

**MINUTES
LAKE COUNTY ZONING BOARD
OCTOBER 7, 2009**

The Lake County Zoning Board met on Wednesday, October 7, 2009 in the Commission Chambers on the second floor of the County Administration Building to consider petitions for rezoning and a conditional use permit.

The recommendations of the Lake County Zoning Board will be transmitted to the Board of County Commissioners for their public hearing to be held on Tuesday, October 27, 2009 at 9 a.m. in the Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Egor Emery	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, AICP, Senior Planner, Planning and Community Design Division
Melving Isaac, Planner, Planning and Community Design Division
Jennifer Cotch, Environmental Specialist, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Donna Bohrer, Public Hearing Coordinator, Planning and Community Design Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Acting County Attorney

Chairman Bryan called the meeting to order at 9:05 a.m. He led in the Pledge of Allegiance, and Larry Metz gave the invocation. Chairman Bryan noted that a quorum was present.

Chairman Bryan explained the procedure for hearing cases on the consent and regular agendas. 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. He added that this Board is a recommending board only, and the Board of County Commissioners (BCC) will be hearing these cases later this month when a final determination will be made.

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Minutes

MOTION by James Gardner, SECONDED by Scott Blankenship to approve the September 2, 2009 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Wells, Metz

AGAINST: None

MOTION CARRIED: 7-0

Discussion of Agenda

Brian Sheahan, AICP, Planning Director, stated that there are no changes to the agendas. However, after discussion with the applicant for PH#14-09-3, staff has suggested adding clarifying language to the ordinance to allow up to six units for the pastoral retreat, one of which would be used as a caretaker's residence. If the Zoning Board is agreeable to these additions, the case can remain on the consent agenda.

As discussed at a previous public hearing, Mr. Sheahan said that immediately following the public hearing, some mock hearings will be held.

Mr. Sheahan noted that updates for the adopted Comprehensive Plan had been distributed to the Zoning Board.

Mr. Sheahan 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.

Egor Emery asked that Agenda No. 2, PH#14-09-3, Howey-in-the-Hills Community Church, Inc./James P. Senatore, Architect, be removed from the consent agenda and placed on the regular agenda.

Consent Agenda

CASE NO.: PH#13-09-1 **AGENDA NO.:** 1
OWNER: Benjamin F. Perry, III
APPLICANT: Hugh Davis, P.A.

CASE NO.: CUP#09/10/1-4 **AGENDA NO.:** 4
OWNER: Fla. Twin Markets, Inc./Edward Renninger
APPLICANT: American Tower/Jeff Pilgrim

Chairman Bryan stated that no speaker cards had been received for the above two cases on the consent agenda.

MOTION by James Gardner, SECONDED by Scott Blankenship to recommend approval of the above consent agenda.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Wells, Metz

AGAINST: None

MOTION CARRIED: 7-0

CASE NO. : PH#07-09-2

AGENDA NO.: 3

OWNER: KAM Investments, LLC

APPLICANT: Leslie Campione, P.A.

Chairman Bryan stated that anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of denial. He showed a map and aerial from the final package on the screen. He said the Department of Community Affairs (DCA) has reviewed this application and has reached the same conclusion as staff that this is a commercial activity and should not be recognized as a community facility. He added that since the zoning book was prepared, six additional letters of support have been received. He submitted these letters in a packet (County Exhibit A) for review by the Zoning Board.

In response to Chairman Bryan, Mr. Hartenstein said the most logical and appropriate use for this property is agricultural since this is the way it has been developed.

When Timothy Morris asked about the complaint to Code Enforcement, Mr. Hartenstein said the complaint filed initiated this zoning request; the complaint is embedded in the Code Enforcement information found in the zoning book for this case.

Scott Blankenship asked about the comment Mr. Hartenstein had made regarding DCA. Mr. Hartenstein said it is standard practice to notify DCA when a case is located in the Green Swamp Area of Critical State Concern. He noted that the reply e-mail from Rebecca Jetton of DCA is included in the final package for this case.

