

**LIMITED REVIEW  
OF THE  
ZONING DIVISION**

**Report by the  
Office of County Comptroller**

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June 12, 2003

Richard T. Crotty, County Chairman  
And  
Board of County Commissioners

We have conducted a limited review of the Zoning Division. The review was limited to determining if applications for the Planning and Zoning Commission, Board of Zoning Adjustment and fence permits were processed and evaluated in accordance with County regulations. The period reviewed was October 1, 2000 through December 31, 2001. Our review was conducted in accordance with government auditing standards and included such tests as we considered necessary in the circumstances.

Responses to our Recommendations for Improvement were received from the Manager of the Zoning Division and are incorporated herein.

We appreciate the cooperation of the personnel of the Zoning Division during the course of the audit.

Martha O. Haynie, CPA  
County Comptroller

c: Ajit Lalchandani, County Administrator  
John Warbington, Director, Growth Management Department  
Mitch Gordon, Manager, Zoning Division

# EXECUTIVE SUMMARY

## Executive Summary

We have conducted a limited review of the Zoning Division. The period reviewed was October 1, 2000 through December 31, 2001. The review was limited to determining if applications for the Planning and Zoning Commission, Board of Zoning Adjustment and fence permits were processed and evaluated in accordance with County regulations. Based on the work we performed, applications to the Planning and Zoning Commission and Board of Zoning Adjustment and fence permits were processed and evaluated by the Zoning Division according to County regulations. Improvements, including those related to advisory board membership requirements are needed as follows:

Property owners concurrently seeking a variance and special exception from the Board of Zoning Adjustment are only charged a fee to offset material and personnel costs incurred by the Zoning Division for the special exception. Zoning staff has waived variance request fees for a number of years because the tasks to process a variance and special exception application are similar. The County's Fee Directory does not authorize the Division to waive the variance charge in these circumstances.

Florida Commission on Ethics guidelines require local advisory board members with planning or zoning powers to annually submit financial disclosure statements to the Supervisor of Elections in their home county. Some Commissioners on the Planning and Zoning Commission did not provide a disclosure for tax year 2000 or provided disclosure after the July 1, 2001 deadline. The County did not follow-up with the Orange County Supervisor of Elections Office or the Ethics Commission to ensure all Commission members file timely.

Owners who want a zoning (land use) change for their property initiate an application process for a public hearing before the Planning and Zoning Commission. If the Commission approves the request it serves as a recommendation to the Board of County Commissioners for a final decision. During our review, we noted that 37 percent (11 of 30) of the zoning changes approved by the Board were not properly reflected in the Orange County Property Appraiser's records as of June 18, 2002. The Planning and Zoning Divisions should coordinate efforts to ensure the Property Appraiser has the appropriate information to update property records.

Management concurred with all of the recommendations made in this report and corrective action is underway.

# ACTION PLAN

**LIMITED REVIEW OF THE ZONING DIVISION  
ACTION PLAN**

NO.	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS		RECOMMENDATIONS
	CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED	
1.	X			X		We recommend the Zoning Division considers a request to the BCC for a fee directory modification authorizing it to waive variance charges when variance requests are combined with special exception requests to the BZA.
2.	X			X		We recommend the County monitors financial disclosure filings of Planning and Zoning Commission members and consider the timely and legal requirement to file as a factor in retaining board membership.
3.	X			X		We recommend the Planning and Zoning Divisions coordinate their efforts to ensure the appropriate information is given to the Property Appraiser to update County property records with BCC approved zoning changes.

# INTRODUCTION



**Background**

The Zoning Division ensures that property owners comply with Orange County land use and zoning regulations. The Division had an approved budget of \$2,601,000 during fiscal year 2000-2001, with 29 authorized positions. During the period August 2000 through July 2001, the Division accepted collections for 97 Planning and Zoning Commission (PZC) applications filed by landowners requesting a land use change, 142 Board of Zoning Adjustment (BZA) applications for construction project variances and special exceptions, and 2,437 fence permit applications. Collections for all permits issued and reviews performed by the Division during the 2000-2001 fiscal year totaled \$289,637 and \$385,976 during 2001-2002.

