

Mr. Kelly states, as far as it should go off permitting, that's not what the Code says. It says 'off of work performed.' If that should be changed, that's a separate matter. However, it is whether or not Mr. George violated a statute as it is written and violated the Code as the Code is written. There was nothing in his file at the hearing indicating any other violations and complaints."

Mayor Christensen said, "Mr. Dramis, you stated that Mr. George provided documentation showing that he hired somebody privately to do the inspections. Were those inspections done since he went before the Contractors' Examining Board?" Mr. Dramis replied in the affirmative. Mayor Christensen continued, "So we did, in fact, have people swimming in pools that weren't properly inspected until after he was brought before the Board." Mr. Dramis replied in the affirmative. Vice Mayor Kelly said, "The attorney said that the complaints were not in the file." Mr. Dramis explained, "The only complaints in the file are the complaints that go before the Board. Call-in complaints, licensing complaints, trash complaints, all of those do not go in the file unless they have been adjudicated before the Board." Vice Mayor Kelly noted, "If we had those 102 complaints at the Board, he might have gotten more than one year. It's getting deeper."

Mayor Christensen opened the Public Hearing. There being no comments, Mayor Christensen closed the Public Hearing.

Vice Mayor Kelly **moved** to deny the appeal. Councilman Cooper **seconded** the motion. The City Clerk restated the motion as follows: to deny the appeal for Item 9e). The **motion passed unanimously** by roll call vote.

10. **FIRST READING OF ORDINANCES**

✓ a) **ORDINANCE 08-27**, AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF PORT ST. LUCIE TO INCLUDE AN AMENDMENT TO THE FUTURE LAND USE MAP TO CHANGE A PORTION OF TRACT N, PORT ST. LUCIE SECTION 34, TO CG (GENERAL COMMERCIAL) FROM CL (LIMITED COMMERCIAL); PROVIDING THE INVALIDITY OF ANY PORTION SHALL NOT AFFECT THE REMAINING PORTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE, P08-015, AM DEVELOPMENT, LLC

The City Clerk read Ordinance 08-27 aloud by title only. Councilwoman Berger **moved** to approve Ordinance 08-27. Vice Mayor Kelly **seconded** the motion. Councilman Cooper said, "I'm curious about why we are so quick to do this. Nothing has changed since this was last brought to us. There is still a conflict between the land use and the zoning, and I'm not going to support it until that has been resolved. That's what we asked for." Councilwoman Berger **rescinded her motion**. Vice Mayor Kelly **withdrew his second**. Councilman Cooper stated, "I met with them about this issue. I was in favor of what they proposed. They did reduce it and rework the

project, but it is still no guarantee that that is what they will build. We have asked them to correct this issue before, and it is still not corrected."

Mayor Christensen advised that several people have signed up to speak on the item.

William Bristol stated, "I am speaking against the rezoning of Tract N, Section 34. Presently the property is zoned CL, Limited Commercial. The owner knew this when he purchased it. I believe the owner needs to develop the property as it is, according to our Comprehensive Plan. When the Council conceptually approved the Becker Road development plan last year, part of that approval process was to keep the commercial development to the three approved nodes, which were at Port St. Lucie Boulevard and Becker, Darwin, and Savona. This piece of property was not intended to be General Commercial. If the Council approves General Commercial, it could be a carwash, a gas station, or any other use the owner wants to maximize his profit, to the detriment of the neighborhood. I believe that later you are going to have a discussion on the Becker Road property values and buy outs. I think our City Attorney was probably misquoted in the newspaper, when he said the lawsuits were generated by individual property owners, so their attorneys could generate fees. I don't believe that is the case. I believe that the individual owners on Becker Road who are suing have seen how many times this Council has approved changes to the Comprehensive Plan where people have asked for zoning changes. I believe that if this Council approves this without some learned discussion, it will reinforce what the property owners on Becker Road have been saying: Their property should be appraised as commercial, instead of residential. I am not against individual property owners developing their property. I am against them purchasing the property and then asking for rezoning, strictly to maximize their individual profits at the detriment of an existing neighborhood. I believe you all should discuss this."

Steve Ball, Land Planning Systems, representing the applicant, stated, "We are proposing this change to make the land use and zoning consistent. This has been before you before. At the time the Becker Road study was still in the process. That was Council's concern, so we waited until it was completed. That plan was not adopted as a regulatory document, so the application of those provisions does not really apply to this site, even though I believe we are consistent with the intention of that. If you look on Page 5 of your staff report, you will see a map we worked out with the staff to control the access points and to further buffer the property from the surrounding neighborhood by limiting development in the rear. There are conditions that were included in the ordinance before you, to ensure that those conditions are carried forward. One is that no access be allowed from Becker, but to the side streets, and not extending more than 160 feet south of Becker. The reason for that is so that the entrances and exits do

not impose upon the residential area. Any road improvements that may be determined through site planning in conjunction with the widening of Becker Road may be required from the land. And lastly, a 30-foot building setback from Becker Road and a 100-foot setback from the rear of the property are required. Those are the conditions we have agreed to. Also, if you notice, both to the east and the west is property that was designated for retention areas. That would further buffer the properties. The land use and zoning are both Commercial already; you are going to have commercial development here. The problem is that they are not exactly the same, and they are required to be the same by Florida growth management laws. We are trying to make that correction. The most intensive commercial uses would come before you again as special exceptions."

