

**MINUTES  
LAKE COUNTY ZONING BOARD  
JUNE 4, 2008**

The Lake County Zoning Board met on Wednesday, June 4, 2008 in the Commission Chambers on the second floor of the County 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, June 24, 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  
Rick Hartenstein, Senior 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  
Jim Kirby, Senior Code Enforcement Officer, Code Enforcement Services 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 explained the procedure for hearing cases on the consent and regular agendas. He added that anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor and that this meeting had been noticed pursuant to the Sunshine Statute.

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Minutes

**MOTION** by Timothy Morris, **SECONDED** by James Gardner to approve the May 7, 2008 Lake County Zoning Board Public Hearing minutes, as submitted.

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

**AGAINST:** None

**MOTION CARRIED:** 7-0

**Discussion of Consent Agenda**

Brian Sheahan, AICP, Planning Director, stated that there were no changes to the agenda. However, he read the following Public Works comment for PH#26-08-3, First Baptist Church of Okahumpka, Inc./ Corpus Christi Episcopal Church, into the record: Additional right-of-way may be required. He read the following Public Works comment for PH#23-08-4, Adam Gutman, into the record: A turn lane on SR 44 may be required. Mr. Sheahan said these comments will be incorporated into the staff report for the appropriate cases for the Board of County Commissioners (BCC) public hearing on June 24, 2008.

Consent Agenda

<b>CASE NO.:</b>	<b>PH#26-08-3</b>	<b>AGENDA NO.:</b>	<b>1</b>
<b>OWNER:</b>	<b>First Baptist Church of Okahumpka, Inc.</b>		
<b>APPLICANT:</b>	<b>Corpus Christ Episcopal Church, Inc.</b>		
<b>CASE NO.:</b>	<b>PH#23-08-4</b>	<b>AGENDA NO.:</b>	<b>4</b>
<b>OWNER/APPLICANT:</b>	<b>Adam Gutman</b>		
<b>CASE NO.:</b>	<b>PH#02-08-3</b>	<b>AGENDA NO.:</b>	<b>5</b>
<b>OWNER:</b>	<b>Lake County Board of County Commissioners</b>		
<b>APPLICANT:</b>	<b>Robert Bonilla, Director of Parks &amp; Trails Division, Department of Public Works</b>		
<b>CUP#87/6/1-3</b>	<b>Peter G. Murray/Alma Powers, Trustee Staff-Initiated Revocation</b>	<b>AGENDA NO.:</b>	<b>6</b>
<b>CUP#88/8/4-5</b>	<b>H.O. Williams, Jr./Preston S. Gibbs Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7A</b>
<b>CUP#519-4</b>	<b>Robert and Jane Sagraves/William Puckett Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7B</b>
<b>CUP#03/8/3-5</b>	<b>Adam Fishman/Myra Fishman Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7C</b>
<b>CUP#847-3</b>	<b>Paul Alexander/JoEllen Alexander Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7D</b>
<b>CUP#96/5/2-2</b>	<b>Barbara K. Hodges/Michael and Sharon Ryan Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7E</b>
<b>CUP#05/1/1-2</b>	<b>Eugene and Pamela Fisher Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7F</b>
<b>CUP#96/8/1-2</b>	<b>Sheryl Meadows/Chris Bryan, Bryan Polly, Inc. Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7G</b>
<b>CUP#92/10/1-1</b>	<b>Richard and Jackie McCollum/Jackie McCollum Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7H</b>
<b>CUP#94/2/2-2</b>	<b>George Brown Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7 I</b>
<b>CUP#00/1/3-3</b>	<b>Earl and Willie Wise/Kevin Douglas Pippin Voluntary Revocation</b>	<b>AGENDA NO.:</b>	<b>7 J</b>

**MOTION by Scott Blankenship, SECONDED by Phyllis Patten to recommend approval of the above consent agenda.**

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

**AGAINST: None**

**MOTION CARRIED: 7-0**

**CASE NO.: CUP#08/6/1-5**

**AGENDA NO.: 2**

**OWNER/APPLICANT: Marsha DeLong**

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial and concept plan from the staff report on the monitor.

