
- (d) other activities determined by Department personnel as having the potential to result in only minimal adverse individual or cumulative impact on water resources and water quality.

(2) Field authorization may be issued only to restore structures and property to authorized or otherwise legally existing conditions that existed immediately prior to the Hurricane, or to a more environmentally compatible design than existed immediately prior to the Hurricane. Field authorizations may be requested by providing a notice to the local office of the Department containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. Field authorizations also may be issued by Department staff without prior notice. Written records of all field authorizations shall be created and maintained by Department staff.

(3) Other activities not described above shall be regulated in accordance with part IV of chapter 373 of the Florida Statutes, and the rules adopted thereunder. Stormwater systems within the Northwest Florida Water Management District that do not qualify under the above provisions shall require a stormwater permit.

(4) Activities authorized under paragraph 6.b above, must be commenced before the expiration of this order unless otherwise provided in a field authorization. The deadline for commencement under any field authorization issued under this order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers.

7. Activities Seaward of the Coastal Construction Control Line (CCCL) or the Fifty-foot Setback Line, and Landward of the Mean High Water Line.¹

a. The following activities may be undertaken by local governments and utility companies to protect, repair, or replace structures and property without notice to the Department, subject to the limitations below. This Order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below, nor does it authorize beach scraping performed by itself or in association with any of the following activities.

(1) Removal of Hurricane-generated debris. Prior to removing the debris and to the greatest extent possible, beach compatible sand should be separated from the debris and kept on site. To prevent debris from becoming buried, all Hurricane-generated debris shall be removed prior to conducting any fill activities.

(2) The repair of the following public facilities: utilities, roads and beach access ramps.

(3) Return of sand to the beach and dune system that has been deposited upland by the Hurricane, and restoration of a damaged dune system using beach compatible sand from an upland source. The fill material shall not cover any Hurricane-generated debris or construction debris. All fill material shall be sand that is similar to

¹ Terms used herein are defined in chapter 161 of the Florida Statutes, and chapter 62B-33 of the Florida Administrative Code.

the pre-storm beach sand in both coloration and grain size and be free of debris, rocks, clay or other foreign matter. No sand may be obtained from the beach or below the mean high water line seaward of the CCCL without specific authorization from the Department.

b. After providing notice to the Department, local governments are authorized to issue permits to private and public property owners for the activities listed below. Notice of intent to implement this delegation shall be provided to the Department in the form of a statement of intent to issue permits pursuant to this section. The notice may be faxed to the Department at 850/488-5257 or provided via the telephone by calling 850/487-4475. This Order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below, nor does it authorize beach scraping performed by itself or in association with any of the following activities. No additional authorization is required for repairs to interiors of existing structures not involving repairs to foundations.

(1) Temporary or remedial activities that are necessary to secure structures in order to remove safety hazards and prevent further damage or collapse of foundations. This Order does not authorize the permanent repair of foundations of major structures, rebuilding of major structures, or the repair or construction of coastal or shore protection structures.

(2) Repair or replacement of components and cladding (exterior glass windows and panels, roof sheathing, and other structural components such as studs and roof trusses) of major structures. The repair or replacement shall not constitute a substantial improvement. To protect nesting marine turtles and their hatchlings, damaged or destroyed glass windows and glass doors that are visible from any point on the beach should be replaced by tinted glass with a transmittance value of 45% or less.

(3) Repair or replacement of minor ancillary structures and service utilities associated with the existing habitable structure and necessary for occupancy of the habitable structure. Repaired or replaced components shall not exceed the size of the original minor ancillary structure or service utility damaged or destroyed by the Hurricane. Replacement of retaining walls, decks, and gazebos that are not necessary for occupancy of the existing habitable structure is specifically excluded.

(4) Repair, not including replacement, of surviving beach/dune walkovers provided the repair allows for adjustments to be made to the seaward terminus of the walkover if necessary to accommodate changes in the shoreline topography and native salt-resistant vegetation patterns resulting from the post-storm recovery of the beach and dune system.

(5) Return of sand to the beach dune system which has been deposited upland by the Hurricane and the restoration of a damaged dune system using beach compatible sand from an upland source. The fill material shall not cover any Hurricane-generated debris or construction debris. All fill material shall be sand that is similar to the pre-storm beach sand in both coloration and grain size and be free of debris, rocks, clay or other foreign matter. No sand may be obtained from the beach or below mean high water seaward of the CCCL without specific authorization from the Department.

c. The nature, timing, and sequence of construction authorized under this order should be conducted, to the greatest extent practicable, in such a manner as to provide protection to nesting sea turtles and hatchlings and their habitat, pursuant to section 370.12 of the Florida Statutes, and to native salt-resistant vegetation and endangered plant communities.

d. Actions taken by local governments and utility companies under sections a. and b. above do not require additional permits from the Department. Activities not covered by this Order may require a permit from the Department under section 161.053 of the Florida Statutes,

and chapter 62B-33 of the Florida Administrative Code. For more information, please contact the Bureau of Beaches and Coastal Systems by mail at 3900 Commonwealth Boulevard, Mail Station #300, Tallahassee, Florida 32399-3000 or by phone at 850/487-4475.

8. General Conditions

a. All activities conducted under Paragraphs 6 and 7 shall be performed using appropriate best management practices. For activities conducted in or discharging to wetlands or other surface waters, best management practices include properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling, to control turbidity, and to prevent violations of state water quality standards.

b. The authorizations in Paragraphs 6 and 7 shall not apply to structures and associated activities in the Emergency Areas that were not properly authorized by all applicable agencies before the passage of the Hurricane.

c. Environmental resource, surface water management, dredge and fill, stormwater, and coastal construction control line or joint coastal permits shall be required following provisions of statute and rule for other activities not authorized above that do not otherwise qualify as an exempt activity under statute or rule.

d. All activities shall be accomplished so as not to: disturb marked marine turtle nests or known nest locations; or damage existing native salt-tolerant or submerged vegetation.

e. This Emergency Final Order does not convey any property rights or any rights or privileges other than those specified in this Order.

f. This Emergency Final Order only serves as relief for the duration of the Order from the regulatory and proprietary requirements of the Department, and does not provide relief from the requirements of other federal, state, water management districts, and local agencies. This Order therefore does not negate the need for the property owner to obtain any other required

permits or authorizations, nor from the need to comply with all the requirements of those agencies.

g. All structures that are rebuilt shall be rebuilt in accordance with all applicable local, state, and federal building standards and requirements of the Federal Emergency Management Act (FEMA).

h. It is recommended that, where possible, owners of property should maintain documentation (such as photos) of the condition of the structures or lands as they existed prior to initiating any activities authorized under this Order, and should provide such documentation if requested to do so.

i. This Emergency Final Order does not provide relief from any of the requirements of chapter 471 of the Florida Statutes regarding professional engineering.

