MINUTES
LAKE COUNTY ZONING BOARD
FEBRUARY 6, 2008

The Lake County Zoning Board met on Wednesday, February 6, 2008 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, conditional use permits, and mining site plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, February 26, 2008 at 9 a.m. in the Commission Chambers on the second floor of the Round Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Phyllis Patten	District 4
Paul Bryan, Chairman	District 5
Mark Wells	At-Large Representative
Larry Metz	School Board Representative

Staff Present:

Brian Sheahan, AICP, Planning Director, Planning and Community Design Division
Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Stacy Allen, Senior Planner, Planning and Community Design Division
Karen Ginsberg, Senior Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ann Corson, Office Associate IV, Planning and Community Design Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Deputy County Attorney

Chairman Bryan called the meeting to order at 9 a.m. He led in the Pledge of Allegiance and gave the invocation. He noted that a quorum was present and confirmed the Proof of Publication for each case as shown on the monitor.

Chairman Bryan explained the procedure for hearing cases on the agenda. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case.

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Minutes

Sherie Ross, Public Hearing Coordinator, asked that the following changes be made to the January 3, 2008 Lake County Zoning Board public hearing minutes, as requested by Brian Sheahan, AICP, Planning Director: On page 11, second paragraph, line 1, "staff initially believed" should be added after "because." On page 11, second paragraph, line 6, "roughly" should be added before "two acres." On page 13, second paragraph, line 1, "staff" should replace "Mr. MacDonnell."

MOTION by James Gardner, SECONDED by Timothy Morris to approve the January 3, 2008 Lake County Zoning Board Public Hearing minutes, as amended.

FOR: **Morris, Blankenship, Gardner, Patten, Bryan, Wells, Metz**

AGAINST: **None**

MOTION CARRIED: **7-0**

Discussion of Consent Agenda

Chairman Paul Bryan confirmed with Steve Greene, AICP, Chief Planner, that all cases on the agenda are now on the regular agenda as letters of opposition have been received for those cases that had been placed on the consent agenda.

Mr. Greene added that Agenda No. 3, PH#35-07-4, will be last on the agenda, with Agenda No. 4, PH#08-08-5 being heard before Agenda No. 3.

CASE NO.: **PH#40-07-4** **AGENDA NO.:** **1**

OWNER: **WLW Construction, Incorporated and John F. Wagner, III et al**
APPLICANT: **WLW Construction, Incorporated**

Stacy Allen, Senior Planner, presented the case and showed the aerial from the staff report and master site plan from the proposed ordinance on the monitor. She noted that the previous ordinance specifically stated that use of the property should not include a truck yard. Staff is recommending approval based on the conditions that the site be buffered and landscaped not only around the perimeter of the property but also there should be additional buffering and landscaping around the truck yard itself. In response to Chairman Bryan, Ms. Allen said the recommended buffer is typical for the CP zoning district and the abutting residential properties for the perimeter of the site, but the buffering and landscaping around the truck yard itself is in addition to the Land Development Regulations (LDRs). Chairman Bryan confirmed that truck yards are an allowed use in the CP zoning district.

When Mark Wells commented that in a letter of opposition it states that some changes have already been made to the site, Ms. Allen explained that this rezoning request is the result of an active Code Enforcement case. The applicant has trucks parked on the property.

Tom Sullivan, attorney, was present to represent the case. He noted that John Wagner, owner of WLW Construction, Incorporated, was also present. Mr. Sullivan said he has been working with County staff on this case for some time and appreciated their support of the application.

Mr. Sullivan pointed out that this company has been a small business operating in Lake County for 25 years with 13 of those years being at this location. The original ordinance permitting Planned Commercial was approved in 1995. This company has been a good neighbor in the area. He submitted a current zoning map for the area as Applicant Exhibit A. Referring to that exhibit, he explained that the western portion of the site is already zoned Planned Commercial. The eastern portion is the subject request to include that portion in the Planned Commercial. Mr. Sullivan said that across SR 46 to the north are a variety of existing businesses. He noted the zoning and uses in the area as well as the vacant property. He submitted an aerial as Applicant Exhibit B. He stated that the area is relatively undeveloped except for several businesses to the north on SR46 and one residential home. He added that the site has an existing vegetative buffer that surrounds the subject property. They are not requesting to do anything on the subject portion of the site that is not being done on the western portion of the site.

Regarding Section 1.A of the proposed ordinance, Mr. Sullivan said he would like to use the term “heavy equipment storage” rather than “truck yard.” If staff would like to use the term “truck yard,” he asked that the term “heavy equipment storage area/truck yard” be used. The original approval for the Planned Commercial designation for the property restricts heavy equipment storage but allows an office building, a storage facility, and related uses. Mr. Wagner’s interpretation of related uses allowed trucks on the construction site and was not a violation of the heavy equipment storage restriction. In Section 1C, Mr. Sullivan said they have no problem with providing landscaping around the heavy equipment storage area. However, the language in that section appears to provide a buffer around the perimeter of the property. He did not feel that is warranted since there are no residentially developed properties immediately adjacent to the site. He would suggest the following language in Section 1.C.: “In addition to the minimum requirement of the County’s landscaping standards, the owner is responsible for installing a Type “B” landscape buffer around the heavy equipment storage area/truck yard.” Alternatively, he said they would not have an objection to adding the following language to the sentence quoted above: “and all commercial areas in view of surrounding residentially developed properties.”

