TO: Honorable Chairman and Members of the Okaloosa County Board of Adjustment

THROUGH: Elliot Kampert, Director

FROM: Planning & Development Review Staff

SUBJECT: 413239-BOA-2017, Special Exception Request

AGENDA DATE: June 14, 2017

APPLICANT(S): Scott D. Kolanek as Agent for Owner

OWNER(S): Creek Gulf Investments, LLC

LOCATION: 851 Broxson Road Holt, Florida 32564

PARCEL INFORMATION:
- Property Appraiser’s Parcel ID Number(s): 10-2N-25-0000-0004-0040
- Property contains 10 acres more or less
- BCC District: (3) Commissioner Boyles
- BOA District: (3) Scott Kearney
- Future Land Use Map Designation: Agriculture
- Zoning District: Agriculture (AA)
- Current Use: Single Family Home and Outbuildings

SURROUNDING LAND USES (see Attachment B):
- North: Single Family Homes on Large Lots, Vacant Land, I-10
- South: Single Family Homes on Medium and Large Lots, Vacant Land, Northwest florida Water Management District Land
- East: Large tracks in timber use
- West: Rural Residential subdivision (mostly 1 acre tracts) with detached single family homes

REQUESTED SPECIAL EXCEPTION: A Special Exception pursuant to sections 2.01.05.4, and 11.02.09.2 of the Okaloosa County Land Development Code submitted by Creek Gulf Investments, LLC, to allow the operation of a “laydown yard” (equipment and materials storage) for a utility (communication) contracting company to be located at 851 Broxson Road (Parcel Id Number 10-2N-25-0000-0004-0040) in the unincorporated area of the County generally referred to as Holt (see Attachment A. Location Map).

STAFF ANALYSIS: The subject property has been purchased by a utility company, Creek Gulf Investments, LLC, property owners, that wishes to utilize the subject property to store equipment (such as, for example, trenching equipment, front end loader, and similar equipment) and materials (spools of cable, forms) when not in use. The subject property is designated as Agriculture on the Comprehensive
Plan Future Land Use Map and is within the Agriculture (AA) zoning district (see Attachment B. Future Land Use and Zoning Maps).

Temporary equipment/materials storage yards are among the uses that may be allowed by Special Exception pursuant to Section 2.01.05 of the Land Development Code

2.01.05 Special Exceptions: The following uses may be allowed by the granting of a special exception by the Board of Adjustment (BOA).

1. Borrow pit operations when located more than one (1) mile from any residential future land use/zoning district or existing residential area, when access is from a collector or arterial roadway which does not create increased truck traffic on any residential street or through any residential area or subdivision, and when it is determined by the County or FDOT, as appropriate, that no traffic hazard will be created.

2. Private airports, residential airparks (see 2.20.06). Prior to being placed on the BOA agenda for consideration, any request for a new private airport or residential airpark received by the County subsequent to the effective date of this provision must first be reviewed by the Aviation Advisory Committee whose recommendations shall be included with the other information sent to the BOA as part of the request.

3. Electric power substations which can demonstrate compatibility with the surrounding area through site-specific setbacks, buffering, and other conditions appropriate to the area within which the substation is proposed.

4. Temporary industrial uses such as pipe storage, portable asphalt plants, equipment/materials storage yard, and similar uses may be permitted provided that, in addition to any other conditions imposed, the use is for one (1) year or less (emphasis added for this BOA staff report).

5. Other uses which, in the opinion of the Planning Official, are similar in nature to other uses allowed either as permitted uses or special exceptions.

It should be noted that the Code limits the duration of temporary storage yards approved through Special Exception to one (1) year. Therefore, if the Board of Adjustment approves the request, such approval will need to be renewed annually.

As shown by the attached aerial photograph (Attachment C) and Existing Land Uses map (Attachment D), the area is predominantly rural and residential in nature. Immediately to the west of the site is an unrecorded subdivision in the Rural Residential zoning district consisting of lots generally an acre or more in size. To the west of the subdivision is the Holt Industrial park. Stated in the application, the subject property will not be open to the public or Creek Gulf customers, and the business will be run from its offices in Tallahassee, Florida. The applicant has submitted a site plan (Attachment D) in support of the statement within the application that the equipment and materials will not be visible from the road. The site plan also indicates that that an existing single-wide trailer will be removed from the site and that another existing structure, a doublewide trailer, will be used as employee housing. Further, the site plan also states that there will be no fuel or hazardous materials kept on the property, and that the hours of operation will be limited to 8:00 AM until 6:00 PM Monday through Friday. The applicant is currently in the process of rehabilitating the doublewide trailer and has received the requisite building permits.

Section 11.02.09 of the LDC (see Attachment E) establishes the powers and duties of the Board of Adjustment (BOA). Section 11.02.09.2 provides that the BOA is authorized to grant special exceptions,
but in so doing it must find that, "the granting will not adversely affect the public interest." Section 11.02.09.2 also authorizes the BOA to "prescribe appropriate conditions and safeguards in conformity with this ordinance."