9. Authorization to Use Submerged Lands Owned by the State

The Department has been delegated by the Board of Trustees of the Internal Improvement Trust Fund the authority to grant the following authorizations to use sovereign submerged lands, that is, most lands lying waterward of the line of mean high water or ordinary high water, in association with the repairs authorized in Paragraphs 6 and 7.

a. Except as provided in Paragraphs 9.b. and 10 below, a consent of use is hereby granted for the repair, replacement, or restoration of the activities and structures located on submerged lands owned by the state subject to the provisions and limitations of Paragraph 6, above, for which authorization from the Board of Trustees of the Internal Improvement Trust Fund had been obtained prior to the Hurricane, or which were otherwise legally existing immediately prior to the Hurricane, provided the structures and activities will be repaired, restored, or replaced in the same location and configuration as was authorized by the Board of Trustees of the Internal Improvement Trust Fund or which otherwise legally existed immediately prior to the Hurricane.

b. This Order does not authorize the reconstruction or repair of unauthorized structures, which failed to qualify for the grandfathering provisions of chapter 18-21 of the Florida Administrative Code.

c. The requirements for submitting a "Reclamation of Lands Lost Due to Recent Storm Events" application are specifically waived during the duration of this Order.

10. General Limitations

The Department issues this Emergency Final Order solely to address the emergency created by the Hurricane. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order. Under no circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise.

11. Other Authorizations Required

Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, water management district, or local permits or other authorizations that may be required.

12. Suspension of Statutes and Rules

The following provisions of statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. For those activities noted above, subject to the limitations, duration and other provisions of this Order, all requirements for permits, leases, consent of uses or other authorizations under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder;

b. Notice requirements of sections 161.041, 161.053, 161.055, 253.115, and 373.413 of the Florida Statutes and rules 18-18, 18-20, 18-21, 62-4, 62-312, 62-343, and 62-620 of the Florida Administrative Code;

c. Application fee, lease fee, and easement fee requirements of sections 161.041, 161.053, 161.055, and 373.109 of the Florida Statutes and rules 18-18, 18-20, 18-21, and 62-4 of the Florida Administrative Code, provided however, that such lease and easement fees shall be suspended only in proportion to the percentage loss of functionality of the total area under lease or easement, and only for the duration of this order unless otherwise provided in a field authorization issued under part 6 above. The duration of the suspension of lease and easement fees under a field authorization may be extended on a showing that contractors or supplies are not available to commence the necessary repairs or replacement, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers; and

d. Prohibitions for dredging and filling in waters approved or conditionally approved, for shellfish harvesting adopted under subsections 403.061(29) and 373.414(9) of the Florida Statutes.

13. Extension of time to comply with specified deadlines

For facilities regulated by the Department in the Emergency Area, this Order extends the time for a period of 30 days to comply with the following specified deadlines that occur between August 13, 2004 and the expiration of this order:

a. The time deadlines to conduct or report periodic monitoring required by permits, leases, consent of uses, or other authorizations under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder, except for monitoring required by air permits issued under Title IV or V of the Clean Air Act or under the PSD program;

b. The time deadlines to file an application for renewal of an existing permit, lease, consent of use, or other authorization under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act;

c. The time deadlines to file an application for an operation permit under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act; and

d. The expiration date for an existing permit, lease, consent of use, or other authorization under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder, except for air permits issued under Title V of the Clean Air Act.

e. The time deadlines to petition for an administrative proceeding or to request an enlargement of time under Rule 62-110.106, Florida Administrative Code.

14. Completion of Authorized Activities

a. All activities authorized under this Emergency Final Order must be commenced before the expiration of this Order unless otherwise provided in a field authorization or permit. The deadline for commencement under any filed authorization or permit issued under this order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers. Any Environmental Resource Permit, Surface Water Management Permit, and Dredge and Fill Permit activities that require a field authorization must be completed by the expiration date of the field authorization; activities not completed by that expiration date are subject to the regulatory and proprietary authorizations required prior to the execution of this Order.

b. A blanket approval of time extensions under chapter 62-730 of the Florida Administrative Code is necessary within the Emergency Areas for hazardous waste generators and small quantity generators for the storage of their hazardous wastes on site, pending the cleanup of the Hurricane damage and restoration of essential services. The rules authorize a thirty-day extension because of unforeseen and uncontrollable circumstances. The specific effects of the Hurricane were unforeseen and uncontrollable. Therefore, to avoid having to issue

a potentially large number of individual approvals on a case-by-case basis and waste limited agency resources during the time of emergency, the Department authorizes a general extension of time of thirty days from the expiration of this Order for all such hazardous waste generators and small quantity generators for the storage of their hazardous wastes on site, in the counties within the Emergency Areas.

15. Expiration Date

This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire in 60 days from the date of execution set forth below, unless modified or extended by further order.

16. Violation of Conditions of Emergency Final Order

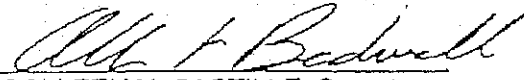
Failure to comply with any condition set forth in this Emergency Final Order shall constitute a violation of a Department Final Order under chapters 161, 253, 258, 373, 376, and 403 of the Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

NOTICE OF RIGHTS

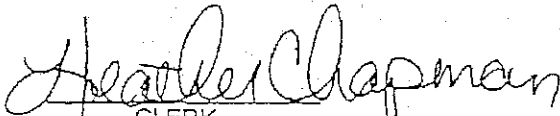
Any party substantially affected by this Order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 20th day of August, 2004, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION


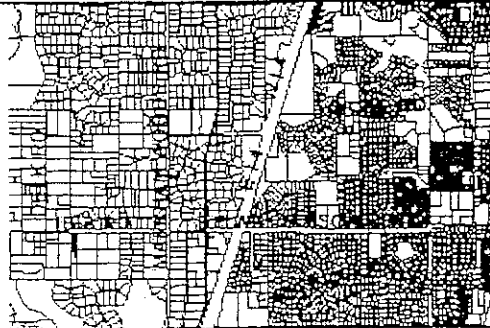


COLLEEN M. CASTILLE, Secretary
3900 Commonwealth Blvd
Tallahassee, FL 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes,
with the designated Department Clerk, receipt of which is hereby acknowledged.


