

ORDINANCE NO. 11-56

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, APPROVING REZONING AND SPECIAL USE PERMIT PETITIONS AND AUTHORIZING IDENTIFICATION ON THE OFFICIAL ZONING MAP; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Marion County, Florida (Board), is responsible for and has established the zoning of parcels of property in the unincorporated area of Marion County as reflected on the official Zoning Map, and

WHEREAS, property owner(s) have submitted petition(s) for rezoning and special use permits and such petitions identify the property by metes and bounds description or by the Marion County Property Appraiser parcel number and such identification of property is hereby incorporated into this ordinance by reference, and

WHEREAS, the Board has considered the recommendation of the Zoning Commission and has conducted the necessary public hearing and has approved the petitions contained in this ordinance, now therefore

BE IT ORDAINED by the Board of County Commissioners of Marion County, Florida:

SECTION 1. REZONING AND SPECIAL USE PERMIT APPROVALS. The Board hereby approves the below-listed petitions for Rezoning and Special Use Permits.

- 1. AGENDA ITEM #14A1.** 111001SU A petition by Community Presbyterian Church of North Marion, Inc., P.O. Box 616, McIntosh FL, requests a Special Use Permit, of the Marion County Land Development Code, Section 5.3, for the purpose of expansion of church and pre-kindergarten school to recently acquired property, and to use existing structure as a Pregnancy Counseling Center, in A-1(General Agriculture) and B-5 (Heavy Business) zones, on Parcel Account No. 02609-002-00, 7.09 acres,

Including all terms and conditions of Resolution No. 11-R-415, attached hereto and incorporated herein by reference.

- 2. AGENDA ITEM #14A2.** 111002SU A petition by Liberty Ocala Investments, LLC, 13577 Feather Sound Drive #520, Clearwater FL, requests a Special Use Permit, of the Marion County Land Development Code, Section 5.3, for the purpose of an assisted

living facility with maximum of 80 beds, in a B-2 (Community Business) zone, on Parcel Account No. 41219-002-02, 2.48 acres.

Including all terms and conditions of Resolution No. 11-R-416, attached hereto and incorporated herein by reference.

- 3. AGENDA ITEM #14A3.** 111003SU A petition by Chip Investments 3, LLC/Pat McLaughlin, PO Box 2829, Belleview FL, requests a Special Use Permit, of the Marion County Land Development Code, Section 5.2, for the purpose of placing a mobile home for security, in an M-2 (Heavy Industrial) zone, on Parcel Account No. 37021-003-05, 1.00 acre.

Including all terms and conditions of Resolution No. 11-R-417, attached hereto and incorporated herein by reference.

- 4. AGENDA ITEM #14A4.** 111004SU A petition by Delmer and Margaret Meeks, 3132 NE Jacksonville Road, Ocala FL, requests a Special Use Permit, of the Marion County Land Development Code, Section 5.3, to allow parking two commercial vehicles greater than 10,000 lbs. each, in a B-2 (Community Business) zone, on Parcel Account No. 2473-001-001, .45 acres.

Including all terms and conditions of Resolution No. 11-R-418, attached hereto and incorporated herein by reference.

- 5. AGENDA ITEM #14A5.** 111005Z A petition by Richard Daniels, PO Box 490022, Leesburg FL, requests a Zoning Change, Article 5 of the Marion County Land Development Code, from B-4 (Regional Business) to A-3 (Residential Agricultural Estate), on Parcel Account No. 02242-000-00, 2.66 acres.
- 6. AGENDA ITEM #14A6.** 111006Z A petition by Clarence and Dorothy Boyd, 4839 SE 112th Street Road, Belleview FL, requests a Zoning Change, Article 5 of the Marion County Land Development Code, from B-2 (Community Business) to B-5 (Heavy Business), on a portion of Parcel Account No. 36635-000-00, 4.5 acres.
- 7. AGENDA ITEM #14C1.** 111007Z A petition by Jayne Ward, 5480 N. Shore Road, Pensacola FL, requests a Zoning Change, Article 5 of the Marion County Land Development Code, from A-1 (General Agriculture) and R-4 (Residential Mixed Use) to B-4 (Regional Business), for any and all uses permitted in a B-4 zone, on Parcel Account Nos. 34899-004-00 and 34899-002-00, 14.83 acres.