The owner/applicant, Marsha DeLong, was present but did not wish to speak.

Chairman Bryan noted that no speaker cards had been submitted.

**MOTION by Timothy Morris, SECONDED by James Gardner to recommend approval of the request for a Conditional Use Permit (CUP) in the Agriculture zoning district to allow a riding stable/academy in CUP#08/6/1-5.**

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

**AGAINST: None**

**MOTION CARRIED: 7-0**

CASE NO.: PH#30-08-4

AGENDA NO.: 3

OWNER: Lake Swatara Properties, Inc.

APPLICANT: Leslie Campione, P. A.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of denial for the first two requests and approval of the third request. He showed the aerial and three pictures of the posting from the staff report on the monitor. He said the criteria in the Comprehensive Plan specifically state the following order for water service: municipal services; if that is not available, private system; and if that is not available, then an interim type of system where a package plant would be brought in. Mr. Hartenstein noted that the City of Eustis' lines are immediately adjacent to the subject property. A letter dated May 20, 2008 from the City of Eustis, which was included in the final package, states that the City of Eustis supports staff's recommendation on the requested actions and strongly objects to any consideration of eliminating any requirements for the central potable water service on any phase of the Swatara Subdivision. The applicant's request for a waiver to the central potable water connection requirement is inconsistent with the Lake County Comprehensive Plan, the City of Eustis Comprehensive Plan, and the water services agreements for this area.

Mr. Hartenstein stated that two versions of the draft ordinance were included in the final package for this case. Version 1 was prepared prior to the April 2, 2008 Zoning Board public hearing and has some additional cleanup language that made things consistent. This version retains the central utility requirement and provides agricultural use clarification language. This version supports staff's presentation comments and recommendation. Version 2 was prepared after the April 2, 2008 Zoning Board public hearing and includes cleanup language with provisions for a waiver to the central water connection requirement, eliminates the central water requirement for Phase 1 (six lots), and provides the agricultural use clarification language. It is staff's determination that Version 2 is inconsistent with the Comprehensive Plan and Land Development Regulations (LDRs). Staff maintains that this request should be denied for any waiver and elimination of the central water connection requirements.

Mr. Hartenstein added that it will probably be brought up that a waiver was granted on a different project (Garrett Place Subdivision) that was in the City of Eustis area. The property is adjacent to the City of Eustis and is in their proposed Joint Planning Area (JPA), but it is not within their utility service area. The adjacent Wedgewood PUD, which has its own water system, stated that they declined from providing any services to this outside subdivision. Utilities were not available from either provider as evidenced by documentation that was provided in the waiver request. The City of Eustis indicated that water would not be available in that area for as long as 20 years. That was the reason why a waiver was granted for that subdivision. The request in question is a totally different situation as water is available outside the property line.

Mr. Pluta left the meeting.

Chairman Bryan said the key to this case appears to be the definition of availability. The way the County has applied that has probably been very fluid over the years. He said he remembered in recent times that if lines were available from an adjoining municipality but annexation was a requirement to connect, the County Attorney's office took the opinion that if it was required to annex, then water was not available. He asked if that still applied. Mr. Hartenstein replied that staff's position, whether annexation was required or not, has always been that if the city says they have capacity and it is available, then connection is required. Melanie Marsh, Deputy County Attorney, said she was not familiar with the legal opinion that Chairman Bryan spoke of. Her understanding was that if water is available, whether annexation is required or not would not be an issue.

Leslie Campione was present to represent the case. She explained that when this case was to be heard by the BCC last month, a full Board was not present. She felt this would almost guarantee a lock vote, which would be inconclusive and result in a denial. She could not get any assurance that a continuance would be granted so it could be heard by a full Board. Therefore, she decided to withdraw the case and start the process again. Ms. Campione stated that the City of Eustis has begun to hold their LDR workshops so she

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**OWNER: Lake Swatara Properties, Inc.**

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**APPLICANT: Leslie Campione, P. A.**

has been able to review the proposed LDRs since the water connection was being conditioned upon annexation by the City of Eustis. At the previous public hearing, there was discussion requiring when the moratorium would be lifted and what the new LDRs would say. She is now being informed that the moratorium will probably be lifted by the end of July and how the new LDRs will apply to the subject property. She felt it was important for this Board to know what these new Regulations will do to the ability to utilize the subject property in the manner intended when the property was purchased. This is a property rights issue.