PUBLIC COMMENT/OPPOSITION: As of the date of this writing (5/30/17), staff has received several complaints from a neighboring property owner regarding heavy (tractor trailer) truck traffic on Broxson Road, excessive clearing of vegetation, and the concern that a business was being operated from the property.

STAFF POSITION: Staff has no objection to the proposed special exception.

RECOMMENDATION: Staff recommends that the Board of Adjustment conduct the public hearing and, after due consideration of the facts presented with this staff report as well as any facts and testimony as may be presented during the public meeting, either approve, approve with conditions, or deny the requested special exception. If the Board of Adjustment approves the requested Special exception, staff recommends the following conditions be placed on such approval:

1. The Special Exception must be renewed annually no later than the anniversary date of the first approval. If the Special Exception is not renewed the use as a temporary materials and equipment storage yard must cease and all equipment and vehicles must be removed.

2. The applicant may not utilize the property as an office for purposes of meeting customers or any other business purpose than storing materials and equipment.

3. The portions of the site indicated on the site plan as being left in a naturally vegetated condition must remain in a natural condition, and any additional landscaping as may be required by the Board of Adjustment must also be maintained.

4. There will be no hazardous materials or fuel stored on site.

5. The hours of operation will be limited to 8:00 AM until 6:00 PM Monday through Friday/

Attachments:

Attachment A. Location Map
Attachment B. Future Land Use and Zoning Map
Attachment C. Aerial Photograph
Attachment D. Existing Land Uses
Attachment E. Section 11.02.09 of the Okaloosa County Land Development Code
GIS ANALYSIS RESULTS

Date: 3/31/2017

Project: 10-2N-25-0000-0004-0040

Permit: 413239-BOA-2017

Property Address: LOCATED AT 851 BROXSON RD, CRESTVIEW FL 32564

Zoning: AA

FLU: AG

Fire District: HOLT

Commissioner District: 3

Census Tract: 20100

Soil Type: 20 – Udorthents, nearly level

Wind Zone: GREATER THAN 130

Flood Zone: X 500 Year Flood Plain

Map Number: 12091CO 250H

Storm Surge Area: NO

Urban Development Area: NO

Water Efficient Area: NO

Wells: None

Environmental Data: NO

Historical Data: None

Wetlands: Uplands

Water and Sewer: HWS

Within 3 mile of an Airport: NO
Existing Land Use Map
Attachment E. Section 11.02.09, Okaloosa County Land Development Code

11.02.09 Powers and Duties: The Board of Adjustment shall have the following powers and duties:

1. **Administrative Review:** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Official in the enforcement of the Land Development Code except appeals regarding construction matters.

2. **Special Exceptions:** Conditions governing applications; procedures to hear and decide only Special Exceptions as the Board of Adjustment is specifically authorized to pass on under the terms of this ordinance; to decide questions as are involved in determining when special exceptions should be granted and to grant special exceptions when in harmony with the purpose and intent of this ordinance. In granting any special exception, the board shall find that the granting will not adversely affect the public interest. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance. The Board of Adjustment may prescribe a reasonable time limit within which the action required for the special exception shall be begun or completed or both.

3. **Variances:** Conditions governing applications, procedures; to authorize upon appeal such variances from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this ordinance, the Board of Adjustment must and shall find:

   a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;

   b. That the special conditions and circumstances do not result from the actions of the applicant;

   c. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings or structures in the same zoning district;

   d. That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;

   e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
f. That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

g. In granting any variance, the Board of Adjustment may prescribe a reasonable time limit within which the action required for the variance shall be begun or completed or both. Under no circumstances, except as permitted above, shall the Board of Adjustment grant a variance to permit a use not generally or by special exception permitted in the zoning district. No non-conforming use of neighboring lands, structures or buildings in the same zoning district and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

h. Reference other sections of this ordinance for variances which may be granted by the Planning Commission or the County Public Works Department.

i. In accordance with Chapter 187.201 F.S., State Comprehensive Plan, Goal (15) Property Rights, and Ordinance No. 90-1, Goal 7.B, the Board of Adjustment may grant a variance to any regulation in the Land Development Code whenever it is apparent that a taking of private property would otherwise occur. Said variance shall only be granted for a use or development which is compatible with the surrounding area and does not impose an excessive burden or have a negative impact on surrounding or adjacent uses or on community facilities or services.

4. Board Has Powers of Administrative Official on Appeals: The Board of Adjustment may, so long as such action is in conformity with the terms of the Land Development Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken. The concurring role of the majority of all the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant of any matter upon which the board is required to pass under any such ordinance.

5. In the event a special exception or variance is denied by the Board of Adjustment: The applicant shall not reapply for a special exception or variance for the same use within one (1) year after the date of first denial unless a physical change has been made to the structure/s or the plans have been modified to reduce the impact. Application fee for the same use will be doubled with each new submittal within the (1) year date of denial.

EXCEPTION: This does not apply if the variance or special exception request pertains to a different use.