8. **AGENDA ITEM #14C1.** 111007ZSU A petition by Jayne Ward, 5480 N. Shore Road, Pensacola FL, requests a Special Use Permit, Section 5.3 of the Marion County Land Development Code, for operating a flea market in a B-4 zone, on Parcel Account Nos. 34899-004-00 and 34899-002-00, 14.83 acres.

Including all terms and conditions of Resolution No. 11-R-421, attached hereto and incorporated herein by reference.

9. **AGENDA ITEM #14C2.** 111008SU A petition by OLSC Land Ventures, LLC, 377 NW 14th Street, Ocala FL, requests a Special Use Permit, of the Marion County Land Development Code, Section 5.3, for a cattle harvesting facility, in an A-1(General Agriculture) zone, on a portion of Parcel Account No. 04728-001-01, 640 acres.

Including all terms and conditions of Resolution No. 11-R-422, attached hereto and incorporated herein by reference.

SECTION 2. EFFECTIVE DATE. A certified copy of this Ordinance as enacted shall be filed by the Clerk of the Board with the Office of the Secretary of State of the State of Florida within ten (10) days after enactment, and this Ordinance shall take effect in accordance with Section 125.66(2), Florida Statutes.

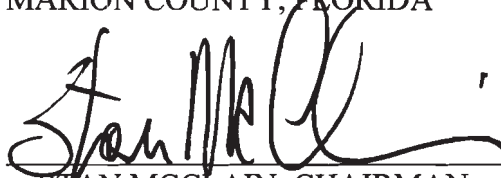
DULY ADOPTED this 18th day of October, 2011.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA



DAVID R. ELLSPERMANN, CLERK



STAN MCCLAIN, CHAIRMAN

RECEIVED NOTICE FROM
SECRETARY OF STATE ON
NOVEMBER 2, 2011 THAT ORDINANCE
WAS FILED ON OCTOBER 27, 2011.

RESOLUTION NO. 11-R-421

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, APPROVING THE ISSUANCE OF A SPECIAL USE PERMIT, PROVIDING AN EFFECTIVE DATE.

WHEREAS, an application for a Zoning Change to B-5 was duly filed by Jayne Ward, and was considered by the Marion County Zoning Commission at its meeting on September 26, 2011; and

WHEREAS, the aforementioned application was recommended to be reduced in zoning intensity to B-4 by the Zoning Commission at its meeting on October 18, 2011: and

WHEREAS, the aforementioned application was considered for a Special Use Permit at a public hearing held by the Board of County Commissioners of Marion County, Florida at its meeting on Tuesday, October 18, 2011; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Marion County, Florida:

SECTION 1. SPECIAL USE PERMIT APPLICATION APPROVAL 111007ZSU

Jayne Ward. The application for a Special Use Permit as submitted by Jayne Ward, is hereby approved for a request for a Special Use Permit in a B-4 (Regional Business) zone on approximately 14.83±/ acres to operate a flea market, on Parcel Account No. 34899-004-00 and 34899-002-00.

SECTION 2. FINDINGS AND CONDITIONS. The Board of County Commissioners agrees with the recommendation and findings and the Board approves the Special Use Permit subject to the following conditions:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. The outdoor market shall be limited to the outdoor sales of fresh produce and the retail items permitted in the B-1 zoning category. Sale of new merchandise or services outside of the scope of those uses and products listed previously shall not be permitted.
3. The outdoor market shall be limited to the western, ±441' wide, Parcel No. 34899-004-00. No outdoor market activity, parking or supporting/accessory activity shall occur on the eastern, ±220' wide, Parcel No. 34899-002-00.