Ms. Campione added that she disagreed with the staff's statement that these requests are inconsistent with the Comprehensive Plan. She has seen the policy that Chairman Bryan referred to that stated that if there was an annexation requirement attached to a water connection, water was not considered to be available because the developer was being forced to annex into a jurisdiction and submit to their rules, which may be completely different than the rules and regulations of the County. However, that changed when the County started to revise and negotiate its JPAs with the local municipalities around the County. Some of them have come to fruition, but Lake County does not have an active JPA Agreement with the City of Eustis. Because of this, the County is not aware of the rules this owner must adhere to if this property were annexed into the City of Eustis.

Ms. Campione explained that the subject property has been designated in an area that is called a Rural Corridor. There will be a requirement that 100 feet of their entire property along CR 44A must be a setback and cannot be used for any type of building purposes. That would account for about three acres of the subject property. Under County rules, there would be a buffer setback from the road and then a landscape buffer. The City of Eustis rules would require a setback further back from the road. For most of their property, that would not be a problem. In fact, they would probably prefer a wider buffer from the road. However, there is an area near the lake where the lot would be within the 100 feet. That is a very valuable lot. A variance to that rule is possible, but not guaranteed.

In addition, Ms. Campione said that under County rules, they could use all their property when calculating open space requirements. In the proposed ordinance, their open space requirement is 25 percent of the land. Their plans are to put the wetlands on the property in a conservation easement. The wetlands could be used to meet some of the open space requirement; the City of Eustis would not allow any of the wetland area to be used to meet the open space requirement. In addition, their open space requirement is 40 percent. She felt the owner should be able to get the benefit of all the land that was purchased.

Mr. Campione stated that the district in which this property would be located if annexed into the City of Eustis would be Rural Transition Overlay, which does not allow agricultural uses on the property. They want to plant a vineyard on part of the property as well as have a tree farm and a nursery. They had planned to utilize some of their open space for the agricultural uses. She did not believe the BCC would be comfortable with creating a situation where this property must be annexed to meet the water requirement and then being subjected to rules that devalue the property and take away property rights.

At the request of staff, Ms. Campione said their proposal was reduced from ten lots to six lots. The houses will not back up to the road; the front of the houses will be seen from CR 44A. They are requesting a density of one dwelling per acre. Because of the 40 percent open space requirement in the City of Eustis, they would have to shrink their lots and would not be able to have six large lots on the lake.

Ms. Campione stated that they are requesting a waiver to have wells for the six lots only with the condition that if the City of Eustis will allow a water connection to this property without annexing, the owner will put in fire hydrants. The County's Fire Rescue Division withdrew their opposition as a result of her proposal to install fire hydrants if water connection could be done without annexation. A private well system to serve these six lots would be very expensive. She stated that they would be agreeable to a condition whereby

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they would meter the wells and provide the information to Lake County so data could be collected on how much water is used by individual potable wells. She submitted a picture of the old house that is situated in the middle of the property as Applicant Exhibit A; it was built around 1840. She submitted a picture of a house that is located down by the lake as Applicant Exhibit B. The deed restrictions for the other five houses would include two-story homes with strict regulations on the architectural design.

Referring to Version 2 of the ordinance, Larry Metz questioned Subsections F and G on Pages 5 and 6 regarding well and sewer service. The two sections appear to be contradictory. He did not feel environmentally that wells should be utilized in this area. Ms. Campione countered that a large central water system has a much greater impact on the aquifer than individual wells. Mr. Metz said the fact that water service is available within a reasonable distance of the property suggests connection at some point. If the City of Eustis is willing to connect without annexation, this property should be connected to their water lines; Ms. Campione agreed. Mr. Metz did not feel the issue of water connectivity should be a “heavy hand” for annexation by a city and/or county. Annexation rules should be applied independently of that decision. Ms. Campione said that the City of Eustis will not provide water lines without annexation. Mr. Metz said he did not want to grant the waiver unless it is determined that connection for the lots is not possible without annexation. He confirmed that the wells would be for Phase 1 only if central water cannot be obtained. Ms. Campione said she had no problem agreeing to annexation for future problems if that was necessary to proceed with Phase 2. She said they would probably also be agreeable to annexation in the future if the City of Eustis would allow connection for these six lots now without annexation. Mr. Metz suggested revising the language to reflect that position.