**Scope, Objectives,  
and Methodology**

The audit was limited to determining if PZC and BZA applications and fence permits were processed and evaluated in accordance with County regulations, not including the Comprehensive Policy Plan. The period audited was October 1, 2000 through December 31, 2001. The audit objectives were as follows:

- A) To ensure that zoning changes, zoning variances, special exceptions and fence construction requests were reviewed, processed and applicable fees were collected by Zoning Division personnel in accordance with the County Code and Fee Directory;
- B) To ensure that zoning change recommendations and zoning variance and special exception recommendations made by the PZC and the BZA, respectively, were approved by the Board of County Commissioners (BCC);
- C) To verify that the County's real property records accurately reflected zoning changes approved by the BCC; and
- D) To ensure that members of the PZC adhered to the Florida Sunshine Amendment, the Florida Commission on Ethics' Code of Ethics for Public

Officers and Employees and advisory board membership requirements of the County Code.

To ensure that zoning change, variance and special exception requests were properly reviewed and applicable fees were collected, we selected a sample of applicants requesting a public hearing before the PZC and BZA during the audit period. We verified that Zoning Division personnel confirmed information provided by the applicant and completed the application in its entirety. Additionally, we verified that case files contained adequate project documents such as site and construction plans and were appropriately reviewed by Zoning and Planning Division chief planners for consistency with the County's Comprehensive Policy Plan. Finally, we located documentation in each file that public notice was provided prior to the PZC's and BZA's hearings and all fees were collected.

To ensure that zoning change, variance and special exception requests were approved by the BCC, we examined the minutes of their meetings to determine the outcome (approval or rejection) of the PZC's and BZA's recommendations.

To verify that the County's real property records accurately reflected approved zoning changes, we examined parcel information records on the Property Appraiser's website.

To ensure that PZC members adhered to the Florida Sunshine Amendment and Florida Commission on Ethics rules, we contacted the Supervisor of Elections' Office and received copies of financial disclosure statements submitted by members for tax year 2000. We also examined property ownership records to verify that at the time of appointment each member was a County resident for at least two years.

To ensure that PZC members adhered to advisory board membership requirements of the County Code, we reviewed the minutes of all PZC public hearings held during the audit period to determine each member's attendance history.

To ensure that fence permits were appropriately processed and applicable fees were collected, we selected a sample of wood and chain link fence applications submitted during the audit period and determined that Zoning Division permitting personnel reviewed each application for zoning classification and parcel identification accuracy. Also, we verified that a permit analyst reviewed site and construction plans in order to determine the consistency of the project's lot area, lot width, etc. with the approved zoning classification.

**Overall Evaluation**

Based on the work we performed, PZC and BZA applications and fence permits were processed and evaluated by the Zoning Division according to County regulations. Additionally, members of the County's Planning and Zoning advisory board satisfied ethics and membership requirements cited in state and local pronouncements. However, based on the work we performed, real property records maintained by the Property Appraiser's Office did not always accurately reflect approved zoning changes. Additional improvements are needed as noted in this report.

# RECOMMENDATIONS FOR IMPROVEMENT

**1. Modifications to the Fee Directory Should Be Approved by the BCC**

Property owners seeking a variance and/or a special exception to existing zoning regulations request a public hearing before the BZA. As an offset to the personnel and material costs incurred by the Zoning Division during the application process, the County Fee Directory includes fees of \$341 for variances and \$912 for special exceptions. All customers requesting both a variance and special exception that comprised seventeen percent (5 of 30) of the sample case files we reviewed were only assessed a fee for the special exception. We were told that in these circumstances County staff had waived the variance fee for a number of years because the tasks to process a variance and special exception are similar. In the Division's opinion, some customers might consider it to be an overcharge if a fee were imposed for both services. The County's Fee Directory does not authorize the Division to waive the variance charge in these instances.

**We Recommend** the Zoning Division considers a request to the BCC for a fee directory modification authorizing it to waive variance charges when variance requests are combined with special exception requests to the BZA.

**Management's Response:**

We concur. The Growth Management Department has sent a draft proposal to the Legal Department for review. The expected timeframe for BCC review and approval should take place by the end of June 2003 with an effective date of July 1, 2003.