4. The days and hours of operation for the outdoor market shall be limited to Friday, Saturday, and Sunday from 8:00 am to 5:00 pm for a maximum of three weekends per calendar month. Prior to commencing the outdoor market and prior to each month, the applicant shall provide a monthly schedule identifying the Three weekends the use will be conducted to the Zoning Division; as an alternative, the applicant may provide the schedule for an extended time, (e.g., quarterly, annual, etc.) subject to providing the extended schedule prior to commencing the use.
5. No new permanent structures shall be erected or established on the subject property to conduct the outdoor market use (e.g., vendor booths, etc.). All vendor related booths and materials shall be cleared and removed from the site and not stored or maintained on the property at any time other than the authorized days and hours of operation established consistent with Condition #4.
6. Operation of the outdoor market shall comply with the requirements of the Florida Department of Health (DOH) regarding restroom facilities for the outdoor market. The existing on-site ±2,150 SF building may be restored and/or renovated for commercial use to provide restrooms, if acceptable to DOH, and support administration/office space for the outdoor market; however no other outdoor market operations shall occur within said building (e.g., food preparation, food service, sales, etc.). In the event portable restroom facilities are authorized by DOH, the portable facilities shall be located west of the existing on-site single-family residence.
7. Ingress shall be via CR 484. Within thirty (30) days of the approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any driveway apron and/or other related improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed prior to commencing the outdoor market use authorized by this Special Use Permit.
8. A Land Development Code Type "C" Buffer (minimum 15' wide, 5 trees per 100 LF, and a continuous double-staggered hedgerow to reach 60" in 2 years) shall be provided along the outdoor market site's Hwy 484 frontage; however, consistent with LDC requirements, existing vegetation within the Buffer area may be used to satisfy the Buffer planting requirements.
9. The Special Use Permit shall run with Jayne Ward and not the property.
10. The Special Use Permit shall expire October 18th, 2013. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

SECTION 3. REVOCATION. Violation or failure to comply with one or more condition(s) of this Special Use Permit could result in revocation of this Special Use Permit by the Board at a noticed public hearing.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED in regular session this 18th day of **October, 2011.**

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA**



DAVID R. ELLSPERMANN, CLERK



STAN MCCLAIN, CHAIRMAN

Rezoning Case No. 111007Z
Special Use Permit No. 111007SU
Official Minutes
(October 18, 2011)

October 18, 2011

acres. The property is located in the northwest portion of the County and is 2.55 acres in size with one single family residence.

DRC action on August 8, 2011, by a vote of 4-1, was to approve the waiver request subject to 1) no family or guest cottages will be authorized and 2) completing the family division within two years from the date of approval by the Board of County Commissioners.

Budget/Impact: None.

Recommended Action: Motion to approve the requested family division as recommended by DRC.

A motion was made by Commissioner Stone, seconded by Commissioner Bryant, to agree with the DRC and approve the family division, subject to no family or guest cottages would be authorized and the family division would be completed within two years from the date of approval by the BCC. The motion was unanimously approved by the Board (5-0).

Resolutions/Zoning – (14.C.) – 1. – (Z. C. 111007Z) – The Board considered a petition by Jayne Ward, 5480 N. Shore Road, Pensacola, FL, requesting a Zoning Change, Article 5 of the Marion County Land Development Code, from A-1 and R-4 to B-5 for flea market and any other use permitted in a B-5 zone, on Parcel Account Nos. 34899-004-00 and 34899-002-00, located at 15865 SW Hwy 484, Dunnellon, FL.

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 2 of 7 = 29%.

ZONING COMMISSION RECOMMENDATION: Mr. Finn opined that a B-4 zoning change would be better in this situation, and made a motion, seconded by Mr. Thompson, to disagree with staff's findings and recommendation, and recommend denial based on the following findings of fact:

1. Is not compatible with the surrounding land uses.
2. Is not consistent with the Marion County Comprehensive Plan.
3. Will adversely affect the public interest.

Motion passed 3 to 2, with Mr. Lord dissenting.