CLERK

8/20/04
DATE

Personal Property Please Select Account

<p>PARCEL DETAIL</p> <p>REAL ESTATE PERSONAL PROP TAX ROLL SALES SEARCH</p> <p>Back</p>																																					
 <p>Seminole County Property Appraiser Services 1101 E. First St. Sanford FL 32771 407-663-7506</p>																																					
 																																					
<p>GENERAL</p> <p>Parcel Id: 26-20-29-300-0010-0000 Tax District: 01-TX DIST 1 - COUNTY</p> <p>Owner: CHURCH WEKIVA ASSEMBLY OF Exemptions: 36- CHURCH/RELIGIOUS</p> <p>Own/Addr: GOD INC Address: 1675 DIXON RD City,State,ZipCode: LONGWOOD FL 32779 Property Address: 1675 DIXON RD LONGWOOD 32779 Facility Name: Dor: 71-CHURCHES</p>																																					
<p>2004 WORKING VALUE SUMMARY</p> <p>Value Method: Market Number of Buildings: 2 Depreciated Bldg Value: \$646,332 Depreciated EXFT Value: \$1,181 Land Value (Market): \$455,600 Land Value Ag: \$0 Just/Market Value: \$1,103,113 Assessed Value (SOH): \$1,103,113 Exempt Value: \$1,103,113 Taxable Value: \$0</p> <p>2004 Notice of Proposed Property Tax</p>																																					
<p>SALES</p> <table border="1"> <thead> <tr> <th>Deed</th> <th>Date</th> <th>Book</th> <th>Page</th> <th>Amount</th> <th>Vac/Imp</th> </tr> </thead> <tbody> <tr> <td>WARRANTY DEED</td> <td>06/1987</td> <td>01857</td> <td>1704</td> <td>\$50,000</td> <td>Vacant</td> </tr> </tbody> </table> <p>Find Comparable Sales within this DOR Code</p>		Deed	Date	Book	Page	Amount	Vac/Imp	WARRANTY DEED	06/1987	01857	1704	\$50,000	Vacant																								
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<p>BUILDING INFORMATION</p> <table border="1"> <thead> <tr> <th>Bld Num</th> <th>Bld Class</th> <th>Year Bld</th> <th>Fixtures</th> <th>Gross SF</th> <th>Stories</th> <th>Ext Wall</th> <th>Bld Value</th> <th>Est. Cost New</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>STEEL/PRE ENG</td> <td>1984</td> <td>20</td> <td>16,500</td> <td>1</td> <td>METAL PREFINISHED</td> <td>\$597,897</td> <td>\$797,196</td> </tr> <tr> <td colspan="2">Subsection / Sqft</td> <td colspan="7">OPEN PORCH FINISHED / 2700</td> </tr> <tr> <td>2</td> <td>MASONRY PILAS</td> <td>1994</td> <td>0</td> <td>1,000</td> <td>1</td> <td>WOOD SIDING WITH WOOD OR METAL STUDS</td> <td>\$48,435</td> <td>\$55,354</td> </tr> </tbody> </table>		Bld Num	Bld Class	Year Bld	Fixtures	Gross SF	Stories	Ext Wall	Bld Value	Est. Cost New	1	STEEL/PRE ENG	1984	20	16,500	1	METAL PREFINISHED	\$597,897	\$797,196	Subsection / Sqft		OPEN PORCH FINISHED / 2700							2	MASONRY PILAS	1994	0	1,000	1	WOOD SIDING WITH WOOD OR METAL STUDS	\$48,435	\$55,354
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<p>NOTE: Assessed values shown are NOT certified values and therefore are subject to change before being finalized for ad valorem tax purposes. *** If you recently purchased a homesteaded property your next year's property tax will be based on Just/Market value.</p>																																					



Seminole County, Florida

Property Appraiser Services

Your Source for Property Information... Quick, Convenient, Accurate

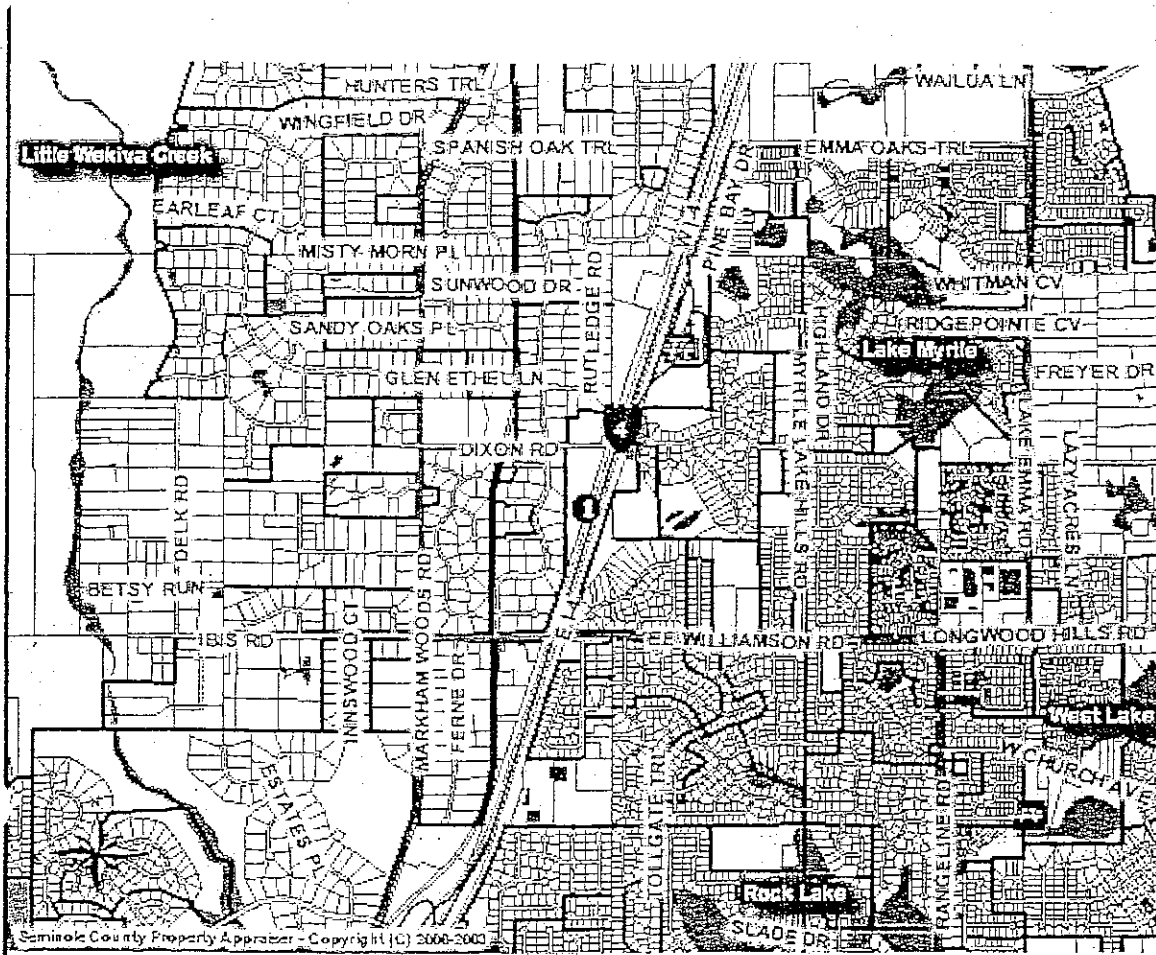
H. W. "Bill" Suber CFA,



Seminole County

Property Appraiser Service

1101 E. Kin
 Sanford FL
 407-665-7111



- Legen
- Selected Fe
 - County Bou
 - Major Roads
 - Streets
 - Hydrology
 - Subdivision
 - Parcels
 - Facilities
 - Golf Course
 - Parks

Seminole County Property Appraiser - Copyright (C) 2000-2003

Rec	Parcel	Owner	Owner Addr	City	State	Zip
1	26202930000100000	CHURCH WEKIVA ASSEMBLY OF	1675 DIXON RD	LONGWOOD .	FL	32779

1675 Dixon Road

V
S



26-20-29-300-0010-0000 / District 5.