Regarding the language in Section 1.H. of the proposed ordinance, Mr. Sullivan referred to the photograph in the staff report showing the existing signs on site. They will not be making any changes to that portion of the site where those signs are located. He asked to have that provision of the ordinance changed to read that all additional on-site signs shall meet the current Land Development Regulations (LDRs). To be required to replace existing signs as a result of the language in the ordinance would be expensive, and he

did not feel it was warranted under the circumstances. He submitted a petition of support (Applicant Exhibit C) with signatures from several business owners north of SR 46 and the residential/commercial property owners to the east of the subject property.

John Wagner, owner of WLW Construction along with his wife, said the company has been on the site since 1995 when it was changed from a residential facility to a business. Over time, they have employed 90 to 170 people, two-thirds of which were Lake County residents. Since that time, they have had very few complaints, if any, and have tried to address them in a neighborly fashion. The original ordinance in 1995 said no heavy equipment storage was permitted. It never referred to trucks. Trucks are not stored on site; the trucks operate daily. He felt that trucks are permitted under the ordinance. Regarding the heavy equipment, he said that basically they transport it to the property and then move it to another location. The heavy equipment does not make any money for them when it is on the site so they do not want it there. However, occasionally they need to keep it there temporarily. He felt they keep their yard neat and presentable; it is not a junkyard. He explained that the pending violation is on the portion of the property for which they are seeking the rezoning. In response to Phyllis Patten, Mr. Wagner said they have been using their adjoining property to store the heavy equipment.

Ross Pluta came into the meeting.

Kathie Beselica, resident of Sorrento and adjoining neighbor on the other side of the horse ranch at the top of the hill, said she supports local business. She moved to the area in 1995. She appreciated the way WLW has maintained their property. However, several months ago when the lighting was excessive, her husband went to Mr. Wagner and asked that the lighting be dimmed. Her husband was told that the company had the right to have those lights. After complaints by the neighbors were made to Code Enforcement, the lights were dimmed. Also about a month ago, the huge crane disappeared. There have been huge pieces of equipment on the site; and standing at the top of the hill and looking down, it is extremely unsightly. Their home is slightly less than one-half mile away. To her, she felt this company looks like industry, not small business. She did not want this business to set a precedent for how the businesses on SR 46 should appear. This request would impact the neighbors as this has become an eyesore. She would like the heavy equipment kept at a different location.

Jacqueline DeWitt, owner of the residential property to the west of the subject site, said she has lived there 17 years. She agreed that there has been a dramatic change to the property. She has spoken to people at the WLW Construction office several times with her concerns, and they have been neighborly. She questioned whether industry belongs in this area, a rural and residential community. She pointed out that there is a small strip of land between her property and the WLW Construction property that is absentee-landlord property. She helps maintain that strip of land. She asked for the Board's help in terms of not making this area more industrialized. When Ms. Patten asked if a buffer would make it better, Ms. DeWitt said the buffer would have to be humungous. As an entity, WLW Construction is not a bad neighbor. She would have liked the office to stay as an office and not have industrial equipment on the property. They have added some trees and fencing.

Jeanne Etter said there is heavy equipment on the property at this time. Mr. Wagner's building is very nice; it has been renovated with trees around it. Now there is the heavy equipment. She said the residents of the Mount Plymouth-Sorrento area are trying to make a Main Street-type corridor.

J. D. Jones said he owns an 85-acre horse farm. An industrial equipment lot adjoining his property will adversely affect his ability to develop the property. WLW Construction has been an "okay" neighbor. He agreed that over the past few years, the business has become more intense. This is an inappropriate change.

CASE NO.:	**PH#40-07-4**	**AGENDA NO.:**	**1**
OWNER:	**WLW Construction, Incorporated and John F. Wagner, III et al**	**PAGE NO.:**	**3**
APPLICANT:	**WLW Construction, Incorporated**		

Susan Brooks said she has lived in this area for about 26 years. The office area of this company is very well maintained. She said she has some environmental concerns. The subject property is located in a relatively low area of Sorrento. She was concerned about having that type of equipment on the property, particularly if there is any type of repair or maintenance being done at the site between jobs. The long-term vision for this area does not include industrial. They would like a gathering spot for families and friends. Industrial does not fit into that type of community. In the past there has been discussion about the County possibly developing nearby property as a park. Industrial would not be conducive to that type of development in the area.

Gail Ling was concerned about diesel fuel and oil spills from the trucks into the groundwater as there is agriculture and animals in the area that drink from the ground. She felt this should be a consideration.

Regarding lighting, Mr. Sullivan said Mr. Wagner is committed to controlling the light on the property as well as it being addressed in the ordinance. Mr. Sullivan felt there has to be some degree of reasonableness in terms of buffering from neighbors, specifically with respect to Ms. Beselica's property. That site is a distance from the subject property. He felt that the buffering around the heavy equipment storage area goes above and beyond addressing any concerns in terms of direct impact to Ms. Beselica. He said there were comments from the audience as far as setting a precedent in the area. This company has been on this property since 1995. Due to the success of the business, additional services and uses are required on the site. He said he would not describe the use on the property as industrial. There are no manufacturing uses going on. There is a large heavy manufacturing facility close by in the area. He did not feel a transitional type use from that facility to what WLW Construction is doing would be out of character with the area. The location of the company on SR 46 is an appropriate location for this type of use. The site plan shows a heavy equipment storage area. It does not permit any additional approval rights. They are not asking to do anything more than what is there now.

In response to questions on the environment, Mr. Sullivan said that no repair work is done on the property so there is no potential for oil spills. The staff report states that there would be no additional environmental impacts by letting heavy equipment sit out on the property. He referred to Section 1.F. in the ordinance where environment is addressed.