Senior Planner Rison stated Planning Department staff recommended approval of the Zoning Change; however, the Zoning Commission recommended denial.

Jayne Ward, applicant, was present.

Upon call for public comment, Cindy Tveter, SW Highway 484, Dunnellon, presented a 2 page letter and photograph, which addressed her concerns and opposition to the Zoning Change. She requested the Board to deny the request.

Ms. Tveter also presented a letter from Mr. R. H. Wagner, SW Highway 484, Dunnellon, who could not be present. The letter requested that the petition not be granted.

Janet Barrow, SW 164th Avenue Road, Dunnellon, presented a two page letter, describing the surrounding area, as well as addressing her concerns and objections to the zoning change. She requested that the Board deny the zoning change.

Ms. Ward stated she was a Florida Licensed Realtor and addressed her reason for choosing the B-5 zoning classification. She noted she wanted the land to coincide with the land use to put on the market. Ms. Ward stated she purchased the property as an investment in 2007, which was well before Ms. Tveter built her home. She was aware that the County did not want homes on the property due to the airport. Ms. Ward advised that she was a residential realtor and currently had the property listed with a local commercial realtor.

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Ms. Ward stated she requested the outdoor market as an inexpensive way to help offset some of the costs of holding the land until a proper buyer was found. She stated her thoughts were more of an arts and crafts weekend, nicer, under the trees sort of event to attract residents from On Top of the World, etc., rather than a yard sale type of event. Ms. Ward noted she did not have all of the details at this time, but had looked to the Florida Department of Health about restroom facilities. She advised that she was not looking for this to be long-term as she did not want a business there for any length of time, but rather to help offset some of her costs. Ms. Ward preferred the property be sold to someone that would enhance the area and briefly described the area. She requested the Board consider the zoning change, which would eventually be for the sale of the property, not for the market place.

In response to Chairman McClain, Ms. Ward stated she anticipated the market place would be open Friday through Sunday. Chairman McClain stated a driveway permit would likely be needed, which would then bring in Southwest Florida Water Management District (SWFWMD). Mr. Rison concurred. He noted conversation was held with the petitioner about the Board approving a different zoning classification with a Special Use Permit.

Mr. Rison stated Planning Department staff prepared the following Approval Conditions, which he presented:

1. The site shall be developed and operated consistent with the submitted conceptual plan and the conditions as provided with this approval.
2. The outdoor market shall be limited to the outdoor sales of fresh produce and the retail items permitted in the B-1 zoning category. Sale of new merchandise or services outside of the scope of those uses and products listed previously shall not be permitted.
3. The outdoor market shall be limited to the western, $\pm 441'$ wide, Parcel No. 34899-004-00. No outdoor market activity, parking or supporting/ accessory activity shall occur on the eastern, $\pm 220'$ wide, Parcel No. 34899-002-00.
4. The days and hours of operation for the outdoor market shall be limited to Friday, Saturday, and Sunday from 8:00 am to 5:00 pm for a maximum of two weekends per calendar month. Prior to commencing the outdoor market and prior to each month, the applicant shall provide a monthly schedule identifying the three weekends the use will be conducted to the Zoning Division; as an alternative, the applicant may provide the schedule for an extended time, (e.g., quarterly, annual, etc.) subject to providing the extended schedule prior to commencing the use.
5. No new permanent structures shall be erected or established on the subject property to conduct the outdoor market use (e.g., vendor booths, etc.). All vendor related booths and materials shall be cleared and removed from the site and not stored or maintained on the property at any time other than the authorized days and hours of operation established consistent with Condition #4.
6. Operation of the outdoor market shall comply with the requirements of the Florida Department of Health (DOH) regarding restroom facilities for the outdoor market. The existing on-site $\pm 2,150$ SF building may be restored and/or renovated for commercial use to provide restrooms, if acceptable to DOH, and support administration/office space for the outdoor market;