BA2004-002
OCTOBER 25, 2004

1:6,500

(e) At any point in time the then current limit on the number of outdoor advertising signs located in the unincorporated areas of Seminole County shall be the initial limit specified in subsection (b) above less the total number of existing structures which have been removed as specified in subsection (c) above.
(Ord. No. 01-22, § 2, 5-22-01).

Sec. 30.1250. Limitation on number, size and orientation of outdoor advertising sign faces.

In addition to the limitation specified in section 30.1249 above, there is hereby imposed a limitation upon the number, size and orientation of the sign faces located upon the existing structures. From and after the effective date of sections 30.1249—30.1252, the number of sign faces on an existing structure may not be increased, either by adding an additional face oriented in a different direction or by changing the display mechanism to permit the display of multiple signs on a single sign face. From and after the effective date of sections 30.1249—30.1252, no sign face on an existing structure may be increased in size and the orientation of each sign face located upon an existing structure may not be changed.
(Ord. No. 01-22, § 3, 5-22-01).

Sec. 30.1251. Reconstruction of damaged or destroyed existing structures.

Except for an existing structure which is non-conforming due to zoning (which cannot be replaced), an existing structure damaged or destroyed by flood, fire, earthquake, war, riot, act of God or other similar casualty loss may be reconstructed in the same location with the same (or smaller or fewer, as the case may be) size and number of sign faces provided that the reconstruction is accomplished in accordance with the current applicable provisions of the Land Development Code. An existing structure may not be relocated to another location.
(Ord. No. 01-22, § 4, 5-22-01).

Sec. 30.1252. Removal or trimming of trees and vegetation.

Except as specifically authorized by permit issued by or maintenance agreement with the

State of Florida Department of Transportation no trees or vegetation shall be removed or trimmed from the property upon which an existing structure is located, from any right-of-way or other public property or from property adjacent thereto in order to enhance the visibility of the existing structure. Other than periodic mowing of groundcover, removal of vegetation and tree pruning shall be limited to maintaining existing and established lines of sight. Pruning shall be done in a manner to promote healthy, uniform, and natural growth of the vegetation except where necessary to promote the health, safety and welfare of the public. All pruning shall be accomplished in accordance with the provisions of the of the National Arborist Association (1989) which are hereby adopted and incorporated herein by this reference. Violators of this section may be compelled to replant vegetation of a similar size and type as that removed in order to mitigate the effects of a violation. Repeat violators may be prosecuted in accordance with law, including imposition of such fines and imprisonment as may be allowed by law.

(Ord. No. 01-22, § 5, 5-22-01).

Secs. 30.1253—30.1260. Reserved.

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY; PROVIDING FOR LEGISLATIVE FINDINGS; PROVIDING FOR A LIMITATION ON THE NUMBER OF OUTDOOR ADVERTISING SIGNS; LIMITING THE NUMBER OF OUTDOOR ADVERTISING SIGNS TO THOSE EXISTING ON THE EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING FOR DECREASES IN THE LIMIT DUE TO THE REMOVAL OF OUTDOOR ADVERTISING SIGNS UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR A LIMITATION ON THE NUMBER, SIZE AND ORIENTATION OF OUTDOOR ADVERTISING SIGN FACES; PROVIDING FOR THE RECONSTRUCTION OF OUTDOOR ADVERTISING SIGNS DESTROYED OR DAMAGED BY FIRE, FLOOD OR SIMILAR CASUALTY LOSS; PROHIBITING REMOVAL OR TRIMMING OF VEGETATION AND TREES IN ORDER TO ENHANCE VISIBILITY OF AN OUTDOOR ADVERTISING SIGN; REPEALING ORDINANCE 01-2 AND CONFLICTING PROVISIONS OF CHAPTER 65 OF THE SEMINOLE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an Economic Impact Statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter; and

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan (SCCP); and

WHEREAS, outdoor advertising signs are regulated, in part, in Part 65 of the Seminole County Land Development Code (LDC); and

WHEREAS, by Ordinance 99-5, adopted on March 9, 1999, the Board of County Commissioners (BCC) extended the date to February 1, 2001, for bringing existing non-conforming outdoor advertising signs into compliance with the provisions of the LDC; and

WHEREAS, by Ordinance 01-2, adopted on January 23, 2001, the BCC imposed a moratorium on the approval or issuance of development permits authorizing placement of new outdoor advertising signs in order to review the availability of sites for outdoor advertising signs; and

WHEREAS, at the present time there are one hundred eleven (111) approved outdoor advertising signs located in the unincorporated areas of Seminole County (the "Existing Signs"); and

WHEREAS, the BCC has concluded that the Existing Signs are, when combined with the other outdoor advertising signs located throughout the County, located in sufficiently diverse and different areas to provide an opportunity for the citizens of and visitors to Seminole County to view outdoor advertising messages; and

WHEREAS, the BCC has concluded and determined that no additional outdoor advertising signs are necessary or desirable; and

WHEREAS, the BCC may, consistent with cases such as *City of Lake Wales v. Lamar Advertising Association of Lakeland, Florida*, 414 So.2d 1030 (Fla. 1982) and *Lamar-Orlando Outdoor Advertising v. City of Ormond Beach*, 415 So.2d 1312 (Fla. 5th DCA 1982) consider the aesthetic impact of outdoor advertising signs; and

WHEREAS, aesthetics are a "compelling governmental interest" and, according to cases such as *City of Sunrise v. D.C.A. Homes, Inc.*, 421 So.2d 1084 (Fla. 4th DCA 1982), the fact that a billboard regulation has an adverse impact upon the lawful business of outdoor advertising is of no legal consequence; and

WHEREAS, the BCC seeks to protect and preserve the character and appearance of Seminole County, lessen congestion in the streets, and maintain a

positive and visually pleasing atmosphere for those traveling the various roadways throughout Seminole County; and

WHEREAS, the BCC desires to protect the property rights of the owners of the outdoor advertising signs currently located in the unincorporated areas of Seminole County, to the extent of allowing said signs to remain in place until they are removed in order to accommodate development in the area or upon the site; and

WHEREAS, this Ordinance is deemed to be in the best interests of the health, safety, morals and welfare of the citizens of Seminole County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Legislative Findings. The above recitals represent the legislative findings of the Board of County Commissioners supporting the need for this ordinance.