Chairman Bryan pointed out that the ordinance speaks of a truck yard yet Mr. Sullivan has spoken of a heavy equipment storage area. He asked if the staff was aware that the request is for a heavy equipment storage area. It appears the site has developed from a small truck yard to a large heavy equipment use. He questioned whether the application referred to heavy equipment.

Mr. Sullivan stated that the original ordinance said no heavy equipment storage was permitted. He felt this is a question of how heavy equipment storage is defined. Should the definition include trucks of this nature or construction-like vehicles that are not equipment? The application asked for heavy equipment storage. He was not aware of the truck yard term until he saw the staff report. Chairman Bryan noted that staff did not address the heavy equipment portion of the request. Melanie Marsh, Deputy County Attorney, clarified that the CP zoning district requires the designation of a use. There is no use designation for heavy equipment storage. The use designation the County has is a truck yard, which is defined as the storage of vehicles, equipment, and materials together with related facilities. Staff has used truck yard in their staff report because it would cover heavy equipment. However, the Zoning Board could further define it in the ordinance to limit it to heavy equipment only. Ms. Allen said the heavy equipment would be limited to that equipment specifically related to the use of the property by WLW Construction. Ms. Marsh added that this Board could clarify in the ordinance that only heavy equipment related to the construction business on the property could be placed on the property.

CASE NO.:	**PH#40-07-4**	**AGENDA NO.:**	**1**
OWNER:	**WLW Construction, Incorporated and John F. Wagner, III et al**	**PAGE NO.:**	**4**
APPLICANT:	**WLW Construction, Incorporated**		

Scott Blankenship was informed by Ms. Allen that central water and sewer are not available on the property. Individual wells and septic systems will be utilized.

James Gardner said he had a concern regarding the effectiveness of buffering when viewed by residents at a higher elevation. Ms. Stacy said the proposed Type B landscaping buffer is 15 feet in width. There is no quick way to screen the site from higher elevations as it will take time for the trees to grow.

In response to Chairman Bryan, Ms. Allen said the staff recommendation is for the entire perimeter of the site as well as the truck yard itself to be buffered. The developer or owner of the property would be responsible for installing a buffer at the time of development regardless of whether or not the adjacent property is vacant.

Larry Metz clarified with Ms. Allen that if this request is not approved, the applicant could not store heavy equipment on the site and that the heavy equipment stored on the property now is in violation of existing zoning. He confirmed that cranes could be stored on the site if this request is approved. When Chairman Bryan said this Board could limit certain equipment to be stored on site, Ms. Marsh pointed out the CP zoning is a conditional zoning category. Ms. Allen added that this Board could specify that no cranes could be stored on the site.

In response to Mr. Wells, Mr. Wagner said this company is an excavator; he said that typically the booms are curled under and laid down. The equipment used by this company includes back hoe loaders, motor graders, and bulldozers. There are no cranes on the site.

When Mr. Blankenship asked about water and fire safety requirements, Ms. Allen said that will come into play when the site plan is reviewed. The fire inspector from Building Services will have comments on how to address those issues. Mr. Blankenship questioned whether this Board should be aware of the provisions for fire safety for this use at this time. Mr. Greene replied that those issues will be addressed during site plan review. At this time, staff has had no information provided to them to be able to answer questions. There is no one present from Building Services to answer that question.

Chairman Bryan was informed by Ms. Allen that the existing CP ordinance allows a construction office and a 24- square foot garage storage building. The applicant is asking to add heavy equipment storage.

Phyllis Patten said she is bothered by the fact that Mr. Wagner did not abide by the initial zoning in 1995 and stored equipment on the site. She was also bothered that they have increased over the years the amount of equipment even though it was not allowed to be on the site at all. In addition, she was bothered that the applicant and owner are not willing to go along with the buffering requirement imposed by staff. She felt the applicant and owner should want to make the site as least offensive as possible.

Timothy Morris said he was leaning toward allowing this request with the buffer requirement. Purchasing larger trees from the beginning may address the issue satisfactorily. He has seen the site, and it appears that it is a nice facility. Chairman Bryan said he would feel more comfortable if a condition was added that certain types of equipment would be prohibited. Mr. Blankenship said his concern would be about the amount of equipment permitted on the site at one time. It appears that when this site was initially permitted, it was a fair use in this area of the County; but he questioned if it was still compatible with the surrounding area in its mature state. Mr. Wells pointed out that Ms. DeWitt had commented that it has been acceptable to the residents up until now.

Mr. Morris reiterated that he would like to see a larger buffer. Ms. Allen said the next step in buffering would be the Type C buffer. However, it would not increase the height; it would increase the width of the

CASE NO.:	**PH#40-07-4**	**AGENDA NO.:**	**1**
OWNER:	**WLW Construction, Incorporated and John F. Wagner, III et al**	**PAGE NO.:**	**5**
APPLICANT:	**WLW Construction, Incorporated**		

buffer and the number of trees per linear feet.

Timothy Morris made a motion to recommend approval of the request to amend Ordinance #1999-75 for the addition of a truck yard and to expand the existing CP zoning district by rezoning 2.02 acres from R-6 to CP with the conditions as recommended in the staff report and restricting larger equipment such as cranes in PH#40-07-4. The motion died for lack of a second.

Mr. Wells said he could support the previous motion if it was added that the amount of heavy equipment would not exceed what is presently owned. Ms. Allen pointed out that the owner had said the company has trucks and equipment in other places so all of it would probably not fit on the site.

In response to Chairman Bryan, Ms. Allen said the highlighted area on the master site plan is the proposed storage area, about one acre. Mr. Morris commented that the size of property would place a limit on the amount of equipment that could be on the site.