Diane Kramer, Director of Development Services for the City of Eustis, spoke of a letter dated March 10, 2008 from the City of Eustis Utilities Department in which it stated the terms upon which water could be provided. She referred to the three steps that should be submitted as stated in that letter. This area is a rural gateway into the City of Eustis. Although there is no formal JPA agreement, this property has always been in the planning area for the City of Eustis. The underlying land use entitlements that were in the Comprehensive Plan have not changed in terms of what density would be provided for that area. She felt it is very clear that the reason these waivers are being requested is to avoid any development review by the City of Eustis. A reasonable approach would be to try to proceed with looking at an annexation agreement and a developer’s agreement concerning what would happen on that property in order to provide service and give the City an opportunity to work that out. Chairman Bryan said he thought there had already been discussions between the applicant and City. Ms. Campione said they have gone before the City Commission, but the moratorium was already in effect so the Council would not even consider a developer’s agreement. She did not have a problem with the City reviewing the development and giving their comments to the extent that the City does not completely ruin their ability to do what they want to do. They would like to negotiate the issues with the City. Ms. Kramer said that in the letter of March 10, 2008, it states that the outside water and sewer services requests must be denied until the moratorium expires; the moratorium expires on July 17, 2008. Ms. Campione said the waivers are needed in case the City of Eustis does not agree to their development plan. Ms. Kramer stated that she did not think it would be appropriate to grant the waiver for the wells prior to having the discussion about a developer’s agreement because once the waiver is granted, the decision is basically made. Ms. Campione asked to keep that in as the fallback position because without that, she has no leverage when she talks to the City of Eustis.

Mr. Metz agreed that there appears to be an opportunity for dialogue that has not happened yet. He said that he would like to read the language changes in the ordinance that he had spoken of before voting on it so he was not ready to proceed at this public hearing. Timothy Morris agreed. Mr. Metz felt a continuance of this case might be in the best interest of all parties including this Board in order to give the applicant and the City an opportunity to have discussions. When he suggested a 60-day continuance, Ms. Campione asked that it not be continued again. She said she could write the revised language at this time. The motion could include new language to modify the language in the ordinance. Phyllis Patten agreed with Mr. Metz

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that she would want to read the final document before proceeding with the vote.

When Mr. Morris asked Ms. Kramer if the expiration of the moratorium is on the agenda for July, Ms. Kramer said the ordinance that established the moratorium has an expiration date of July 17 or 18, 2008. The Commission meets on July 17. Some type of action must take place at that time. The purpose of the moratorium was to develop the new LDRs. Those LDRs are basically in final draft form. The LDRs are scheduled for first and second reading on June 19 and July 3 with the ability to shift those dates to July 3 and July 17 so they can be adopted.

Mr. Morris asked if the setback of 100 feet, as Ms. Campione spoke of, is correct. Ms. Kramer said the new LDRs are form-based Code, which focuses on what things look like and how to make things compatible, but it also has very generous waiver language. The wide buffer requirement along the Rural Corridor is to keep a rural look on that road. Much of the open space requirements are tied to the Wekiva Protection requirements from the State. The lot size limitation is very low so varying lot sizes are possible. There is a lot of flexibility in the Code.

Mr. Morris confirmed with Ms. Kramer that wetlands do not count in the calculations for the open space requirement and that the open space requirement in the City of Eustis is 40 percent. He was informed by Ms. Kramer that whether agricultural uses are allowed in this zoning district is still being discussed. No final decision has been made. In response to Mr. Morris, Ms. Kramer said discussion of the JPA agreement has been put on the "back burner" at this time due to the preparation of the LDRs.

