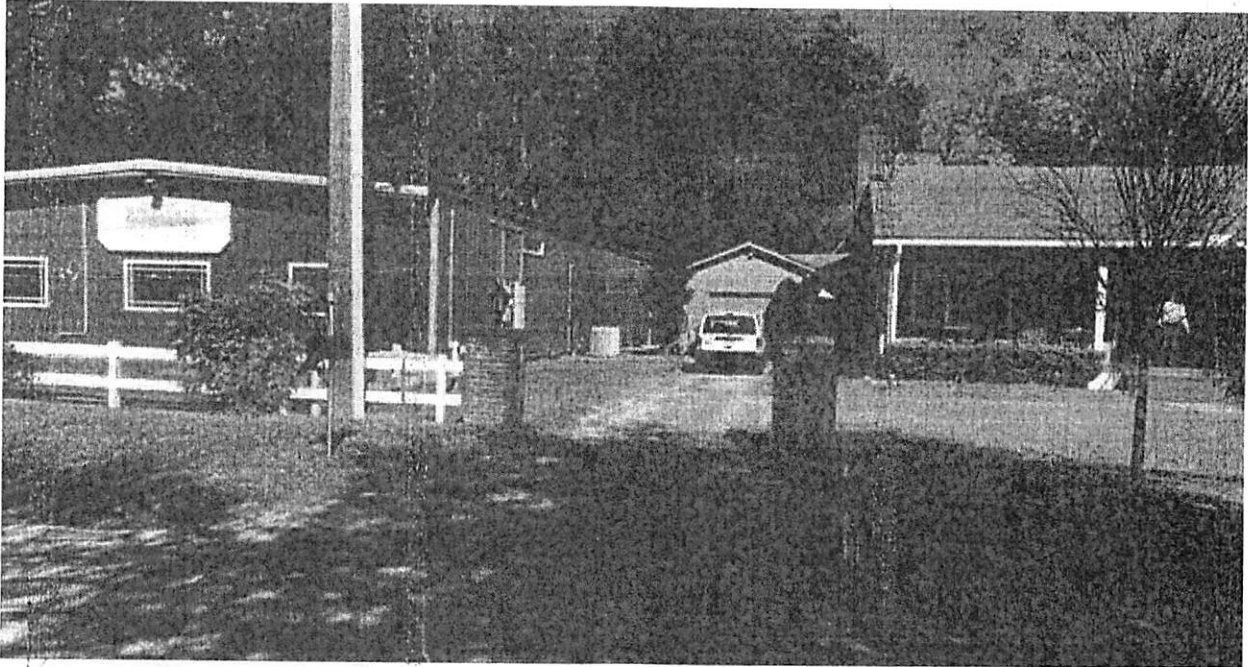


Response to 2021-832 and 2021-833

VIOLATIONS OF JACKSONVILLE'S CODE OF ORDINANCES



Code of Ordinances, Sec. 656.1216 (A) provides "Where uncomplimentary land uses or zoning districts are adjacent, without an intervening street, a buffer strip shall be required between the uses or zoning districts. Such buffer strip shall be at least ten feet, except as set forth in the Parking Lot Landscaping Matrix, Figure B, set forth in Section 656.607(j), in width the entire length of all such common boundaries. The following shall constitute uncomplimentary uses and zoning districts: (5) "Industrial uses or zoning districts, when adjacent to any nonindustrial uses or zoning districts other than agricultural land uses or zoning districts."

Code of Ordinances, Sec. 656.1203 (D) provides the following definition: "A buffer yard or strip means a strip of land, identified on a site plan or by zoning ordinance requirement, established to protect one type of land use from another land use that may be incompatible. The area is landscaped, maintained and kept in open space."

Code of Ordinances, Sec. 656.1216 (C) provides "The buffer strip shall not be used for principle or accessory uses and structures, vehicular use areas, dumpster pads, signs, equipment, storage."