Section 2. Limitations On Outdoor Advertising Signs.

(a) Notwithstanding anything in the Seminole County Land Development Code to the contrary, from and after the effective date of this Ordinance, the total number of outdoor advertising signs located in the unincorporated areas of Seminole County shall be limited as hereafter specified.

(b) The initial limitation on outdoor advertising signs is the one hundred eleven (111) outdoor advertising sign structures currently existing in the unincorporated areas of Seminole County (the "Existing Structures"). An inventory of these Existing Structures dated May 8, 2001, as amended, and on file in the Code Enforcement Office is incorporated herein by this reference. The Planning Manager may administratively adjust the number of existing signs upon presentation of evidence sufficient to show that an

outdoor advertising sign existed on the effective date of this ordinance and was not included in the inventory dated May 8, 2001, as amended.

(c) The limit stated in subsection (b) above shall be correspondingly reduced upon the occurrence of any of the following:

(1) The property containing an Existing Structure or Structures is annexed into a municipality; or

(2) An Existing Structure is removed incident to a road widening or other public works project; or

(3) An Existing Structure is removed incident to the development or redevelopment of the property upon which the Existing Structure is located; or

(4) An Existing Structure is removed incident to the expiration of the lease or other agreement authorizing placement of the Existing Structure on the property; or

(5) An Existing Structure which is non-conforming due to zoning is removed due to destruction, damage or other casualty which results in destruction of fifty percent (50%) or more of the support structure for or of fifty percent (50%) or more of the face of the sign.

(d) The intent of subsections (c)(3) and (c)(4) above is to prohibit the replacement of any Existing Structure that is removed by the agreements, actions or requirements of parties other than Seminole County, except when the County deals with property owned or managed by the County.

(e) At any point in time the then current limit on the number of outdoor advertising signs located in the unincorporated areas of Seminole County shall be the

initial limit specified in subsection (b) above less the total number of Existing Structures which have been removed as specified in subsection (c) above.

Section 3. Limitation on Number, Size and Orientation of Outdoor Advertising Sign Faces.

In addition to the limitation specified in Section 2 above, there is hereby imposed a limitation upon the number, size and orientation of the sign faces located upon the Existing Structures. From and after the effective date of this Ordinance, the number of sign faces on an Existing Structure may not be increased, either by adding an additional face oriented in a different direction or by changing the display mechanism to permit the display of multiple signs on a single sign face. From and after the effective date of this Ordinance, no sign face on an Existing Structure may be increased in size and the orientation of each sign face located upon an Existing Structure may not be changed.

Section 4. Reconstruction Of Damaged or Destroyed Existing Structures.

Except for an Existing Structure which is non-conforming due to zoning (which cannot be replaced), an Existing Structure damaged or destroyed by flood, fire, earthquake, war, riot, act of God or other similar casualty loss may be reconstructed in the same location with the same (or smaller or fewer, as the case may be) size and number of sign faces provided that the reconstruction is accomplished in accordance with the current applicable provisions of the Land Development Code. An Existing Structure may not be relocated to another location.

Section 5. Removal or Trimming of Trees and Vegetation.

Except as specifically authorized by permit issued by or maintenance agreement with the State of Florida Department of Transportation no trees or vegetation shall be

removed or trimmed from the property upon which an Existing Structure is located, from any right-of-way or other public property or from property adjacent thereto in order to enhance the visibility of the Existing Structure. Other than periodic mowing of groundcover, removal of vegetation and tree pruning shall be limited to maintaining existing and established lines of sight. Pruning shall be done in a manner to promote healthy, uniform, and natural growth of the vegetation except where necessary to promote the health, safety and welfare of the public. All pruning shall be accomplished in accordance with the provisions of the "Tree Pruning Standards" of the National Arborist Association (1989) which are hereby adopted and incorporated herein by this reference. Violators of this section may be compelled to replant vegetation of a similar size and type as that removed in order to mitigate the effects of a violation. Repeat violators may be prosecuted in accordance with law, including imposition of such fines and imprisonment as may be allowed by law.

Section 6. Repeal of Ordinance 01-2 and Conflicting Provisions of the Land Development Code.

(a) Ordinance 01-2, adopted on January 23, 2001, shall be and is hereby repealed, effective immediately after this ordinance becomes effective in accordance with Section 9 hereof.

(b) All provisions of Chapter 65 of the Seminole County Land Development Code in conflict with this ordinance shall be and hereby repealed.

Section 7. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such section, paragraph, sentence, clause, phrase or word may be

severed from this Ordinance and the balance of this Ordinance shall not be affected thereby.

Section 8. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Land Development Code and that the word "ordinance" may be changed to "section," "article," or other appropriate word and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that sections 6, 7, 8 and 9 shall not be codified.

Section 9. Effective Date. This Ordinance shall become effective upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this 22nd day of May, 2001.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By 
DICK VAN DER WEIDE, CHAIRMAN

SPL/lpk
05/23/01
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AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY; PROVIDING FOR LEGISLATIVE FINDINGS; AMENDING SECTIONS 2.3, 30.1249(a) AND 30.1250; RENUMBERING SECTION 30.1252 TO 30.1254; CREATING A NEW SECTION 30.1252; CREATING SECTION 30.1253; CREATING DEFINITIONS; PERMITTING USE OF CUT-OUTS ON OUTDOOR ADVERTISING SIGNS; PROVIDING STANDARDS FOR CUTOUTS; PROVIDING FOR USE OF AGREEMENTS TO ALLOW CONSTRUCTION, RECONSTRUCTION OR RELOCATION OF OUTDOOR ADVERTISING SIGNS; PROVIDING STANDARDS FOR OUTDOOR ADVERTISING SIGN AGREEMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an Economic Impact Statement has been prepared and is available for public review in accordance with the provisions of the Seminole County Home Rule Charter; and

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan; and

WHEREAS, one incentive to encourage reduction in the number of old and unsightly outdoor advertising signs is to permit construction of new replacement outdoor advertising signs at a benchmark ratio of one (1) new outdoor advertising sign in exchange for the removal of four (4) or more existing outdoor advertising signs; and

WHEREAS, a lesser number of new and attractive outdoor advertising signs is of a superior public benefit than a greater number of older, unattractive outdoor advertising signs; and

WHEREAS, the public is benefited by re-location of outdoor advertising signs from residential and incompatible locations to areas which are more compatible with such signage; and

WHEREAS, the BCC may, pursuant to legal precedent from cases such as *City of Lake Wales v. Lamar Advertising Association of Lakeland, Florida* 414 So.2d 1030 (Fla. 1982) and *Lamar-Orlando Outdoor Advertising v. City of Ormond Beach*, 415 So.2d 1030 (Fla. 5th DCA 1982), regulate outdoor advertising signs based upon aesthetic concerns; and

WHEREAS, the BCC seeks to protect and preserve the character and appearance of Seminole County and maintain a positive and visually pleasing atmosphere for travelers on the various roadways throughout Seminole County, and

WHEREAS, the BCC desires to protect the property rights of owners of the outdoor advertising signs currently located in the unincorporated areas of Seminole County by allowing said signs to remain in place until they are voluntarily removed; and

WHEREAS, the BCC seeks to provide the opportunity to property owners to enhance the value of their outdoor advertising signs; and

WHEREAS, this Ordinance is deemed to be in the best interests of the health, safety, morals and welfare of the citizens of Seminole County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Legislative Findings. The above recitals represent the legislative findings of the Board of County Commissioners supporting the need for this Ordinance.