Michael Reinstein, property owner, stated, "It is our intent to build a shopping center. We have had a lot of interest from banks, restaurants, fitness clubs, and child care centers that are looking for more than 5,000 feet. That is another reason to go to General Commercial land use to match the zoning, so we can market out property to the larger uses."

Vice Mayor Kelly asked, "Wasn't this before us about a year and a half ago? I believe this gentleman brought the property quite a long time ago. The land use didn't agree with the zoning, and it still doesn't. I was against it at that time for other reasons. As Councilman Cooper just said, how can we guarantee what will go there? I'm eating my words, because I seconded it. But if we make something General Commercial, he can sell it next week and somebody can come in with a carwash. I wouldn't be protecting our plan for Becker Road." Councilman Cooper commented, "We have the cart before the horse. It's not their fault, but later in the meeting is discussion on what to do with Becker Road and possible design changes. I don't even want to consider changing any zoning until we have heard from the Council tonight on what direction we want to go with work on Becker Road and Floresta." Councilwoman Berger pointed out, "I read multiple times that staff did not recommend approval; they recommended denial. I will ask Ms. Cox to give a brief update." Ms. Cox stated, "Staff recommendation was for denial for the Comprehensive Plan amendment."

Mr. Ball said, "The staff did that, but they also made a series of recommendations that, if this goes forward, should be incorporated. The Planning and Zoning Board did recommend approval with those conditions." Mayor Christensen said, "Number 3 of the staff recommendations was crossed out. Why?" Ms. Cox replied, "By the Planning and Zoning Board. They voted for Conditions 1, 2, and 4. They didn't feel that Condition 3 was fair to the property owner." Councilman Cooper asked, "Do we own these lots for water retention? Do we need them or not need them? It is no fault of the applicant, but I would prefer to go through the discussion of Becker Road and Floresta before we discuss potential changes or allowing Commercial

on Becker Road." Mayor Christensen asked, "Did we have to purchase any of the adjacent property, or do we own any of it?" The City Manager replied, "No. Whether we would have to purchase property would depend upon the ultimate design." Councilman Cooper noted that the map shows it as a possible City water-retention area.

Councilman Cooper **moved** to deny Ordinance 08-27. Vice Mayor Kelly **seconded** the motion. Councilwoman Berger stated, "When this came before us in 2006, I voted for the applicant for property rights issues. This time, because of the changing information, I do think it is important to review all the options. The property still has a lot of value, whether you put townhomes on it or charter schools. I don't feel that property rights are being taken away at this time." The City Clerk restated the motion as follows: for denial of Ordinance 08-27. The **motion passed unanimously** by roll call vote.

**b) ORDINANCE 08-28, AMENDING THE CITY OF PORT ST. LUCIE CITYWIDE DESIGN STANDARDS; PROVIDING AN EFFECTIVE DATE**

The City Clerk read Ordinance 08-28 aloud by title only. Councilman Cooper **moved** to approve Ordinance 08-28. Vice Mayor Kelly **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 08-28. The **motion passed unanimously** by roll call vote.

**c) ORDINANCE 08-29, AMENDING THE CITY OF PORT ST. LUCIE CODE OF ORDINANCES, AMENDING SECTION 156.038(F), SUBDIVISION REGULATIONS, AND SECTION 158.237, ZONING CODE; PROVIDING AN EFFECTIVE DATE**

The City Clerk read Ordinance 08-29 aloud by title only. Councilman Cooper **moved** to approve Ordinance 08-29. Councilwoman Bartz **seconded** the motion. The City Clerk restated the motion as follows: for approval of Ordinance 08-29. The **motion passed unanimously** by roll call vote.

**d) ORDINANCE 08-30, PROVIDING FOR THE AMENDMENT OF THE PLANNED UNIT DEVELOPMENT DOCUMENT AND CONCEPTUAL DEVELOPMENT PLAN FOR VIZCAYA FALLS, LOCATED IN A PLANNED UNIT DEVELOPMENT DISTRICT; PROVIDING AN EFFECTIVE DATE, P07-352, KC VIZCAYA FALLS, LLC**

The City Clerk read Ordinance 08-30 aloud by title only. Vice Mayor Kelly **moved** to approve Ordinance 08-30. Councilman Cooper **seconded** the motion. Councilwoman Berger noted, "I would like to make the Council aware that this week I have a meeting with residents from Vizcaya Falls, along with our Planning and Zoning Department and Legal Department, in the City Manager's Office. As information becomes available, I will make sure it is shared with you all before the second reading." The City Clerk restated the motion as follows: for approval of Ordinance 08-30. The **motion passed unanimously** by roll call vote.