On behalf of Leslie Campione, Mary Ludwig distributed information on this case to the Zoning Board members and submitted a copy as Applicant Exhibit A.

Leslie Campione was present to represent the case. She stated that she respects the work of staff; but in this case, she felt they were wrong and that a decision could be made to allow this particular use. She believed there has been a misunderstanding of the use itself. The use does not generate traffic as a commercial use would; it is not inconsistent with the rural nature of this area. There is a structure on the site that was used for agricultural equipment and uses. KAM Services provides maintenance, construction, repairs, and landscaping maintenance to utility providers only. She noted that there are letters from SECO, Progress Energy, and Lake Apopka Utilities included in Applicant Exhibit A indicating that KAM Services is the subcontractor they use to take care of their maintenance, construction, and landscape needs. She added that they provide these services regionally.

Ms. Campione stated that Ms. Jetton of DCA did not have a problem with including landscape maintenance providers, but she felt the LDRs should be amended to include that particular use. However, Ms. Campione said her client does not fit that particular use since they provide other services as well. The Community Facility District (CFD) is a zoning that is allowed in the Green Swamp Traditional Land Use. She felt this case should be granted that zoning classification. She submitted a list of definitions as Applicant Exhibit B. She read the definition of Community Facility District into the record. She referred to the Community Facility Uses found on Page 5 of 6 in Applicant Exhibit A. She reiterated that this request is for a business that provides the same services that SECO was providing in its own maintenance facility, but the subject business provides the services to several other utilities. This business does not qualify to fit into one of the County's commercial categories. She felt this business fits the closest into the CFD zoning category. She pointed out that this business has a lot of community support as evidenced in the letters received. This business employs 24 people, 14 of which live in Lake County. The average hourly wage is \$19.86; the minimum hourly wage is \$10. They provide health and life insurance to their employees. The employees receive one week of vacation and six holidays per year. They also make charitable contributions to the community. If this request is not approved, the business will have to move.

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AGENDA NO.: 3

OWNER: KAM Investments, LLC
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Martin Myer stated that KAM Services has become a diversified services provider for the utility industry. The business started five years ago with the intent to be a landscape maintenance contractor for the utilities and has expanded to other work. They maintain 205 substations for Progress Energy and 80 facilities for SECO. He said he has never done work for the private sector.

Chairman Bryan felt that placing this business under the CFD classification is a stretch; commercial is a better fit, but it is not allowed at this location. He suggested including in the ordinance that an affidavit must be signed annually requiring the business to service only utility providers. If private work is done by KAM Services, the property would revert back to Agriculture zoning. Mr. Myer said he would have no problem with that. He has no intent to venture into the private sector.

In response to Chairman Bryan, Melanie Marsh, Acting County Attorney, said it could be put in the CFD ordinance; but it would be difficult to enforce. If commercial work is done, it would become a Code Enforcement issue.

James Nussbaumer felt the subject business provides a great service to the community and maintains their facility and property well. He did not feel agriculture could support this property, and the property could become an eyesore. He supported this request. The property is being put to its best use and not harming the surrounding area.

When Mr. Morris asked how South Lake Electric was approved since it is a nonconforming permitted use, Mr. Nussbaumer said it was the best use of the property for the community. The orange grove business was gone, and the property was vacant. He has a commercial permit and is an electrical contractor. Mr. Morris questioned why the subject business would be in a Community Facility District. Ms. Campione said Ms. Jetton of DCA referred to the use of the subject property as retail service. Retail service is an allowed use under C-1. Mr. Morris was informed by Mr. Nussbaumer that he has a home nearby and has someone living on his property to watch over it.

Mark Wells said KAM Services has a tremendous reputation in the community. The property did have an agricultural appearance when KAM Services bought it. With the growth rate, there was a greater density of equipment in the yard, which is probably what generated the complaint. He said the power grid in all of Florida is horrible. A company that does what this company does is tremendously needed and will be needed more so in the future. However, it is located in the Green Swamp, which requires sensitivity. He felt that there needs to be some restraint as to what can happen in the future.