Section 2. Amendment of Section 2.3 of the LDC. Section 2.3, Land Development Code of Seminole County is amended to add the following definitions:

Cut-out: The portion of an outdoor advertising sign which protrudes or extends above, to the side of or outward from the board face.

Face: The standard flat area of an outdoor advertising sign, generally of a rectangular geometric shape, where an advertising message is displayed. One outdoor advertising sign may have more than one (1) face.

Multi-vision sign: An outdoor advertising sign containing a series of triangularly shaped, three-sided pylons which rotate at fixed intervals to display different faces.

Section 3. Amendment of Section 30.1249(a), LDC. Section 30.1249(a), Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.1249(a). Limitations on outdoor advertising signs.

(a) ~~Notwithstanding anything in the Seminole County Land Development Code to the contrary, from and after the effective~~

~~date of sections 30.1249-30.1252, t~~The total number of outdoor advertising signs located in the unincorporated areas of Seminole County shall be limited as hereafter specified herein-, unless new outdoor advertising signs are constructed, reconstructed or relocated pursuant to Section 30.1253 of this Code.

Section 4. Amendment of Section 30.1250, LDC. Section 30.1250, Land Development Code of Seminole County is hereby amended to read as follows:

Sec. 30.1250. Limitation on number, size and orientation of outdoor advertising sign faces.

In addition to the limitation specified in section 30.1249 above, there is hereby imposed a limitation upon the number, size and orientation of the sign faces located upon the existing structures. ~~From and after the effective date of sections 30.1249-30.1252, t~~The number of sign faces on an existing structure may not be increased, either by adding an additional face oriented in a different direction or by changing the display mechanism to permit the display of multiple signs on a single sign face. ~~From and after the effective date of sections 30.1249-30.1252, n~~No sign face on an existing structure may be increased in size and the orientation of each sign face located upon an existing structure may not be changed. The foregoing restrictions shall not apply to duly constructed cut-outs or to

sign alterations conducted pursuant to an outdoor advertising sign agreement as authorized by Section 30.1253 of this Code.

Section 5. Renumbering and recreation of Section 30.1252, LDC. Section 30.1252, Land Development Code of Seminole County is hereby renumbered as Section 30.1254 and a new Section 30.1252 is hereby created to read as follows:

Sec. 30.1252. Use of Cut-outs on Outdoor Advertising Signs.

(a) The use of cut-outs on outdoor advertising signs is permitted.

(b) The following criteria shall apply to the use of cut-outs on any outdoor advertising sign:

(1) Cut-outs may not increase the board face area by more than fifteen percent (15%).

(2) A cut-out may not extend more than five (5) feet above the top of any board face.

(3) A cut-out may not extend more than two (2) feet beyond either the right or left side of the board face.

(4) A cut-out may extend below the board face by no more than two feet (2').

(5) A cut-out may not protrude or project perpendicularly from the board face to any distance greater than:

(A) Three (3) feet on board face of 400 square feet or less;

(B) Five (5) feet on a board face of more than 401 square feet.

Section 6. Creation of Section 30.1253, LDC. Section 30.1253, Land Development Code of Seminole County is hereby created to read as follows:

Sec. 30.1253. Outdoor Advertising Sign Agreements.

(a) Outdoor advertising signs may be constructed, reconstructed, or relocated pursuant to an Agreement executed between Seminole County and the property owner and the outdoor advertising sign owner.

(b) No outdoor advertising sign may be permitted within three hundred (300) feet of any trail corridor, except for such signs, and reconstruction of such signs, which existed prior to the enactment of this section.

(c) Any consideration of an outdoor advertising sign agreement should include removal of at least four (4) existing outdoor advertising signs or faces in unincorporated Seminole County in exchange for one (1) sign to be reconstructed, constructed or relocated in unincorporated Seminole County. The permit applicant must specify the location and specifications of the outdoor advertising sign(s), the number of outdoor advertising signs to be removed and a description of what non-conforming structures would be removed and what non-conforming structures would be created. For the purposes of this section,

multi-vision signs may be treated as multiple faces based on the number of faces displayed during one complete advertising cycle. Nothing set forth herein shall prohibit the BCC from entering an outdoor advertising sign agreement at an alternate sign-removal-to-sign-replacement ratio if such alternate ratio is determined to be in the best interest of the public.

(d) Notwithstanding anything to the contrary elsewhere in this Code, except as found in Section 30.1253(b), outdoor advertising signs may be permitted in any non-residential zoning district and/or may vary from code separation requirements if such location is found to be in the public interest.

(e) No outdoor advertising sign agreement may be entered unless it includes a written waiver and release by the sign owner, the property owner, and any sign lessees, to any claim against the County to further compensation or reimbursement regarding removal of the specified outdoor advertising signs.

(f) There shall be at least one (1) public hearing with due public notice before the Board of County Commissioners regarding any proposed outdoor advertising sign agreement.

Section 7. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such section, paragraph, sentence, clause, phrase or word

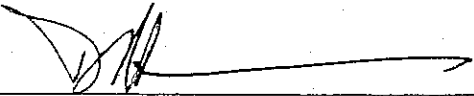
may be severed from this Ordinance and the balance of this Ordinance shall not be affected thereby.

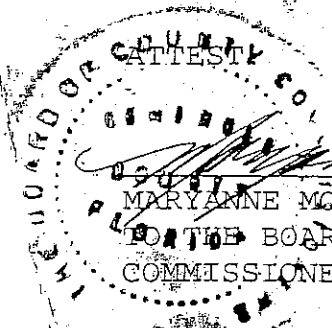
Section 8. Codification. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Seminole County Land Development Code and that the word "ordinance" may be changed to "section", "article", or other appropriate word and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that sections 8, 9 and 10 shall not be codified.