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- however no other outdoor market operations shall occur within said building (e.g., food preparation, food service, sales, etc.).
7. Ingress shall be via CR 484. Within thirty (30) days of the approval of this Special Use Permit, the applicant shall contact the Marion County Transportation Department to determine the type and extent of driveway apron and/or other driveway apron improvements required, including obtaining any necessary R/W Permit(s). Any driveway apron and/or other related improvements required by the Marion County Transportation Department, pursuant to this condition, shall be completed prior to commencing the outdoor market use authorized by this Special Use Permit.
 8. A Land Development Code Type "C" Buffer (minimum 15' wide, 5 trees per 100 LF, and a continuous double-staggered hedgerow to reach 60" in 2 years) shall be provided along the outdoor market site's Hwy 484 frontage; however, consistent with LDC requirements, existing vegetation within the Buffer area may be used to satisfy the Buffer planting requirements.
 9. The Special Use Permit shall run with Jayne Ward and not the property.
 10. The Special Use Permit shall expire October 18th, 2013. The applicant may submit a new Special Use Permit Application for consideration to renew and extend this permit in the future.

Commissioner Stone addressed the Specialized Commerce District along that portion of CR 484. Mr. Rison advised that the area to the east of the subject site had been designated as a Commerce District since the adoption of the Comprehensive Plan in 1994 and this area was converted with update in February of 2010, which was adopted in 2011. In response to Commissioner Stone, Mr. Rison commented on B-5 in a Specialized Commerce District. He noted the Zoning Classifications of B-5, M-1 and M-2 allowed general aviation and related uses as a permitted use. Commissioner Stone noted his reservation with a B-5 zoning classification. Chairman McClain noted one of the struggles would be finding the appropriate zoning and without an end user it was difficult for the Board to approve a B-5 zoning classification. He advised that he was inclined to find a reduced zoning classification with a Special Use Permit.

In response to Commissioner Bryant, Ms. Ward stated her primary purpose was to make the property more marketable and something to help offset the costs was secondary. She stated someone else would run the outdoor market; however, she would be in the area about every three months.

Board discussion ensued.

Mr. Rison advised that staff's recommendation was to approve a zoning change to B-1, B-2 or B-4, with a Special Use Permit, which was focused on the outdoor activity. He noted if the Board wanted to continue to include general aviation as a general related use it could be included in the Special Use Permit, otherwise the applicant would be required to come back before the Board to pursue a rezoning to allow general aviation as a permitted use on the site. Ms. Ward stated she selected the B-5 zoning classification as it had two related aviation categories. She realized that whoever purchased the property may have a different need, which may need to be readdressed to be permitted a different use; however, her intent was to get the zoning classification consistent with the land use designation in a category that might attract a buyer interested in being located next to an airport.

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Board discussion continued.

A motion was made by Commissioner Bryant to deny the zoning change from A-1 and R-4 to B-5 and grant a zoning change to B-4, as well as adopt a Resolution granting the Special Use Permit with Conditions 1 through 10, based on Planning Department staff findings and recommendations that the proposed use was compatible with surrounding land uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest.

Chairman McClain noted the Special Use Permit would expire in 2 years. In response to Commissioner Zalak, Commissioner Bryant stated the buffer from the nearest neighbor was 220 feet. Ms. Ward commented on Condition No. 4 and requested 4 weekends per calendar month instead of 2 weekends. She also addressed Condition No. 6 with regard to restroom facilities. Chairman McClain directed staff to include language that the restroom facilities would be placed on the west side of the property.

Commissioner Bryant advised that her motion was for conditions as proffered by staff, noting her preference was for 2 weekends per calendar month. Commissioner Amsden suggested changing the Condition from 2 weekends to 3 weekends per calendar month.

The motion died for lack of a second.

A motion was made by Commissioner Amsden, seconded by Commissioner Zalak, to approve the Zoning Change from A-1 and R-4 to B-4 and adopting Resolution 11-R-421 granting the Special Use Permit, with Conditions 1 through 10, as amended (see below), based on Planning Department staff findings and recommendations that the proposed use was compatible with surrounding land uses, was consistent with the Comprehensive Plan and would not adversely affect the public interest.