Ms. Campione reiterated that Community Facility Districts are permitted in the Transitional area. She felt the proposed use is not more intense, and probably less intense, than the agricultural uses previously on this property from the standpoint of protecting the Green Swamp. The proposed use will not harm the Green Swamp as an Area of Critical State Concern. When commercial was suggested as an option for this property, she felt this Board would be more concerned about too many commercial zoning classifications in this area. She would be more comfortable with the CFD classification with its limitation that only utility providers would be serviced. This limits the possibility of the use getting too big. She said these types of issues can also be addressed during site plan review.

Due to the environmental sensitivity of this area, Mr. Wells confirmed with Ms. Campione that Best Management Practices would be put in place. Ms. Campione said that could be part of the site plan conditions or in the ordinance. She agreed that the Best Management Practices need to be defined.

In response to Chairman Bryan, Ms. Campione said she had reviewed the proposed ordinance and was in agreement.

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AGENDA NO.: 3

OWNER: KAM Investments, LLC
APPLICANT: Leslie Campione, P.A.

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Egor Emery asked Rick Hartenstein if there was a zoning classification that would allow this business to operate anywhere in the County. Mr. Hartenstein replied that a commercial or industrial zoning district would allow this business. There is commercial zoning to the south of the subject property. This is the property Ms. Campione alluded to. Mr. Emery said that commercial zoning does not conform to the current Comprehensive Plan. He asked the location of the closest conforming commercial zoning. Mr. Hartenstein said there is no commercial zoning close to this area. The Groveland, Mascotte, or Clermont area would have the closest commercial zoning.

Chairman Bryan stated that if a utility owner was making this request, he would support it. For that reason, if a condition could be added to the ordinance stating that this company would continue to serve exclusively utility providers, he could support it. It serves the same purpose although it is a stretch of the regulations.

Mr. Hartenstein stated that staff is not attacking the business. It is a good business in the wrong location. This is a regional commercial business. He submitted four pages of their web site as County Exhibit B and discussed the information on the site, noting that this is a "full-blown" construction company. Mr. Hartenstein added that zoning by its nature should not be limited to a single business. Zoning regulates uses, not ownership or individuals.

Mr. Hartenstein spoke of the rezoning that took place on the property to the south. It is a local business and provides a service to the local area. The proposed use is more of a C-2 type use, which is a community or regional use. It is too large for the location, based on the Green Swamp criteria. He did not feel it meets CFD criteria at all.

James Gardner felt it would be incongruent not to let the business continue. At this time, he did not want to vote in a way that would cost people their jobs.

Brian Sheahan, AICP, Planning Director, said he has spoken with the County Code Enforcement staff. Should this application not be approved ultimately, staff will work with the applicant to provide a timeframe as long as possible to eventually bring them into compliance but withhold fines and enforcement until an appropriate location can be found. Staff does not want to adversely affect a successful business.

Ms. Campione felt it was very important to focus on the language used in the definitions she submitted as Applicant Exhibit B. It speaks to uses and activities, not ownership. Zoning is about uses and activities. She added that should a hurricane occur, this company would be instrumental in getting these utility providers up and running again. Approving this application facilitates public welfare and safety.

MOTION by Egor Emery to recommend denial of Community Facility District zoning to permit a maintenance and storage facility for a utility/landscape contractor to allow the owner to proceed with obtaining the necessary permits to correct code violations on the property in PH#07-09-2.

MOTION failed for lack of a second.

Mr. Sheahan stated that if a motion is made for approval, staff would request that the following language be added to the end of the first paragraph of Section 1.A. of the proposed ordinance: "It is to be used solely for contract work with public utilities, as verified on an annual basis by the County." This language is acceptable to the applicant's attorney. As requested by Chairman Bryan, Mr. Sheahan provided the following language to be added as No. 4 under Section 1.C. of the proposed ordinance: "Best Management Practices acceptable to the County shall be adhered to and demonstrated on any submitted site plan."

CASE NO .: PH#07-09-2

AGENDA NO.: 3

OWNER: KAM Investments, LLC
APPLICANT: Leslie Campione, P.A.