Section 9. Effective Date. This Ordinance shall become effective upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this 8th day of April, 2003.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: 
DARYL G. MCLAIN, CHAIRMAN


MARYANNE MORSE, CLERK
OF THE BOARD OF COUNTY
COMMISSIONERS

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**MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT
DECEMBER 13, 2004
6:00 P.M.**

Members Present: Mike Hattaway, Chairman, Lila Buchanan, Alan Rozon, Wes Pennington and Mike Bass

Staff Present: Earnest McDonald, Principal Coordinator; Matt West, Planning Manager; Kathy Fall, Senior Planner; Francisco Torregrosa, Planner; Arnold Schnieder, County Attorney; Stephen Lee, County Attorney; Patty Johnson, Senior Staff Assistant

Mike Hattaway, Chairman, called the meeting to order at 6:00 P.M. Mr. Hattaway then explained the method by which the meeting would be conducted, rules for the voting and appealing decisions.

CONSENT ITEMS

VARIANCES:

1. **BUNGALOW BOULEVARD (LOT 3)** - Philbert Payne, applicant; Request for (1) minimum lot size variance from 8,400 square feet to 4,320 square feet for a proposed single-family home; and (2) minimum side street setback variance from 25 feet to 10 feet and side yard setback variance from 7.5 feet to 3 feet for a proposed single family home in the R-1 (Single Family Dwelling District); Located on the northwest corner of the intersection of Airport Boulevard and Bungalow Boulevard; (BV2004-165).
Kathy Fall, Senior Planner

2. **3635 PALM AVE** - Kenneth Kovalski, applicant; Request for (1) minimum lot size variance from 11,700 square feet to 10,000 square feet for a proposed single family home; and (2) minimum width at the building line variance from 90 feet to 80 feet for a proposed single family home in the R-1AA (Single Family Dwelling District); Located on the north side of Palm Avenue, approximately 100 feet west of the intersection of Palm Avenue and Overlook Drive; (BV2004-172).
Francisco Torregrosa, Planner

3. **2045 FALMOUTH ROAD** - Karen M. Halvorson, applicant; Request for minimum (west) side yard setback variance from 10 feet to 7.62 feet for a proposed replacement screen room in the R-1AA (Single Family Dwelling District); Located on the north side of Falmouth Road, approximately 100 feet east of the intersection of Sidcup Road and Falmouth Road; (BV2004-169).
Francisco Torregrosa, Planner

4. **400 EAGLE CIRCLE** – Jean Charles, applicant; Request for (1) minimum (east) side yard setback variance from 10 feet to 5 feet for a proposed pool screen enclosure; and (2) minimum (south) side yard setback variance from 10 feet to 7 feet for a proposed pool screen enclosure in the PUD (Planned Unit Development District); Located immediately west of the intersection of Swallow Drive and Eagle Circle; (BV2004-171).

Francisco Torregrosa, Planner

Mr. Rozon made a motion to approve the Consent Agenda Items 1, 2, 3 and 4.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

CONTINUED ITEMS

APPEALS FROM ADMINISTRATIVE DECISIONS:

5. **1675 DIXON ROAD** - National Advertising Company / Glenn N. Smith, appellants; Appeal of an administrative decision of the Planning Manager to deny the reconstruction of a nonconforming billboard structure in the A-1 (Agriculture District); Located at the southwest corner of West Interstate-4 and Dixon Road; (BA2004-002).

Earnest McDonald, Principal Coordinator

Matt West, Planning Manager introduced the location of the application and stated that after a long discussion at the November 15, 2004 Board of Adjustment meeting, this item was continued. Staff has since met with the County Attorney Office about getting some clarity on the billboard. He also stated that the Board of Adjustment doesn't have to decide if the billboard was damaged, destroyed, removed or repaired; that is a matter for the Code Enforcement Board. He further stated that the issue before the Board is to determine if the billboard is a conforming or nonconforming use in the A-1 (Agriculture District). He also stated that his opinion is that the billboard is a nonconforming use. Matt West also referred to the Land Development Code in section 30.122, stating that no where in the code is a billboard listed as a permitted use or special exception use in the A-1 (Agriculture District). He also referred to Ordinance 2003-20, stating that this ordinance established standards for billboards in Seminole County. He further stated that you have to enter into an agreement with the County, and the appellants have not entered into an agreement. He lastly stated that staff is asking the Board of Adjustment to uphold his decision to deny the reconstruction of a nonconforming billboard structure on the A-1 (Agriculture District).

William McCormick, attorney for the appellants National Advertising / Glenn N. Smith, stated that the reason he was there to determine if Mr. West properly

interpreted the code. He also stated that the code enforcement case had been dismissed. He further stated that the matter at hand is if this is a nonconforming sign in the A-1 (Agriculture District). He referred to the Land Development Code, Section 30.122 A-1 (Agriculture), Permitted uses, within the A-1 Agriculture Zoning Classification, no building, structure, land or water shall be used, **unless otherwise permitted**, except for one (1) or more of the listed uses. He then stated that definition of the word otherwise: in different circumstances. He further referred to Ordinance 2003-20 (d) **notwithstanding anything to the contrary elsewhere in this Code**, except as found in Section 30.1253(b), **outdoor advertising signs may be permitted in any non-residential zoning district** and / or may vary from code separation requirements if such location is found to be in the public interest. He also stated that the County allows billboards in the A-1 (Agriculture District). He further stated that A-1 (Agriculture District) is a non-residential district. He also stated that Ordinance 2003-20 doesn't state that you have to enter into a billboard agreement with the County. He lastly stated that under certain circumstances billboards are otherwise permitted by the language of the code.

Mr. Bass made a motion to uphold the Planning Manager decision to deny the reconstruction of a nonconforming billboard structure in the A-1 (Agriculture) Zoning District.

Mr. Rozon seconded the motion.

The motion passed by (3-2) consent. Mrs. Buchanan and Mr. Pennington were in opposition.

PUBLIC HEARING ITEMS

MOBILE HOME SPECIAL EXCEPTIONS:

- 6. 360 SOUTH HART ROAD - Imogene & Beverly Yarborough, applicants; Request for special exception for the permanent placement of a mobile home in the A-5 (Rural Zoning Classification District); Located on the west side of South Hart Road, approximately 0.25 mile south of the intersection of South Hart Road and West SR 46; (BM2004-028).**

Jason Showe, Planner

Kathy Fall introduced the location of the application and stated that on June 25, 2001, the mobile home was approved for three (3) years. She also stated that at that time the applicants were planning on building. She further stated that staff supported only three years because the trend of development on the recent years has been mainly conventional homes. She also stated that the mobile home on the property was damaged by one of the hurricanes and the applicants are replacing it with a 2005 mobile home. She lastly stated that the staff report recommended approval of the mobile home, but she would like the Board to consider a limited

time frame on the placement of the mobile home due to the trend of development in the area.

Imogene Yarborough stated that she is the grandmother of the young man that lives on the property. She also stated that three years ago they definitely hoped to build a house for Robert, her grandson, but now this piece of property is tied up in a trust. She further stated that the property could not be released for another six years and until then they can't build a house. She stated that what ever time the Board gave them would be appreciated. She lastly stated that the property was a perfect place for Robert and his family to live and they would like to put double wide on the property.