In response to Mr. Metz, Ms. Allen said the recommended Type B buffer would be 15 feet in width. Mr. Morris explained that his motion had been for the Type B buffer recommended by staff. Mr. Metz was informed that both parcels owned by WLW Construction are subject to this request. The left side of the property includes the office and garage storage building. That is currently zoned CP. The right side of the property is currently zoned R-6. The request is to incorporate that property into their CP-zoned parcel and add the heavy equipment storage area.

Mr. Metz was informed by Ms. Marsh that a percentage limitation of the total area for heavy equipment storage and a height limitation could be imposed on the site. Instead of a percentage limitation in the motion, Chairman Bryan suggested that it be tied to the site plan so it would specify the location as well. Ms. Marsh pointed out that the site plan is an exhibit to the ordinance. Mr. Metz felt a height limitation such as 15 to 20 feet should be a part of the motion.

MOTION by Larry Metz, SECONDED by Timothy Morris to recommend approval per the staff recommendation in PH#40-07-4 with the following additional conditions: The heavy equipment storage area shall be limited to that area shown in yellow on Exhibit B (Master Site Plan) of the proposed ordinance. There shall be a height limitation not to exceed 15 feet from the natural surface of the ground for all heavy equipment. Buffering to the property shall be in accordance with the language stated in the ordinance.

FOR: **Morris, Blankenship, Patten, Bryan, Wells, Metz**

AGAINST: **Gardner**

MOTION CARRIED: **6-1**

Chairman Bryan stated that the Zoning Board is a recommending body and that the Board of County Commissioners will hear this case and make a final decision on February 26, 2008.

CASE NO.: **PH#09-08-2** **AGENDA NO.:** **2**

OWNER: **Shepherd of the Hills Lutheran Church**
APPLICANT: **Lake County BCC**
PROJECT NAME: **T-Mobile**

Steve Greene, AICP, Chief Planner, presented the case and staff recommendation of approval. He showed the aerial from the staff report on the monitor. Staff's review has determined that the original ordinance never contemplated cell tower communications on the property when it was approved in 2000. Since that time, a site plan was approved in 2005 to allow the cell tower activity. In 2005 that site plan was also amended to include a storage building on the property. Therefore, staff felt that it would be best to amend the ordinance to include the cell tower activity that was inadvertently omitted in 2005 when the cell tower was approved. He showed a picture of the existing cell tower from the staff report on the monitor. He said staff has added language that would amend the existing ordinance to limit the cell tower height to 170 feet unless authorized by the Federal Aviation Authority (FAA) or the County Manger or designee and to require that any changes to the property configuration layout be approved with a site plan in accordance with the Land Development Regulations (LDRs) and Comprehensive Plan requirements.

In response to Timothy Morris, Mr. Greene said there was no height limitation in the previous ordinance as no cell phone activity was included in the original ordinance. The ordinance was not revised when the site plan was approved in 2005.

Chairman Bryan commented that this case was on the consent agenda, but it was moved to the regular agenda due to a letter or e-mail of concern being received.

Mr. Greene added that cell towers are a permitted use within this zoning district.

Chairman Bryan said no speaker cards have been received for this case.

MOTION by Timothy Morris, SECONDED by Phyllis Patten to recommend approval of a request to amend Ordinance #2000-36 to add a cellular communication tower and apparatus as an allowable use within the CFD zoning district in PH#09-08-2

FOR: **Morris, Blankenship, Gardner, Patten, Bryan, Wells, Metz**

AGAINST: **None**

MOTION CARRIED: **7-0**

CASE NO.: PH#08-08-5 **AGENDA NO.: 4**

OWNERS: Steve and Pamela Hunihan
APPLICANT: Leslie Campione, PA

Steve Greene, AICP, Chief Planner, presented the case and staff recommendation of approval. He showed the aerial from the staff report on the monitor. He said the purpose of this request is to delete language in Ordinance No. 2005-71. There is language within that ordinance that specifies a two-year expiration date for any development approvals granted on the property. Staff has determined that the current Lake County Land Development Regulations (LDRs) has a time certain expiration date for site plan approvals so this language in the ordinance can be rendered moot. At this time, the applicant has not submitted a site plan; but when a site plan is provided for this particular property, those provisions in the LDRs regarding time limitations to process the application will be applied at that time. The property is currently vacant. The property was posted on January 30, 2008.

When Phyllis Patten asked if this request was initiated by staff or the applicant, Mr. Greene stated that it came from the applicant.

Chairman Bryan asked if discussion of this request should be limited to the expiration date issue only. Melanie Marsh, Deputy County Attorney, stated that for public hearing purposes, the public should be able to speak on any issue in this ordinance.

Chairman Bryan stated that he had received a speaker card requesting that this case be tabled.

Gail Ling said she has requested this case be tabled because the property was just posted last week so the people in the area did not have time to look into the issue that is to be presented at this public hearing. In addition, the staff information that the Zoning Board received refers to an incorrect piece of property. The sign was originally posted on CR 44, across from the electrical station, which is in an area of commercial. The correct property is in a residential area. In response to Chairman Bryan, Ms. Ling said she has lived in this area for more than two years.

Chairman Bryan commented that this property was rezoned fairly recently. Ms. Ling said she was living in the area at that time and fought the rezoning to commercial in a residential area. She is concerned that the new wording could cause problems.

Leslie Campione was present to represent Steve and Pamela Hunihan. She said she would like to proceed with the hearing at this time. Ms. Ling was at the public hearing when this property was rezoned several years ago. There was concern about convenience stores and gas stations. It was agreed that in the ordinance they would limit the uses to not include gas stations. A list of allowable uses was established. They are not asking to expand any of those uses that were previously granted. Ms. Campione stated that Ms. Ling did receive notice as adjacent property owner notices were sent out. Ms. Campione said she does not have a problem with proper notification as she felt sufficient notification was provided to the property owners.