The applicant and site plan assume that the space between the Schelldorf garage and the applicants building, which is also encumbered by an easement for ingress and egress, can also satisfy the building setback requirements and the buffer strip requirement, an assumption that we challenge.

The Schelldorf garage foundation must be exactly on the lot line for there to be 10' between the foundations of the two buildings. If the garage foundation extends over the lot line, there is not 10' between the foundation of the two buildings and Code of Ordinances, Sec. 656.1216 (C) controls. If the garage foundation is east of the lot line there is not 10' between the applicant's building and lot line and Code of Ordinances, Sec. 656.1216 (A) control.

Eaves and soffits are part of a structure. When the garage eaves and soffits are included, there is categorically not 10' between the Schelldorf garage and the applicants building and the mandatory requirements of Sec. 656.1216 (A) cannot be fulfilled. If the eaves and soffits are not included in the 10' calculation they are a structure that intrudes into the 10' and the mandatory requirements of Sec. 656.1216 (C) control.

An electric panel is attached to the easterly wall of the applicants building and an HVAC compressor is also located in the proposed buffer space, both are equipment and must be relocated under the provisions of Code of Ordinances, Sec. 656.1216 (C).

Easement

The space between the Schelldorf westerly property line/garage and the applicant's building serves as a building setback. The space is encumbered by a 10' easement for ingress and egress (See OR Book 8389, page 362). This is not a passive easement, such as a drainage easement, it exists for Mr. Schelldorf to access his rear yard and perform any maintenance to the garage. This easement excludes the applicant from entering into any agreement to encumber the property as a buffer strip. The landscaping and fencing for the buffer will interfere with the operation of the easement.

The applicant's plan calls for the narrow strip, which is already encumbered by an easement, to additionally serve as a buffer strip and building setback requirements. This circumvents the purpose of the buffer strip. (See OR Book 8389, page 362). Buffer strips and building setbacks are separate requirements. A single strip of land already encumbered by an access easement cannot satisfy both the buffer strip requirement and a building setback requirement. This is corroborated by Sec. 656.1216 (C), which states that the buffer strip cannot be used for any "accessory use". Ingress and egress on the entire length of that portion of the buffer is clearly an accessory use.

Buffer Strip Fencing

As a condition for approval of the proposed land use change and PUD, a 6' privacy fence must be installed. Code of Ordinances, Sec. 656.1216 (C) provides "The buffer strip shall not be used for principle or accessory uses and structures, vehicular use areas, dumpster pads, signs, equipment, storage." A fence is an accessory and cannot be installed within any portion of the required 10' buffer strip.

The applicant's site plan calls for a privacy fence on the outside of the buffer strip. The ordinance is clear; the purpose of the buffer is to protect the surrounding properties from the incompatible land use. A buffer strip enclosed by a fence does not fulfill that purpose of the buffer or the requirement that the buffer be "kept in open space". (See Code of Ordinances, Sec. 656.1203 (D)). Open space is defined as any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. The buffer strip is mandated to protect and shield surrounding properties from conflicting uses. Allowing the fencing to be placed on the outside of the buffer prevent visible monitoring of mandatory buffer maintenance and conceals the buffer and enables a property owner to eventually reclaim and repurpose the buffer.

The applicant's site plan calls for a privacy fence to be installed on the lot line shared with the Schelldorf property. Installation of a fence violates the ingress and egress provision of the 10' easement and voids the maintenance provision of the easement.

As previously stated installation of a fence on the lot line shared with the Schelldorf will infringe on the ingress and egress rights of the easement.

ADVERSE IMPACT

Code of Ordinances, Section 656.320 provides "The Comprehensive Plan includes four industrial land use categories: Light Industry, Heavy Industry, Water Dependent-Water Related and Business Park. Some industries produce adverse impacts, such as **noise, odors, toxic chemicals and wastes, and transportation conflicts** and should therefore be isolated away from residential and other low intensity use areas."

Transportation Conflicts

FDOR Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, C.7.b.1) recommends that "traffic lanes should be at least 12 feet in width, but shall not be less than 10 feet in width. Streets and highways with significant truck/bus traffic should have 12 feet wide traffic lanes.