Beverly Yarborough stated that the old mobile home had a shingle roof, double pane hurricane windows and hurricane clips holding the roof together. She further stated that everything has been approved to remove the old mobile home.

Mr. Pennington made a motion to approve the request for permanent placement of a mobile home.

Mr. Hattaway seconded the motion.

The motion passed by unanimous consent (5-0).

7. **311 LONGWOOD LAKE MARY ROAD** - Andrew Tesla, applicant; Request for special exception for the two year placement of a mobile home in the A-1 (Agriculture District); Located on the west side of Longwood Lake Mary Road, approximately 300 feet north of the intersection of Longwood Lake Mary Road and Lake Way Road; (BM2004-026).

Kathy Fall, Senior Planner

THIS ITEM WAS WITHDRAWN BY THE APPLICANTS.

VARIANCES:

8. **421 LAKE MILLS ROAD** - Dennis K. Barncord, applicant; Request for (1) special exception for the one year placement of a recreational vehicle while a single family home is under construction; and (2) minimum front yard setback variance from 50 feet to 25 feet for a proposed home in the A-5 (Rural Zoning Classification District); Located on the south side of Oleander Avenue, approximately 229 feet east of the intersection of Oleander Road and First Ave; (BM2004-027 & BV2004-168).

Jason Showe, Planner

Kathy Fall introduced the location of the application and stated that the applicant had satisfied the criteria for the granting of a (1) special exception for the one year

placement of a recreational vehicle while a single family home is under construction, therefore staff recommended approval of the request. She further stated that staff could not recommend approval of the (2) minimum front yard setback variance from 50 feet to 25 feet for a proposed home, because the request did not meet the criteria for granting a variance and staff recommended denial of the request.

Dennis Barncord stated that he own the property to the north, south and west of this property. He also stated that Oleander Road has been closed to the east and west of the property. He further stated that the only thing remaining is his property and he has intensions of closing the road, which is really a right of way.

Mr. Rozon made a motion to approve both the mobile home special exception and variance requests.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

- 9. 104 CRESCENT BOULEVARD** - Kenneth & Sarah Donlan, applicants; Request for front yard setback variance from 25 feet to 18 feet for a proposed front porch addition in the R-1AA (Single Family Dwelling District); Located on the west side of Crescent Boulevard, approximately 450 feet north of the intersection of East 2nd Street and Crescent Boulevard; (BV2004-170).

Jason Showe, Planner

Francisco Torregrosa introduced the location of the application and stated that the applicant had failed to satisfy the criteria for granting a variance. He further stated that staff recommended denial of the request.

Sarah Donlan stated that they have a small front entrance and they wanted to put a roof, four (4) pillars and a cement pad in the front of the house. She also said it would not be an enclosed structure. She further stated that they would like to have a view of the lake, the house was built in 1973 and they would like to bring the house up to the standard of the neighborhood. She also stated that this would enhance the value of the house.

Ken Donlan stated that there is 27 feet from the property line to the porch. He also stated that the house is quite a distance from the road.

Mrs. Buchanan made a motion to approve the request.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

10.3742 ST LUCIE COURT - Nancy & Frank Caroleo, applicants; Request for minimum front yard setback variance from 20 feet to 5 feet for a proposed replacement fence in the PUD (Planned Unit Development District; Located on the northwest corner of the intersection of Biscayne Drive and St Lucie Court; (BV2004-167).

Francisco Torregrosa, Planner

Francisco Torregrosa introduced the location of the application and stated that the applicant had failed to satisfy the criteria for granting a variance. He also stated that staff recommended denial of the request. He further stated that he spoke with a traffic engineer, and was told the fence would not impose a traffic safety issue.

Frank Caroleo stated that he wanted to put the fence back exactly where it was before the hurricane destroyed it. He also stated that he has two (2) front yards because his house faces St. Lucie Court. He further stated that he wanted to extend the fence to cover his bedroom window. He also stated that he was putting a fence on St. Lucie Court and the fence had been there for 18 years before the hurricane.

Mr. Bass made a motion to approve the request.

Mrs. Buchanan seconded the motion.

The motion passed by unanimous consent (5-0).

SPECIAL EXCEPTIONS:

11.1101 TUSCAWILLA POINT - Alex G. Suero, applicant; Request to amend an existing special exception to expand a animal clinic and kennel in the A-1 (Agriculture District); Located on the east side of Tusawilla Road, approximately 145 feet south of the intersection of Tusawilla Point and Tusawilla Road; (BS2004-030)

Kathy Fall, Senior Planner

Kathy Fall introduced the location of the application and stated staff recommended approval of the special exception for a kennel expansion based on the following conditions:

- The number of boarding compartments shall not exceed 20.
- The kennels shall be indoor kennels with no outside kennels on the site.
- The building shall be constructed with soundproofing material.
- Outdoor walking of dogs will be between the hours of 7:30 a.m. to 7:30 p.m.

Ms. Fall lastly stated that there had been no code violation calls on the existing kennel.

Parks Wilson stated that he was representing the applicant, Dr. Alex Suero. He also stated that the addition would be 800 square feet in size and completely indoor. He further stated that the architectural structure of the addition would match the architecture of the existing building.

Dr. Alex Suero stated that they needed more space to board the animal at peak times and holidays. He also stated that they currently have 24 runs. He further stated that the addition would make it more comfortable for staff and the animals.

Mr. Hattaway asked, asked what would be done to sound proof the building?

Parks Wilson stated that the sound proofing would be in the walls, they would have expanded foam in the walls for insulation. He also stated that there is only one (1) door which is a fire exit. He further stated that the windows are mainly for ventilation, and they will be the same type in the existing kennel. He lastly stated that there would be little or no sound coming from the building.

Dr. Alex Suero stated that his kennel has been there for 15 years, and he had not received any complaints.

Mr. Rozon made a motion to approve the request.

Mrs. Buchanan seconded the motion.

The motion passed by unanimous consent (5-0).

12.9170 OVERLAND ROAD - John Rutherford & Sue Walsh, applicants: Request to amend an existing special exception to allow the temporary storage of vehicles in conjunction with an approved mechanical garage in the C-2 (Retail Commercial District); Located on the west side of Overland Road, approximately 400 feet south of the intersection of US 441 and Overland Road; (BS2004-032).
Francisco Torregrosa, Planner

After a lengthy discussion ensued, the Board of Adjustment decided to continue this item to a date subsequent to Final Site Plan approval.

APPROVAL OF NOVEMBER 2004 REGULAR MEETING MINUTES

Mr. Rozon made a motion to approve the November 15, 2004 minutes.

Mr. Pennington seconded the motion.

The motion passed by unanimous consent (5-0).

ADJOURNMENT

Time of adjournment was 9:00 p.m.