When Chairman Bryan asked if the mapping in their packet is accurate, Mr. Greene said the mapping in the original distribution is correct. He referred to several pages that had been distributed to the Zoning Board at the beginning of the public hearing and submitted this as County Exhibit A. The posting of the property in the original distribution was incorrect. County Exhibit A shows photographs of the correct posting as well as the correct surrounding property designations and activities.

Melanie Marsh, Deputy County Attorney, asked if the correct property was posted at least ten days before today's date. Mr. Greene said the correct property was posted on January 30. Ms. Marsh explained that the Code requires that notice be given at least ten calendar days before the public hearing. Lake County has three types of notices—mailing, posting, and legal advertisement. Her recommendation would be that if any one of those is defective, the Board should postpone the hearing of the case. Chairman Bryan asked how long the posting requirement has been part of the ordinance. Ms. Marsh said it has been a long time.

CASE NO.: **PH#08-08-5** **AGENDA NO.:** **4**

OWNERS: **Steve and Pamela Hunihan** **PAGE NO.:** **2**
APPLICANT: **Leslie Campione, PA**

Chairman Bryan said there have been many instances in the past where signs were posted and taken down the next day, technically not meeting the ten-day requirement; yet the case was heard because the other legal requirements were met. Ms. Marsh explained that if staff posts the sign correctly ten days before and it is taken down, that is generally not an issue. In this instance, staff did not post the sign correctly; and when it was reposted, it did not meet the ten-day requirement. However, the Board has discretion to go forward if it chooses.

Ms. Campione said she did not have a problem with the postponement. She had not understood all the facts of what had happened with the date when the signs had gone up.

MOTION by Timothy Morris, SECONDED by James Gardner to continue PH#08-08-5 until the March 5, 2008 Lake County Zoning Board Public Hearing, based on the ten-day posting requirement not being met.

FOR: **Morris, Blankenship, Gardner, Patten, Bryan, Wells, Metz**

AGAINST: **None**

MOTION CARRIED: **7-0**

There was a five-minute break.

CASE NO.: **PH#35-07-4** **AGENDA NO.:** **3**

OWNERS: **Carole & Michael Reading, Sorrento Commons, LLC – Louis Fabrizio**
APPLICANT: **Sorrento Commons, LLC – Louis Fabrizio**

Chairman Bryan declared a conflict of interest and read the disclosure into the record. He turned the public hearing over to Vice Chairman Morris and left for the day.

Karen Ginsberg, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She noted that 26 letters of support and nine letters of opposition had been received.

Ms. Ginsberg stated that the applicant has submitted two traffic studies for review. She also said this project is incompatible with the location criteria outlined in the Comprehensive Plan and future land use map.

Steve Richey, attorney, was present to represent the case. He said this case is a repeat of what was presented two years ago. The Board of County Commissioners (BCC) turned that case down without prejudice. This Zoning Board voted to approve the project 5-2. The BCC asked the applicant to work with the community and revise the plan.

Lou Fabrizio gave a PowerPoint presentation; a hard copy of the presentation was submitted as Applicant Exhibit A. He said he has been involved in this process for almost four years. He spoke of the housing already approved in the area but not built and how that will affect the population. Mr. Richey submitted a letter from Susan Brooks, president of the East Lake County Chamber of Commerce, Inc., as Applicant Exhibit B.

When Vice Chairman Morris asked about the realignment of CR 437, Mr. Fabrizio said he has talked to Public Works about this. It has been in the long-range plan to do a study to determine where that realignment should take place. The alignment that he has seen on maps goes through the Hunter Avenue right-of-way. Mr. Richey said they have accommodated through this project the realignment when and if it happens. That is what they were asked to do. Part of the redesign of this project since two years ago was to accommodate the realignment both in terms of what the County found acceptable on a road like that going through the project and to accommodate it if it should happen in the future. This project is not dependent upon the realignment, but they have accommodated for it in their preliminary plans as requested by Public Works.

Vice Chairman Morris commented that this project has no commitment for water and sewer. He asked if the site plan has the availability for water and sewer to be put on it. Mr. Fabrizio said they have submitted additional exhibits to the County showing how the site would be built in the event that regional utilities are not available. It is their intent to work to get regional facilities for the site. In the phasing, Mr. Richey said it talks in terms of buildings that would not be there if they have to have their own sewer plant.

Regarding the economic impact of the Village Commons, Mr. Fabrizio said it is anticipated that it will generate 700 jobs or more. The tax base from this development at build out (sales and property tax revenue) would be between four and five million dollars annually.

Mr. Richey noted that in the staff report it talks about the traffic studies submitted. Two different methodologies were used due to changes requested; to address that, they will be filing to ask for a concurrency delay. They will be going back through the process when they do their detailed site plan and building permit.

In response to Mr. Richey, Greg Beliveau with LPG in Mount Dora said he was present as an expert witness with regard to the Lake County Comprehensive Plan and Land Development Regulations (LDRs). He has served as an expert witness in those areas in the past.

CASE NO.:	**PH#35-07-4**	**AGENDA NO.:**	**3**
OWNERS:	**Carole & Michael Reading, Sorrento Commons, LLC – Louis Fabrizio**	**PAGE NO.:**	**2**
APPLICANT:	**Sorrento Commons, LLC – Louis Fabrizio**		

In response to Mr. Richey, Sherie Ross, Public Hearing Coordinator, said the 26 letters of support and nine letters of opposition that Ms. Ginsberg spoke of can be found in the file.