Mr. Morris agreed with Mr. Metz as he had a concern about voting on a document that has not yet been written.

Chairman Bryan said that in the past this Board has amended ordinances without waiting 30 or 60 days for it to come back. He has a comfort level with language decided upon by this Board being written and forwarded to the BCC for the June 24 public hearing. He was not in favor of postponing the case to review the language at another public hearing.

Mr. Morris felt the end or extension of the moratorium as well as discussions between the City of Eustis and the applicant are also considerations. He did not feel the applicant has been treated fairly, but he wants the process to go through so they can both negotiate.

When Ms. Campione read the language for the motion into the record that she felt the Board wanted, Ms. Patten said she felt it should be staff who writes the language, not the applicant.

Mr. Metz said he did not have a problem with the language for the third request, but he did feel the language for the first two requests should be modified.

Ms. Kramer pointed out that by tying the request just to whether they can get water service without annexation gives the City of Eustis no input into the design of those six lots, and the City does object to that. Ms. Campione rebutted that when they make that request, it would give them the opportunity to negotiate.

In light of what Ms. Kramer said, Mr. Metz said there are many things that could be discussed in the next 30 days. A 30-day continuance would allow time to work on issues and come back to the Board with an ordinance that would be reflective of what has been discussed at this public hearing. He felt it would be too cumbersome to anticipate all the possible options in a motion at this time.

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**MOTION** by Larry Metz, **SECONDED** by Timothy Morris to recommend approval of a modified version of Version 2 of the ordinance in the booklet in PH#30-08-4, which would be consistent with the following:

1. In the summary of staff determination on Page 2 of the petition summary in the booklet, Request 3, relative to the agricultural uses, shall remain the same as it currently exists in Version 2 of the booklet.
2. Section I, Subsections F & G shall be rephrased so that it would require the applicant to first request connection to the City of Eustis' water supply for fire protection and potable water and sewer system for Phase 1 of the PUD from the City of Eustis. If the City of Eustis agrees to that request without requiring annexation as a condition to that agreement, the applicant shall be required to connect to the City of Eustis' water and sewer supply system for all services by the houses in Phase 1. However, if the City of Eustis refuses to grant the applicant's request for connection as indicated, then the applicant would have a waiver of the requirement for connection to the central water service for Phase 1. For Phase 2 and thereafter in the PUD, there would be no waivers granted for connection to the central water and sewer service; and the City of Eustis could require annexation as a condition to connection to their water system for those phases.

Mr. Sheahan said there is one part of Mr. Metz's motion that causes him some hesitation. The County cannot regulate annexations. The Statutes are very clear on that. When Mr. Metz said that was not what the motion said, Mr. Sheahan suggested a short recess to put this motion on paper and then read it into the record. Mr. Metz felt that would be a prudent step. The Board recessed.

Chairman Bryan called the public hearing back to order at 10:30 a.m.

In response to Chairman Bryan, Mr. Sheahan said staff has drafted some language that staff understands and will be part of Mr. Metz's motion.

With the permission of the Chair and the member who seconded the motion, Mr. Metz withdrew his previous motion in order to substitute another motion. Mr. Morris was agreeable to that.

**MOTION** by Larry Metz, **SECONDED** by Timothy Morris to recommend approval of the applicant's request in PH#30-08-4, which would include the approval of Condition 3, the agricultural use issue, and with the following modifications to the Version 2 ordinance: Developer shall be required to request connection to the City of Eustis central water supply system for fire protection and potable water service. If the City of Eustis agrees to said request pursuant to a mutually acceptable agreement, the developer shall be required to connect to the City's central water supply system prior to final plat approval for Phase 1. However, if the City refuses to grant the request, the developer would hereby be granted a waiver to the central water connection set forth for Phase 1 only. For Phase 2 and all phases thereafter, there shall be no such waivers granted by Lake County even if conditioned upon annexation into the City of Eustis.

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

**AGAINST:** None

**MOTION CARRIED:** 7-0

**Adjournment**

There being no further business, the meeting was adjourned at 10:35 a.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Paul Bryan  
Chairman