Morton Street has only 40-feet in total right-of-way width and 20 feet of asphalt paving. Chester Avenue has only 50-feet total right-of-way width and 22 feet of asphalt paving width. A trip count and comprehensive traffic study were not required to establish road capacity and the percentage of capacity used.

The proposed industrial land use change will create additional truck traffic. Granting the land use change must be in conjunction with an increase in road width to the recommended 12-foot wide traffic lanes on both Morton Street and Chester Avenue.

Toxic Chemicals and Waste

Dry and liquid fertilizers, pesticides, and herbicides will be stored on site. Turf Doctor will mix the chemicals and fill the spray trucks on-site. Airborne discharge, odor, and leakage of these known carcinogenic is associated with this type of operation. When the chemical mix in the spray trucks is changed, how will the remaining chemicals be disposed? Will it be drained on the ground to contaminate the water table? The PUD does not limit these activities or address the concerns.

Noise

According to the applicant, the lawn mowers will be stored in the Morton Street building and moved from the building each morning and evening. Lawn mowers are not equipped with mufflers and moving them will create noise pollution for the residential occupants next door and across the street. Presumably, the moving of the lawn mowers in the morning will occur before the Code permits the introduction of this type of noise. The proposed PUD has no limitation on hours of operation.

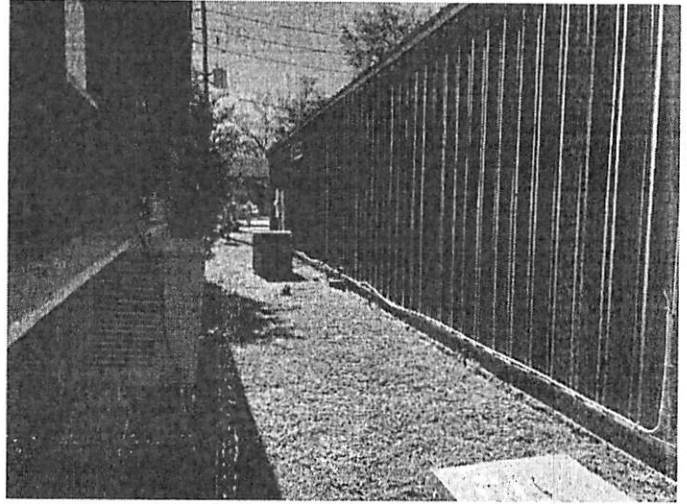
INABILITY FOR MOST EXISTING OWNERS TO BENEFIT FROM ANY TRANSITION

The primary zoning district in the Business Park land use is an Industrial Business Park (IBP). IBP requires a minimum lot with of 100 feet and a land area of 10,000 square feet. The subdivision is divided into 40-foot lots. Assuming, as alleged, the area is transitioning from RPI to BP; any property owner must own three or more lots or participate in an assemblage to benefit or continue with the current residential uses and accept the diminished desirability of the property.