Mr. Beliveau submitted an impervious surface ratio (ISR) chart as Applicant Exhibit C and discussed it. He then commented on the staff report and its reference that nothing had changed since the last submittal. He disagreed with that statement as the market has changed. There is an increase need in that area for this type of use. The population has changed as there has been an increase in population in the area, which has caused an increase in need. In addition, this application has changed. There are changes in the project's design, its layout, and how it has addressed the community's specified needs. Another issue raised in the staff report was that it was not in keeping with the surrounding character. The staff report also stated that this project was exceeding the Neighborhood Activity Center requirements because of the location. He said he will be providing evidence that this project does comply with the Community Activity Center criteria that is in the Comprehensive Plan. This project complies with the location as the project is located at the intersection of an arterial road and a collector road, and it is in an Urban land use category equivalent. He submitted Page I-72 of the Comprehensive Plan as Applicant Exhibit D as well as a large aerial (Applicant Exhibit E) and a current commercial uses map (Applicant Exhibit F).

Mr. Beliveau said the subject application has requested 215,325 square feet of mixed uses whereas the policy allows for the utilization of 50,000 to 500,000 square feet. He submitted an updated site plan as Applicant Exhibit G. This site plan was prepared utilizing the Mount Plymouth-Sorrento framework study that was done in 2003.

Mr. Beliveau said a market study was provided with the application. It illustrates that this project does not overlap existing markets. People who live in this area have to drive tremendous distances to find their needs, putting traffic on SR 46 and CR 437 and spending money in other places. He submitted a concept plan (Application Exhibit H) and a map (Application Exhibit I).

Mr. Beliveau said staff has also stated that this project is in violation of Policy 1-10.2 by not promoting orderly growth. He submitted the conceptual framework plan as Applicant Exhibit J.

At the request of Larry Metz, Ms. Ross stated that she had copied and distributed at this meeting the August 3, 2005 Zoning Board public hearing minutes regarding PH#41-05-4, Swansea Properties, LLC/ Steven J. Richey, P.A. (County Exhibit A).

Tim Bailey, Mount Plymouth resident, said he chaired the framework study for five years. The developer has worked very hard with the Mount Plymouth-Sorrento Planning Advisory Committee to create a town center. The framework study was done almost five years ago. Much has changed in the past five years in this area. In permits alone, this area will have doubled in size when those homes are built. The vision that the Committee had five years ago is even more pressing today. This piece of land will connect to what will be in the future the Rails to Trails program. If this is approved, people will not have to get into their cars to do their shopping; they will be able to use their bicycles to attend social events in the park as well as do shopping. This will lighten the load as it relates to the traffic on SR 46. He now chairs the new East Lake Citizens Council, and the Council has met with Commr. Stewart. She has some serious reservations about the possibility that this developer is representing something and wants to yield something else. It is his understanding that this developer has submitted the square footage size of the buildings that are anticipated to be on the site. He said he did not know the legal implications of this, but he would not allow those square footages to be aggregated as Commr. Stewart is concerned that he may do. The size of the buildings he has illustrated should stay within ten percent of what has been illustrated. The community would vehemently oppose a large Wal Mart, as Commr. Stewart said he may do. He asked this Board to give

serious consideration to approving this project. He thanked the developer for his attendance at committee meetings. Mr. Bailey felt this project will be the keystone of the future of the Mount Plymouth-Sorrento area.

Peggy Bellflower said she had sent a letter to the Board yesterday with her thoughts. Staff took the time to research and write a good staff report. It has been indicated at this public hearing that staff is inaccurate in its statements. She did not agree with that. The proposed application is not in harmony with the future land use map; it is inconsistent with the Comprehensive Plan policies and the LDRs. Staff has recommended denial. This is not the right location for such a large project. She has talked to Publix, and it will not be locating at that site. She asked the Board to follow the staff recommendation.

Susan Brooks, resident of the Mount Plymouth-Sorrento area, said over 1500 homes have been added in that area in the last two to three years so there is a much greater need. She spoke of the need for a sustainable village center. An anchor store is needed to sustain the additional smaller stores that are desired by many. What is not needed are abandoned strip shopping centers. The town center would allow community events such as parades and festivals that are missed by the residents in the community. A farmers' market would be a good addition. She asked this Board to give Mr. Fabrizio a chance to move forward.

Heather Brush said she and her family have lived in the Sorrento area for 18 years. She opposes this proposed project because it is too much commercial. Unfortunately, people from densely populated areas have moved to this rural community and are missing the amenities. She felt this development is way too much for this area and belongs on US 441.

Federico Ciancimino, resident of Sorrento for three years, felt this is a very good project because shopping facilities are needed in this area.

Allison Dray said she has been a resident and business owner for two years in this area. She has two homes and two businesses. She commended Mr. Fabrizio for the efforts he has put forth in listening to the community's voice. She would like the revenue to stay in this area rather than go to Seminole County, Orange County, and Mount Dora. She encouraged this Board to approve the plan so it can move forward in the right direction.

Jeanne Etter, resident of the Mount Plymouth-Sorrento area, said the framework study is a guideline, not a mandate. Some of the study is very valid, but it does not have to be followed. She acknowledged that this project will bring jobs, but they will be low paying and not allow the employees to live in the area due to the high cost of the houses. Traffic is a horrible mess in this area and needs to be addressed as a part of this request.