Condition No. 4: The days and hours of operation for the outdoor market shall be limited to Friday, Saturday, and Sunday from 8:00 am to 5:00 pm for a maximum of three weekends per calendar month. Prior to commencing the outdoor market and prior to each month, the applicant shall provide a monthly schedule identifying the three weekends the use will be conducted to the Zoning Division; as an alternative, the applicant may provide the schedule for an extended time, (e.g., quarterly, annual, etc.) subject to providing the extended schedule prior to commencing the use.

Condition No. 6: Operation of the outdoor market shall comply with the requirements of the Florida Department of Health (DOH) regarding restroom facilities for the outdoor market. The existing on-site ±2,150 SF building may be restored and/or renovated for commercial use to provide restrooms, if acceptable to DOH, and support administration/office space for the outdoor market; however no other outdoor market operations shall occur within said building (e.g., food preparation, food service, sales, etc.). In the event portable restroom facilities are authorized by DOH, the portable facilities shall be located west of the existing on-site single-family residence.

Mr. Rison requested clarification as to not including an option for general aviation related uses at this time. Commissioner Stone noted that if the applicant sold the property the Special Use Permit would go away. Mr. Rison advised that the rezoning would remain in effect. The Board concurred.

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The motion was approved by the Board by a vote of 4-1, with Commissioner Bryant voting nay.

Chairman McClain passed the gavel to Commissioner Stone, who assumed the Chair.

Commissioner McClain out at 3:00 p.m.

Resolutions/Zoning – (14.C.) – 2. – (Z. C. 111008SU) – The Board considered a petition by OLSC Land Ventures, LLC, 377 NW 14th Street, Ocala, FL, requesting a Special Use Permit, Section 5.3 of the Marion County Land Development Code, for cattle harvesting facility in an A-1 zone, on a portion of Parcel Account No. 04728-001-01, located on CR 315, approximately 2.25 miles north of CR 316, and approximately 1 1/4 miles to the west of the highway.

PERCENT WRITTEN OPPOSITION WITHIN 300 FEET: 1 of 51 = 2%.

ZONING COMMISSION RECOMMENDATION: Motion made by Mr. Finn, seconded by Mr. Thompson, to agree with staff's findings and recommendation, and recommend approval with conditions, excluding Condition #12, based on the following findings of fact:

1. Is compatible with surrounding land uses.
2. Is consistent with the Marion County Comprehensive Plan.
3. Will not adversely affect the public interest.

Motion passed 5 to 0.

Senior Planner Rison stated the request was to allow a cattle harvesting facility with supporting uses, which would include wastewater treatment facilities and an energy cogeneration facility. The applicant noted the facility would encumber less of the property; however, staff used the larger holding for the advertising for this process. He advised that both Planning Department staff and the Zoning Commission recommended approval with the following Conditions:

1. The site shall be developed and operated consistent with the submitted "Site Concept Plan" and the conditions as provided with this approval.
2. This Special Use Permit shall permit the use of the property as a cattle harvesting facility (referred to in the Marion County Land Development Code as a "Meat packing plant"). Tanning of animal by-products on site is prohibited. Rendering, or similar processing, of inedible animal by-products on site is prohibited; this shall not prohibit the processing of blood.
3. The following supplying uses are also permitted by this Special Use Permit therewith:
 - a. Sewage treatment plants with an inflow exceeding 5,000 gallons per day, or sprayfields or other type of effluent disposal area when application rate exceeds 5,000 gallons per day, if allowed by law.
 - b. Treatment facility for wastewater residuals.
 - c. Water supply, treatment and storage facilities which serve 15 or more service connections, or commercial or industrial buildings which are required by the building code to have fire sprinkler systems.
 - d. Electric cogeneration facility to supply electricity for the cattle harvesting facility and irrigation system.
4. The cattle harvesting facility and supporting uses enumerated in Condition