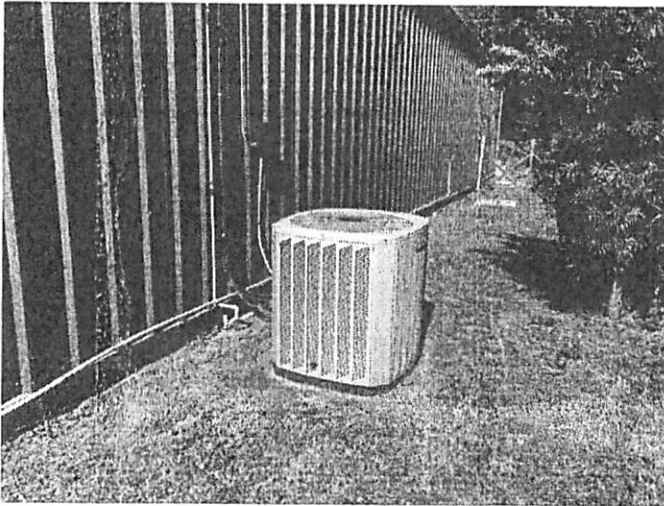
PHOTOGRAPHS



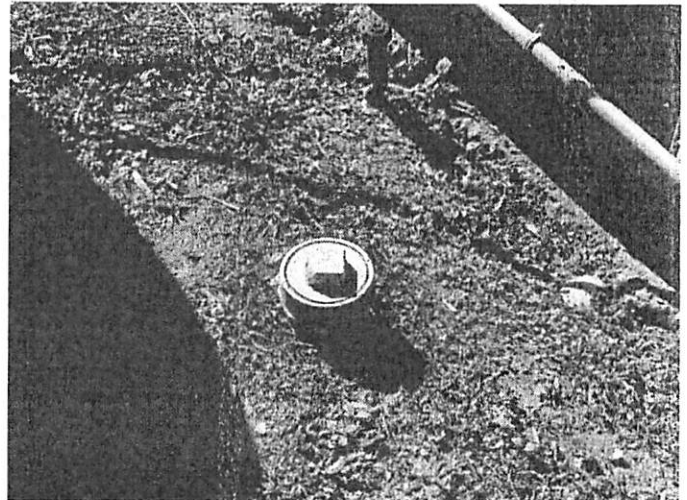
View of Schelldorf House in Relation to the Subject



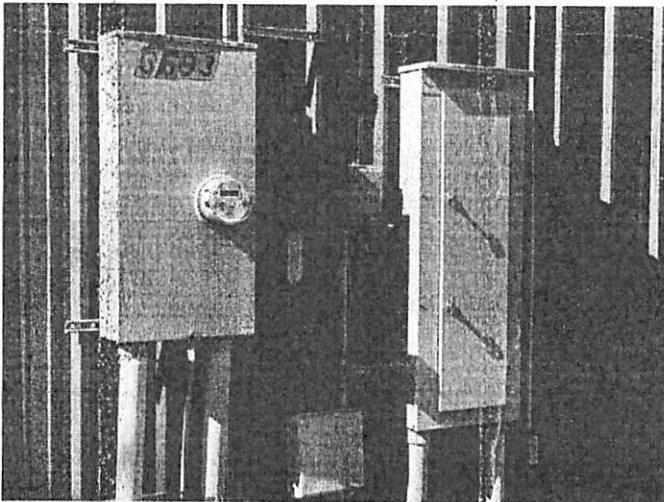
View Showing the Width Between the Buildings



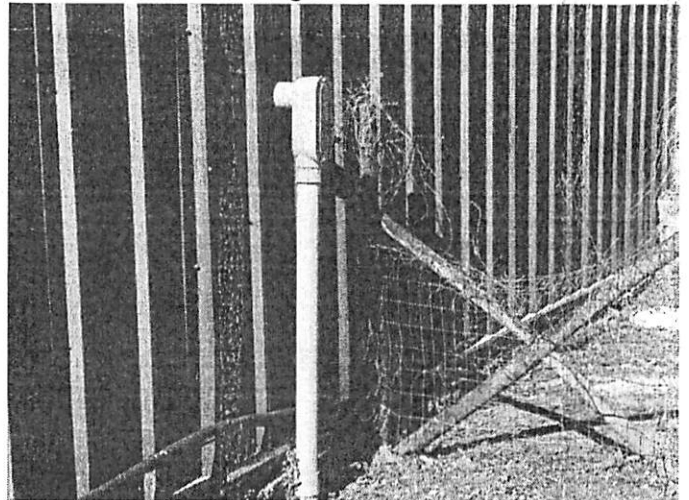
View of Subject's HVAC Compressor in Easement



Sewage Pipe in Buffer Strip - Leads to Septic Tank Between the Building and Morton Street



Subject's Electrical Equipment Intruding into the 10' Buffer



Electrical Equipment Intruding into the 10' Buffer