Catherine Hanson felt the framework study is a very good guideline, and the only one that deals with the history of Mount Plymouth and Sorrento and the way it has been developed. She has been a long-term citizen advocate for the Mount Plymouth-Sorrento area. The current piecemeal development in the area along SR 46 particularly has resulted in a disconnect from the surrounding community. This proposed project would encourage connectivity. The smaller commercial parcels can lead to strip retail. The Village Commons has the potential for a desirable anchor tenant. If that tenant does not come to this location, it could easily go to the 18 acres that is already zoned commercial on CR 437 and SR 44, which would encourage more urban sprawl. The proposed project adheres to the recommendations of the framework study, and she felt it is a vital component of creating a sustainable community. It promotes smart growth. She asked that this Board send a positive recommendation to the BCC for this enhancement to Mount Plymouth and Sorrento. If this Board should recommend approval, Ms. Hansen said she would request that

the applicant work with the St. Johns River Water Management District and the water wise program.

Pamela Jennelle said that in 2003, the BCC adopted the Mount Plymouth-Sorrento Small Area Framework Study. In 2005 there was a community visioning workshop. One of the points that was specifically mentioned as a weakness of the area was the lack of retail and a grocer. One of the opportunities that was listed for the community was a walkable village center with calm traffic, sidewalks, pedestrian crossings, and public transportation, if possible. Village Commons can make some of those things happen.

Clark Morris spoke of his favorite book, The Rise of Sprawl and the Decline of the American Dream Suburban Nation. He said he has lived in Sorrento for about five years. Lake County still has a vast amount of area that has not been spoiled, and he wants to preserve that area. He felt this project could be the nucleus for the way this area should grow.

Vice Chairman Morris stated that Bill Smolley had submitted a speaker card, but he was informed that Mr. Smolley had left the meeting.

Michael Sweeney said he supports this development. He commended Mr. Fabrizio for working with the community. The traffic on SR 46 has gotten worse over the years. There are two grocery stores in the area, but they are old, crowded, and outdated.

Scott Taylor stated that he likes the existing grocery stores. As a former long-time member of the Mount Plymouth-Sorrento Planning Advisory Committee, he has watched this project explode from one that would serve the local community to one that will be a regional draw. The difference between the two is significant and the impacts on the community will be long lasting. He did not feel this project should be considered prior to the adoption of the revised Comprehensive Plan, which in its present form would not permit this project. He has a continuing concern of the County's patchwork approach to planning. Approval of this project opens the door for owners of property on the other three corners to justify nonconforming requests based on the ruling for this project. He asked the Board to deny this request.

Judy Crittendon Weis, 30-year resident of Sorrento and 50-year resident of Lake County, said that she has seen this area start to grow, but it has kept its rural character. The community does not want all this commercial. She spoke of two sites that are under consideration for a school. Both sites are close to this project. She questioned what that would do to the dangerous traffic situation on SR 46. It has been said that commercial should come to this area to fulfill their simple needs. The area already has businesses run by families that would meet those needs. She did not feel it is realistic to think people will use their bicycles to go grocery shopping. There is no need to bend the rules; this project is not compatible with the area.

Patricia Wightman was present to speak on behalf of herself as well as Lee Harthman. She said she is an officer of the Wolfbranch Village Homeowners Association but was present in an unofficial capacity. Mr. Fabrizio had come to their Association annual meeting to speak. There was overwhelming support from the residents in attendance that this project would be a good addition to the community. Growth has already taken place. The Lake County government has not met the demands of this area. The roads are congested. The Mount Plymouth-Sorrento area is in the process of defining its identity as it continues to grow. It is the opinion of their community that the Village Commons would greatly increase the quality of life in the area. Village Commons would provide much needed services and jobs, increase tax revenue for the County, and guide Mount Plymouth-Sorrento's persona into something that the citizens can be proud of.

Robert Curry, a resident of Seminole Springs, said he lives seven miles from the subject property and five

miles to the site on CR 437 and SR 44, which is in the master plan for a Publix. He said he is neither for nor against this site. The major part of this site is a community consideration. He felt the cost to the County to maintain the roads as people travel to this development should be considered.

Mr. Richey reiterated that this project meets the LDRs and Comprehensive Plan as the Comprehensive Plan has been applied for years. Historically this intersection, in all the plans and studies that have been done, has been set forth for this use. There was a concern about a Wal Mart being on the site. The largest structure on the site plan being considered is 47,000 square feet. To change that site plan would require the project going back through the public hearing process. The site plan is what they will be bound by with regard to size of buildings. Regarding Publix, the location will not be known until the zoning is done and building permits are pulled. He pointed out that there had been discussion about another Publix being planned further up the road. That plan does not incorporate and is not part of the Mount Plymouth-Sorrento plan that has been worked on for years. He asked this Board to pass this project as proposed. Traffic will be addressed when the detailed site plan and construction plans are submitted. They will be required to fix roads with deficiencies and meet concurrency.

When Scott Blankenship asked about the basis for the BCC previously denying this project without prejudice, Ms. Ginsberg said the BCC wanted the developer to revise the plan, speak to the community, and come back as it was not timely in 2005. Brian Sheahan, AICP, Planning Director, added that it appears the Board decided to deny it without prejudice and did not decide the other issues of the case because they had not gotten sufficient input from Mount Plymouth.

In response to Vice Chairman Morris, Ms. Ginsberg said the staff report does state 55 percent ISR based on the Urban Compact Node that was specified in the chart in Chapter 3 of the LDRs. After reviewing Section 4.03.05, Commercial Development Standards, there is a stipulation stating that "Impervious Surface Ratio and Floor Area Ratio. The maximum Impervious Surface and Floor area ratios Shall not exceed the maximum Permitted in the C-3 district as set forth in Table 3.02.06," which is 70 percent.

Phyllis Patten said she has a concern relating to the traffic study. She felt she did not have some information that is necessary to vote on this project. There is no current hard data on SR 46. She did not like the issues of public utilities and land use not being firm. When a project comes before this Board, she wants to have all the facts. Otherwise, she is uncomfortable in making a decision.

When Ms. Patten asked staff the status of the traffic and what to expect, Ms. Ginsberg said she would defer to Ross Pluta from Public Works.

Since Ross Pluta had not testified earlier, Mr. Richey said that if Mr. Pluta testifies to information that he needs to clarify based on his experts being present, he wanted to reserve the right to do that. Ms. Marsh said it would be at the Board's discretion, but it would be appropriate to allow Mr. Richey time to cross examine.

Ross Pluta, Engineer III, said it is his understanding that concurrency could be deferred. He said Public Works had some problems with the methodology for the traffic study so they do not know exactly what the impact will be. If concurrency is deferred, that will allow time to work with the applicant to resolve the issue. Vice Chairman Morris confirmed that it must be addressed before site plan review. Mr. Richey pointed out that if they cannot meet the concurrency criteria, construction cannot take place until it is addressed. Mark Wells confirmed with Ms. Ginsberg that a letter of deferral is in the case file. Ms. Ginsberg said they must also demonstrate a reasonable timeframe for achieving such improvements.

In response to Ms. Patten, Ms. Ginsberg said the future land use map identifies this area as a Neighborhood

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Activity Center. The Comprehensive Plan identifies CR 437 and SR 46 as a commercial intersection. The map further clarifies that the intersection should be a Neighborhood Activity Center. Within Policy 1-3A.1 regarding commercial development and land use classifications, it allows combined commercial allocations from 10,000 to 50,000 square feet of gross leasable area. The intent is to serve the neighborhood. Currently this is proposed as a Community Activity Center, which is inconsistent with the future land use map.

Mr. Richey asked to question Ms. Ginsberg as she had presented new information. Vice President Morris said everything was in the staff report and denied Mr. Richey's request to speak. For the record, Mr. Richey said that Ms. Ginsberg introduced new information that went beyond the staff report in testimony just presented. He had asked Vice Chairman Morris to allow him to present evidence to combat that and was denied.

If this type of development did not meet the Comprehensive Plan 2-1/2 years ago, Mr. Blankenship asked why the BCC would deny it without prejudice rather than just denying it based on certain factors. Ms. Marsh noted that the minutes from that public hearing were made available in the information sent to the Zoning Board. If the BCC elected not to address certain issues at that public hearing, it could have been for a variety of reasons. The applicant would have had the opportunity to ask for a Comprehensive Plan change.

Mr. Blankenship said he still has a concern with the Comprehensive Plan issue in which the County would encourage the community to debate, discuss, and plan this for two years when the County has said that it cannot be done. However, he did commend the community for getting involved on what goes on in their area.

Vice President Morris and Mr. Wells agreed with the comments made by Mr. Blankenship.

Mr. Metz pointed out that the August 3, 2005 minutes indicate that he and Mr. Blankenship had voted against this project at that time because of the Comprehensive Plan compliance issue although the site plan at that time showed a regular shopping center even though it was called a town center. However, due to community input over the past two years, his concerns about the way it looked have been resolved as it now looks like a town center; but the Comprehensive Plan issue is still there. It appears like the BCC were concerned about that issue also at the public hearing in 2005.

Mr. Blankenship said he would like to ensure that what the developer has said will be done actually gets done and does not turn into something different.

Vice Chairman Morris said he travels SR 46 quite a bit. He felt that if the County does not start with some type of development like this, the result will be small shops lining that road. In his opinion, the character of this project is much better than many small shops. An alternative could be one big box store.

Mr. Gardner said he agreed with Vice Chairman Morris's line of thinking.

MOTION by James Gardner, SECONDED by Scott Blankenship to recommend approval of Planned Commercial (CP) zoning to allow for a mixed use commercial center including general retail, general restaurants, professional office, and civic facilities in PH#35-07-4.

Ms. Patten said her concern is the issue as it relates to traffic although she understood nothing can be built unless they are in compliance. The utilities are also a major issue for her as well as the size. She said she has some severe reservations as it relates to those issues.

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Mr. Blankenship said he would like to see an amendment to this motion to include language that would ensure that what has been presented will actually occur on the site. Ms. Marsh said the site plan will be attached to the ordinance. If the motion is for approval, this Board will be approving the ordinance in the packet, which includes that site plan.

Ms. Ginsberg stated that the Mount Plymouth-Sorrento Planning Advisory Committee drafted some guidelines for development within that area. Those guidelines have not been adopted at this time, but they are proposed for the 2025 Comprehensive Plan. One of those policies is "include the provision for an anchor store, such as a grocery, to be sized to serve the needs of the Mount Plymouth-Sorrento Planning Area, and not exceed 30,000 square feet of floor area."

AMENDMENT by James Gardner, SECONDED by Scott Blankenship that the site plan discussed at this public hearing be included as an exhibit to the ordinance. The site plan shall include square footages and the architectural design.

Mr. Metz said he is going to support the motion since his concerns from 2005 have been addressed except for the Comprehensive Plan issue, which he felt the Board of County Commissioners must address.

FOR:	**Morris, Blankenship, Gardner, Metz**
AGAINST:	**Patten, Wells**
CONFLICT OF INTEREST:	**Bryan**
MOTION CARRIED:	**4-2**

Adjournment

There being no further business, the meeting was adjourned at 1:15 p.m.

Respectfully submitted,

Sherie Ross Public Hearing Coordinator	Paul Bryan Chairman