**2. Financial Disclosure Statements Should Be Submitted by Planning and Zoning Advisory Board Members**

Part III, Section F of the Florida Commission on Ethics' guidelines require local advisory board members with planning or zoning powers to annually submit financial

disclosure statements to the Supervisor of Elections in their home county. Based on information received from the Orange County Supervisor of Elections' Office, as of July 11, 2002, some members on the nine-member PZC did not provide a disclosure for the tax year 2000. While four members timely submitted their statements, three others filed as many as 100 days after the July 1, 2001 deadline and statements for two members were not on file. The Supervisor of Elections Office sent delinquency letters to the individuals who did not provide disclosure by July 1 and where applicable, notified the Ethics Commission of the individuals who did not disclose by September 1, 2001.

The County does not follow-up with the Supervisor of Elections Office or the Ethics Commission to ensure all members file timely. The County should ensure all PZC Board members file statements and if not done, consider taking additional actions, such as removing them from the Board or not reappointing them when their terms expire.

Although PZC members are not subject to legal penalties for failing to provide disclosure, the public should have the ability to identify potential conflicts of interest between PZC members and individuals petitioning the PZC for zoning changes. Information appearing on the statements, such as income from customers and clients and ownership interests in businesses, helps provide the public with disclosures of potential conflicts of interest.

**We Recommend** the County monitors financial disclosure filings of Planning and Zoning Commission members and consider the timely and legal requirement to file as a factor in retaining board membership.

**Management's Response:**

We concur. The Division will consult with the County Attorney's Office for a process to verify the timely filing of Planning and Zoning Board Member Financial Disclosure Statements. The Division will recommend that the Membership and Missions Review Board review the



timeliness of filings as a consideration when recommending Board appointments.

**3. Zoning Changes Approved by the BCC Should Be Updated in the Property Appraiser’s Records**

Owners who want a zoning (land use) change for their property initiate an application process for a public hearing before the PZC. If a hearing is granted, the PZC evaluates the applicant’s request for conformity with the County’s Comprehensive Policy Plan and solicits input from citizens who support or oppose the change. The PZC’s approval or denial of the request is a recommendation to the BCC for a final decision at its regular meeting. The BCC’s subsequent decision, whether or not in agreement with the PZC, is binding on the County.

During our review, we noted that 37 percent (11 of 30) of the zoning changes approved by the BCC in the cases sampled were not properly reflected in the Property Appraiser’s records as of June 18, 2002. The specifics of each situation are summarized in the table below.

CASE NUMBER/ DATE	PZC RECOMMENDED ZONING CHANGE	BCC APPROVED ZONING CHANGE	PROPERTY APPRAISER ZONING CLASSIFICATION
Z-01-024 6/26/01	C-2 TO P-D	SAME AS PZC	C-2
Z-01033 12/18/01	R-1A TO C-1	SAME AS PZC	R-1A
Z-01-068 7/31/01	A-2/C-1 TO R-2	SAME AS PZC	C-1
Z-01-075 12/11/01	A-2 TO P-D	SAME AS PZC	A-2
Z-01-081 8/28/01	R-1 TO I-4	SAME AS PZC	R-1
Z-01-083 8/28/01	R-1A TO R-2	SAME AS PZC	R-1A
Z-01-085 8/28/01	RT-2 TO RT-1	SAME AS PZC	R-T-2
Z-01-101 12/18/01	R-1A TO C-3	R-1A TO C-2	R-1A/C3
Z-01-104 10/30/01	R-1A TO PO	SAME AS PZC	R-1A
Z-01-106 2/5/02	A-2 TO P-D	SAME AS PZC	A-2
Z-01-107 1/8/02	A-1 TO R-CE	SAME AS PZC	A-1

The Property Appraiser updated his records to reflect the BCC approved changes on July 10, 2002.

Residential land use valuations differ from commercial and industrial land use valuations. Because tax assessments are directly affected by property values, the amount of tax revenue collected for misclassified parcels may potentially be incorrect. In some cases the County may forgo additional revenue while in other instances taxpayers may be overcharged.

**We Recommend** the Planning and Zoning Divisions coordinate their efforts to ensure the appropriate information is given to the Property Appraiser to update County property records with BCC approved zoning changes.

**Management's Response:**

We concur. The Zoning Division is working in conjunction with the Planning Division to coordinate efforts to provide the Property Appraiser's Office with appropriate information and documentation in order for them to update their records. Our first meeting on this issue will take place mid May 2003.