

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 441, Page 1, Section A, Line 3, by
2 inserting after said line the following:

3
4 "64.805. The county planning commission shall consist of the county highway engineer, and
5 one resident of the county appointed by the county commission, from the unincorporated part of
6 each township in the county, except that no such person shall be appointed from a township in which
7 there is no unincorporated area. The township representatives are hereinafter referred to as
8 appointed members. The term of each appointed member shall be four years or until a successor
9 takes office, except that the terms shall be overlapping and that the respective terms of the members
10 first appointed may be less than four years. The term of the county highway engineer shall be only
11 for the duration of the engineer's tenure of official position. All members of the county planning
12 commission shall serve as such without compensation, except that an attendance fee as
13 reimbursement for expenses may be paid to the appointed members of the county planning
14 commission in an amount, as set by the county commission, not to exceed ~~[twenty-five]~~ seventy-five
15 dollars per meeting. The planning commission shall elect its chairman, who shall serve for one year.

16 64.870. 1. (1) Any county commission which appointed a county zoning commission and
17 which has adopted a zoning plan, as provided in sections 64.800 to 64.905, shall appoint a county
18 board of zoning adjustment.

19 (2) The board shall consist of five residents of the county, but not more than two shall be
20 residents of the incorporated area of the county and not more than one may be a member of the
21 county zoning commission. The membership of the first board appointed shall serve respectively:
22 one for one year, one for two years, one for three years, and two for four years. Thereafter members
23 shall be appointed for terms of four years each. Members shall be removable for cause by the
24 county commission upon written charges and after public hearings. Vacancies shall be filled by the
25 county commission for the unexpired term of any member whose term becomes vacant. The board
26 of zoning adjustment shall elect its own chairman and shall adopt rules of procedure consistent with
27 the provisions of the zoning regulations and the provisions of sections 64.845 to 64.880. The
28 chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of
29 witnesses.

30 (3) All members of the county board of zoning adjustment shall serve as such without
31 compensation, except that an attendance fee as reimbursement for expenses may be paid to the
32 appointed members of the county planning commission in an amount set by the county commission,
33 not to exceed seventy-five dollars per meeting. For any member of the county planning commission
34 who is also a member of the board of zoning adjustment, only one attendance fee shall be paid if the
35 board and commission meet on the same day.

36 (4) All meetings of the board of zoning adjustment shall be open to the public, and minutes

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1 shall be kept of all proceedings and official actions, which minutes shall be filed in the office of the
2 board and shall be a public record.

3 (5) Appeals to the board of zoning adjustment may be taken by any owner, lessee or tenant
4 of land, or by a public officer, department, board or bureau, affected by any decision of the
5 administrative officer in administering a county zoning ordinance. The appeals shall be taken
6 within a period of not more than three months, and in the manner provided by the rules of the board.
7 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer
8 from whom the appeal is taken shall certify to the board that by reason of facts stated in the
9 certificate a stay would, in his opinion, cause imminent peril to life or property. The board of
10 adjustment shall have the following powers and it shall be its duty:

11 ~~[(1)]~~ (a) To hear and decide appeals where it is alleged there is error of law in any order,
12 requirement, decision or determination made by an administrative official in the enforcement of the
13 county zoning regulations;

14 ~~[(2)]~~ (b) To hear and decide all matters referred to it or which it is required to determine
15 under the zoning regulations adopted by the county commission as herein provided;

16 ~~[(3)]~~ (c) Where, by reason of exceptional narrowness, shallowness, shape or topography, or
17 other extraordinary or exceptional situation or condition of a specific piece of property, the strict
18 application of any regulation adopted under sections 64.845 to 64.880 would result in peculiar and
19 exceptional difficulties to or exceptional and demonstrable undue hardship upon the owner of the
20 property as an unreasonable deprivation of use as distinguished from the mere grant of a privilege,
21 to authorize, upon an appeal relating to the property, a variance from the strict application so as to
22 relieve the demonstrable difficulties or hardships, provided the relief can be granted without
23 substantial detriment to the public good and without substantially impairing the intent, purpose, and
24 integrity of the zone plan as embodied in the zoning regulations and map.

25 2. In exercising the above powers, the board may reverse or affirm wholly or partly, or may
26 modify the order, requirement, decision or determination appealed from and may take such order,
27 requirement, decision or determination as ought to be made, and to that end shall have all the
28 powers of the officer from whom the appeal is taken. Any owners, lessees or tenants of buildings,
29 structures or land jointly or severally aggrieved by any decision of the board of adjustment or of the
30 county commission, respectively, under the provisions of sections 64.845 to 64.880, or board,
31 commission or other public official, may present to the circuit court of the county in which the
32 property affected is located, a petition, duly verified, stating that the decision is illegal in whole or in
33 part, specifying the grounds of the illegality and asking for relief therefrom. Upon the presentation
34 of the petition the court shall allow a writ of certiorari directed to the board of adjustment or the
35 county commission, respectively, of the action taken and data and records acted upon, and may
36 appoint a referee to take additional evidence in the case. The court may reverse or affirm or may
37 modify the decision brought up for review. After entry of judgment in the circuit court in the action
38 in review, any party to the cause may prosecute an appeal to the appellate court having jurisdiction
39 in the same manner now or hereafter provided by law for appeals from other judgments of the
40 circuit court in civil cases."; and

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42 Further amend said bill by amending the title, enacting clause, and intersectional references
43 accordingly.