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When Mr. Morris asked how the County would verify the clients of KAM Services, Chairman Bryan said staff could establish a procedure to verify this information.

MOTION by James Gardner, SECONDED by Timothy Morris to recommend approval of Community Facility District zoning to permit a maintenance and storage facility for a utility/landscape contractor to allow the owner to proceed with obtaining the necessary permits to correct code violations on the property in PH#07-09-2 with the following language additions to the proposed ordinance.

1. **Add sentence at the end of the first paragraph of Section 1.A.: “It is to be used solely for contract work with public utilities, as verified on an annual basis by the County.”**
2. **Add No. 4 under Section 1.C.: “Best Management Practices acceptable to the County shall be adhered to and demonstrated on any submitted site plan.”**

Mr. Emery read Policy 1-12.1 regarding Consideration of Community Facilities into the record. He noted that there is a structure on this property. He did not feel the Community Facility District should be used to locate uses in a community that are not compatible; it should be for uses that are absolutely necessary. This contractor operates on a regional basis; his business could be located in a wide area of conforming uses. The subject use is not compatible in this area; it should not be approved as a CFD use.

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

AGAINST: Emery

MOTION CARRIED: 6-1

CASE: PH#14-09-3

AGENDA NO.: 2

OWNER: Howey-in-the-Hills Community Church, Inc.

APPLICANT: James P. Senatore, Architect

In response to Chairman Bryan, Egor Emery said he had asked that this case be pulled from the consent agenda and placed on the regular agenda because he would like to hear discussion from staff as to how they believe this particular request is consistent with Policy 1-5.4 regarding the location of community facilities. He also had a concern with the site plan. He said he could not understand how this particular use is compatible with the surrounding uses in the area.

Steve Greene presented the case and staff recommendation of approval. He noted that Policy 1-5.4 speaks of institutional activity. Religious places of worship are considered institutional activity. As such, the Comprehensive Plan allows community facility-type activities in any future land use category. Regarding the concept plan, there are conditions associated with that plan and how this site will be developed. Staff believes this application to be consistent with the Comprehensive Plan and Land Development Regulations (LDRs).

Lisa Aleman, adjacent property owner of two properties, said she is neither for nor against this request. She said she was aware of the expansion of the church, but she was concerned about the impact of the day care and ball field as far as noise.

James Senatore, architect for the project, said a softball field is planned. Howey-in-the-Hills is very excited about this as the intent is for this ball field to serve the community. The day care facility will serve a maximum of about 100 children. The classrooms that will be used for Sunday School could be converted to day care usage. Turn lanes will be required since it will be a school. Although they will be improving the road, they do not anticipate a traffic impact. He noted that the project is 1-1/4 miles from the nearest utility.

Chairman Bryan asked if there would be any restrictions on the use of the ball field. Mr. Greene said outdoor activities on the ball field could be limited. In response to Timothy Morris, Mr. Senatore said they do not have any intention of lighting the field at this time. This ball field would basically be a church activity. Chairman Bryan felt that not allowing a lighted ball field would probably give a comfort level to Ms. Aleman.

Mr. Greene said staff has spoken with the applicant with regard to clarification of the pastoral retreat language. The applicant and staff have agreed to language in the ordinance stating that the pastoral retreat and caretaker’s residence shall remain in the ownership of the church and to allow up to six units for the pastoral retreat, one of which may be used as a caretaker’s residence.

MOTION by Scott Blankenship, SECONDED by Timothy Morris to recommend approval of Community Facility District zoning to allow a religious place of worship, pastoral retreat, day care center, and a ball field in PH#14-09-3 with the addition of language to the ordinance prohibiting any exterior lighting of the ball field, that the pastoral retreat and caretaker’s residence shall remain in the ownership of the church, and to allow up to six units for the pastoral retreat, one of which may be used as a caretaker’s residence.

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

AGAINST: Emery

MOTION CARRIED: 6-1

Adjournment

There being no further business, the meeting was adjourned at 10:26 a.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman