

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

The Lake County Zoning Board met on Wednesday, January 7, 2009 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 transmitted to the Board of County Commissioners for their public hearing to be held on Tuesday, January 27, 2009 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
Egor Emery	District 4
Paul Bryan, Chairman	District 5
Mark Wells	At-Large Representative
Larry Metz	School Board Representative

**Staff Present:**

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 Block, Senior Planner, Planning and Community Design Division  
Julianne Thomas, Senior Planner, Planning and Community Design Division  
Grant Wenrick, Landscape Architect, 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  
Erin Hartigan, Assistant 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. 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. He explained the procedure for hearing cases on the consent and regular agendas.

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**Discussion of Agenda**

Chairman Bryan stated that he had received a speaker card for Agenda No. 2, PH#44-08-4, Catherine Hanson/Leslie Campione, Esq., so that case will be removed from the consent agenda and placed on the regular agenda.

Steve Richey said he had filed a notice of appearance for PH#56-08-2, Orange County & City of Orlando/Douglas Pickell, P.E., PB Americas/Water Conserve II (RIB Site #10) and PH#57-08-2, Orange County & City of Orlando/Douglas Pickell, P.E., PB Americas/Orange County & City of Orlando (RIB Site #1). He asked that these cases be removed from the consent agenda and placed on the regular agenda.

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

Chairman Bryan added that this Board is a recommending board only; the Board of County Commissioners will be hearing these cases on January 27, 2009 when a final determination will be made.

**Minutes**

**MOTION by James Gardner, SECONDED by Scott Blankenship to approve the December 3, 2008 Lake County Zoning Board Public Hearing minutes, as submitted.**

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

**AGAINST: None**

**NOT PRESENT: Morris**

**MOTION CARRIED: 6-0**

Consent Agenda

<b>CASE NO.:</b>	<b>PH#66-08-5</b>	<b>AGENDA NO.:</b>	<b>1</b>
<b>OWNER:</b>	<b>Steve Donahue</b>		
<b>APPLICANT:</b>	<b>Lake County</b>		
<b>PROJECT NAME:</b>	<b>Haines Creek Garage</b>		
<b>CASE NO.:</b>	<b>PH#58-08-5 (Withdrawal)</b>	<b>AGENDA NO.:</b>	<b>4</b>
<b>OWNER:</b>	<b>Steven F. Bruce &amp; Vickie L. Sweigart-Bruce</b>		
<b>APPLICANT:</b>	<b>Steven F. Bruce &amp; Vickie L. Sweigart-Bruce</b>		
<b>CASE NO.:</b>	<b>PH#64-08-2</b>	<b>AGENDA NO.:</b>	<b>5</b>
<b>OWNER:</b>	<b>BFG Lakeshore LTD/Jeffrey B. Fuqua, Manager</b>		
<b>APPLICANT:</b>	<b>BFG Lakeshore LTD/Jeffrey B. Fuqua, Manager</b>		
<b>PROJECT NAME:</b>	<b>Hartle Groves PUD</b>		
<b>CASE NO.:</b>	<b>PH#62-08-5</b>	<b>AGENDA NO.:</b>	<b>6</b>
<b>OWNER:;</b>	<b>Harbor Hills Development, LP</b>		
<b>APPLICANT:</b>	<b>Richey &amp; Cooney</b>		
<b>CASE NO.:</b>	<b>CUP#08/9/1-5</b>	<b>AGENDA NO.:</b>	<b>7</b>
<b>OWNER:</b>	<b>Harbor Hills Development, LP</b>		
<b>APPLICANT:</b>	<b>Steven J. Richey, P.A.</b>		
<b>PROJECT NAME:</b>	<b>Harbor Hills RV &amp; Boat Storage Facility</b>		
<b>CASE NO.:</b>	<b>CUP#380-1 (Staff-Initiated Revocation)</b>	<b>AGENDA NO.:</b>	<b>10</b>
<b>OWNER:</b>	<b>Russell R. Van Ness</b>		

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

Egor Emery asked that Agenda No. 11, Tail End Farms, LLC/Paul and Marni Lewis, be removed from the consent agenda and placed on the regular agenda. Regarding PH#62-08-5 and CUP#08/9/1-5, Mr. Emery asked if this was the best mechanism for handling the RV parking situation. Steve Greene, AICP, Chief Planner, replied that it is. The property must be rezoned and then the activity can be allowed as a conditional use.

James Gardner and Scott Blankenship were agreeable to removing Agenda No. 11 from the consent agenda.

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

**AGAINST: None**

**MOTION CARRIED: 7-0**

CASE NO.: PH#44-08-4

AGENDA NO.: 2

OWNER: Catherine Hanson  
APPLICANT: Leslie Campione, Esq.

Julianne Thomas, Senior Planner, stated that the applicant had requested this case be placed on the regular agenda as the applicant is amending the application to remove one of the parcels from rezoning consideration, which is Lot 9 Block 9 in Mount Plymouth. Ms. Thomas showed the aerial from the final package on the screen, noting that Lot 9 Block 9 is the triangular piece of property on the aerial. This would leave only the parcels fronting on SR 46 to be rezoned at this time. In addition, the applicant and owner had some concerns about the language in the ordinance regarding transportation (Page 2, Lines 30 to 39). They want the language to be more general. Ms. Thomas said Public Works had indicated to her that they were agreeable to the language requested by the applicant.

Chairman Bryan confirmed that staff's recommendation is for approval with the changes.

Leslie Campione, on behalf of the owner, said that under Section 1.F. Transportation Improvements, there is general language that is typically found in these ordinances that they would suggest be used. It would state that road access, improvements, and other transportation improvements required by Florida Department of Transportation (FDOT) or Lake County at the time of site plan approval would be required. This is a very small piece of property. They did not want language requiring something when the circumstances at the time of site plan review may not require it to be done. In response to Timothy Morris, Ms. Campione said the alleyway is under the jurisdiction of Lake County. The alleyway would also be reviewed at the time of site plan review. It may be that there would be no utilization of the alleyway.

Egor Emory asked if there is a revised Exhibit B site plan. Ms. Campione said the only revision would be the removal of the triangular piece of property. They will ask the engineer to make that modification in the next week so it can be included in the final package for the Board of County Commissioners public hearing.

**MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend approval of CP zoning to accommodate future office professional development in PH#44-08-4 with the following amended language under Section 1.F. of the ordinance: Road access improvements shall be required in conjunction with site plan approval as determined by the Florida Department of Transportation and the Lake County Public Works Department.**

Mr. Emery said he was much more comfortable with this parcel when he had a conceptual plan that indicated what looked like a more timely development. He is less comfortable with this parcel being cut off. He was also comfortable with the original transportation language. This area is subject to many traffic situations so he was much less comfortable with removing it.

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

**AGAINST: Emery**

**MOTION CARRIED: 6-1**

**CASE NO.: PH#51-08-2**

**AGENDA NO.: 3**

**OWNERS: Clermont-Falls Creek Development, Magnolia Property Associates LLC, B & L Properties LLC, and Magnolia Point Clermont I, LLC**

**APPLICANT: Lake County**

Scott Blankenship declared a conflict of interest because he is president of the homeowners' association that is contiguous to this property.

Karen Block, Senior Planner, presented the case and staff recommendation of approval. She showed the aerial from the staff report on the screen.

Timothy Morris asked for staff's comments on the letter from Akerman Senterfitt (County Exhibit A). Steve Greene, AICP, Chief Planner, replied that staff had received a late request yesterday to remove some language from the Ordinance. He spoke with Chris Roper, one of the property owner's representative, this morning about this request, and Mr. Greene felt they have come to some resolution about how to handle this. On Page 4 of the Ordinance, Section 1.D., the language would be revised to read: "Landscaping of Lot 6 shall be in accordance with the approved landscape plan." When this PUD came forward several years ago, a landscape plan was approved for Lot 6 including perimeter landscaping, buffering, vegetation, as well as vegetation and plantings for the parking lot. There would also be a new item, No. 8 under Section 1.D., which would read: "For those unlandscaped areas not specified above, the landscaping shall be in accordance with the current Land Development Regulation, as amended." Mr. Greene said Mr. Roper felt comfortable with that. There had been ambiguity regarding the Florida Friendly landscape techniques. Considering that the Board of County Commissioners (BCC) is moving toward adopting a new landscape ordinance in the near future, staff felt comfortable that whatever landscape ordinance was adopted would address future development of Lots 1 through 4 abutting Highway 50.

When Egor Emery said No. 8 would strike the Florida Friendly language from the Ordinance, Mr. Greene explained that the Florida Friendly language would be incorporated into the new landscape ordinance.

Timothy Morris asked if Lot 6 is being specified for landscape that is more lenient. Mr. Greene said that it is landscaping that was approved at the time the PUD was approved. It is comparable to what is required now, but a different type.

Donna Peebles said she is one of the owners of Lot 5 in the Magnolia Pointe Subdivision. The owners of Lot 5 are adamantly opposed to the position to rezone this property. Lot 5 is owned by a group of families. She spoke of one owner of Lot 5, Lisa Reid, who will have a business in the existing office building on Lot 5. Ms. Peeble's mother, Elaine Peebles, is also an owner of Lot 5. For over 18 years she was the branch manager of Pinnacle Financial, who is also an owner of Lot 5. As a result of the financial crisis, Pinnacle Financial is no longer in business; and Elaine Peebles works for Wells Fargo. Her office will be in the office building on Lot 5. She asked this Board not to approve this petition to rezone. She read the requested action from the staff report into the record. Lot 5 is defined as an owner, and the owners of that lot are not requesting to amend the ordinance. Due to this request, the owners of Lot 5 were required to send a copy of this zoning petition to their mortgage lender. They are now in technical default with their lender and are facing legal action because their mortgage states that they cannot initiate any zoning changes without prior written approval of the lender. Their lender disapproves of this rezoning because the lender believes that several of the changes would negatively affect the property values. The owners of Lot 5 now have to spend money to defend themselves legally for requesting a zoning change that they never requested. They are being forced into this situation. The technical default will cause their interest rate to double. She asked this Board not to force them to change the zoning. They began negotiations to purchase Lot 5 in 2005. They were told they would be in a PUD with four outparcels facing Highway 50. The developer, Mohammed Diaz, committed to placing a pharmacy, bank, or sit-down restaurant on Lot 1, which is in front of Lot 5. Lot 2 had already been sold to Goodyear, which had designed a special-use facility for high-end neighborhoods that had no noise pollution. The owners of Lot 5 had talked to

**CASE NO.:** PH#51-08-2

**AGENDA NO.:** 3

**OWNERS:** Clermont-Falls Creek Development, Magnolia Property Associates LLC, B & L Properties LLC, and Magnolia Point Clermont I, LLC

**PAGE NO.:** 2

**APPLICANT:** Lake County

Goodyear and felt the franchise would be a positive to neutral impact on their property values. Based on commitments from Mr. Diaz and Goodyear, the owners of Lot 5 believed their building would have excellent visibility between and around the two structures on Lots 1 and 2. When the plot was approved, the owners of Lot 5 assumed the development was complete and could not be changed. She said they did a lot of research before purchasing this property. However, they did not know that Mr. Diaz was having a legal problem with the Magnolia Point Homeowners' Association. They did not know Mr. Diaz was trying to change the zoning until they received an e-mail from Mr. Diaz indicating that if the owners of Lot 5 did not agree to the rezoning, they most likely would be sued by the Magnolia Point Homeowners' Association. The owners of Lot 5 do not know the promises Mr. Diaz made to the Magnolia Point Homeowners' Association nor what promises were kept or broken. They do know Mr. Diaz broke his promises to the owners of Lot 5. These owners feel they are the collateral damage of the legal battles between Mr. Diaz and Magnolia Point Homeowners' Association. She questioned why these owners were never included in the negotiations of the ordinance from the beginning. The owners of Lot 5 proposed a variety of compromises to Mr. Diaz, but the compromises to the owners were minimal; and Mr. Diaz continues to fight to weaken the language in the compromises that were made. Mr. Diaz will not make the compromises that would protect the property values of Lot 5. The owners of Lot 5 reviewed all their proposed compromises with the Magnolia Point Homeowners' Association, and they have presented no objections to the proposed changes. She added that this would be a strip center.

Egor asked Ms. Peebles which of the proposed uses would negatively affect her property. Ms. Peebles said she had no problem with eliminating hotels. However, she did object to combining Lots 1 and 2 as well as Lots 3 and 4 and adding strip centers. The front part of this entire PUD will be redesigned; this will block the view of their existing building on Lot 5.

In response to Chairman Bryan, Melanie Marsh, Deputy County Attorney, said initially the other property owners applied for this rezoning change. When the issue of the owners of Lot 5 not being part of the application for this rezoning change was brought to the attention of the County Attorney's office, the County Attorney's office advised staff that this case should proceed as County initiated, which is why the applicant is Lake County. Lot 5 could not be cut out of the remainder of the PUD because it would affect Lot 5 as well. Therefore, this is a County-initiated application. The lender can look at the file and see who applied for this rezoning. There is no application from Ms. Peebles.

Because it was published at large that the owners of Lot 5 have requested this rezoning change, the lender does not believe that the owners of Lot 5 are not involved. Chairman Bryan said staff needs to ensure that those owners requesting the change are clarified appropriately. However, that is more of a civil matter than a zoning matter.

In response to Timothy Morris, Ms. Peebles said it is her understanding that they want to combine Lots 1 and 2 to construct a contiguous building, a strip center; they would also like to combine Lots 3 and 4 to put a contiguous building, a strip center.

Jim Hitt, Planning Director for the City of Clermont, said this item is scheduled to go before the City Council as a Joint Planning Area (JPA) consideration on January 13. The City of Clermont staff has spoken with both County staff and Ms. Peebles and has prepared a report to be presented to the City Council. The City of Clermont staff has several concerns. One of their concerns is the combination of Lots 1 and 2 as well as Lots 3 and 4. Staff has no position as this time until it receives direction from City Council. They will notify the BCC at their public hearing of any recommendation from the City Council. Mr. Morris was informed by Mr. Hitt that their planning staff felt that if these lots were platted as four separate lots, that is the way they should be developed.

CASE NO.: PH#51-08-2 AGENDA NO.: 3

OWNERS: Clermont-Falls Creek Development, Magnolia Property Associates LLC, B & L Properties LLC, and Magnolia Point Clermont I, LLC PAGE NO.: 3

APPLICANT: Lake County

Chris Roper, attorney with Akerman Senterfitt, was present to represent the owner of Lot 6, who is the master developer of this project. He reiterated that there are five different owners of this project. In response to Chairman Bryan, Mr. Roper said his client is basically acting on behalf of the owners of Lots 1 through 4. One entity owns Lots 1 and 2. Lots 3 and 4 are owned by separate individual entities. There has been no discussion about combining Lots 3 and 4. He felt the concern by Ms. Peebles may be caused by a site plan that has been submitted for the combination of Lots 1 and 2. Those lots are owned by Doppco Development, a strip center developer. Their site plan proposes a fast food restaurant. That use would require a change to the ordinance. The Homeowners' Association had requested that the ordinance be amended to exclude any gasoline automotive uses from the site. Akerman Senterfitt felt it would be appropriate to address both requests in one ordinance change. Talks with the Homeowners' Association began in November of 2006 with Akerman Senterfitt becoming involved in June of 2007. He said it appears that Ms. Peebles has a conflict with her lender over who initiated this request. He reiterated that this is a County-initiated request, as stated in the first sentence of the Ordinance. If additional explanation is needed, the County could write a letter to that effect that would satisfy the lender. Ms. Peebles also voiced concern about visibility due to the potential combining of Lots 1 and 2 pursuant to the site plan submitted.

Using the site plan that was part of the final package for this case, Mr. Roper drew on Lots 1 and 2 where the building would be located. He submitted this as Owner Exhibit A. He noted that this property has not been platted. The lines are only included on the conceptual plan that was approved by Lake County in 2006. There has been a final site plan approved for Lot 6. In response to Mr. Morris, Mr. Roper said he did not know the size of the building he drew on Lots 1 and 2, but there would be about three to four storefronts. He said they had a conference with Sanford A. Minkoff, County Attorney, Steve Greene, AICP, Chief Planner, Brian Sheahan, AICP, Planning Director, Ms. Peebles, and Brent Spain who is the attorney for the Homeowners' Association. They discussed whether Doppco Development has the right without the ordinance change to combine Lots 1 and 2 and construct a strip center. The answer is yes. As a gesture of good will, Doppco has agreed to incorporate dual facades on this building with a front façade on Highway 50 and a rear façade on the back of the property so Ms. Peebles will not see a broad expansive wall; it will be broken up. The building will be single story.

Mr. Roper showed a rendering of the strip center, shown as Exhibit C in the Ordinance. Doppco has agreed to staple this rendering to the PUD Ordinance. Mr. Roper added that every lot in this project is limited to 35 feet in height except for one lot that is allowed to go to 45 feet in height, which would allow a three-story building. That lot is Lot 5. It was never intended that Lot 5 must have an unobstructed view to SR 50. It is over 400 feet from Lot 5 to SR 50, with two lots in between. The three-story building allows plenty of exposure. Ms. Peebles asked why she had not been included in the negotiations. Eight months of negotiations took place before Akerman Senterfitt was hired. However, shortly after that, Lot 5 was included. There have been several telephone conferences with Ms. Peebles, and they have also met with her and explained that Lots 1 and 2 can be combined without a new ordinance. Chairman Bryan confirmed with Ms. Marsh that the County Attorney's office concurs with that statement. If the lots can be combined, Mr. Morris questioned why this amendment is being requested.

At the request of Chairman Bryan, Mr. Blankenship gave a brief history of the PUD. Then-Commissioner Bob Poole suggested that the Homeowners' Association communicate with the developer to talk about the uses of this PUD and come to some agreement before he applied for the PUD. That was done. One of the most specific agreements was the exclusion of hotels, automotive-related uses, gas stations, and fast food restaurants. However, the ordinance did not include that agreement. The proposed ordinance for this case now includes what they had agreed to do in the first place.

**CASE NO.:** PH#51-08-2 **AGENDA NO.:** 3

**OWNERS:** Clermont-Falls Creek Development, Magnolia Property Associates LLC, B & L Properties LLC, and Magnolia Point Clermont I, LLC **PAGE NO.:** 4

**APPLICANT:** Lake County

Regarding Ms. Peebles' concern over property values, Mr. Roper said his client owns Lot 6, the largest lot in the project. There are 15 buildings on Lot 6, eight of which are already constructed, two of which are currently under construction, and the remaining buildings have pulled permits and are awaiting construction. This is primarily medical office condominiums. His client has control over the architectural review committee. Therefore, he did not feel property values would be a concern.

When Mark Wells noted that according to the rendering, the width of the building is larger than Lots 1 and 2 and allowable site setbacks, Mr. Roper said the purpose of the rendering is to give the reader of the Ordinance an idea of the type of architectural enhancements that the County and all the owners are expecting to see if the lots are combined and built with a strip center; it is not meant to be a true depiction. No building could ever be approved on those lots that would be in excess of the setbacks.

Referring to Page 4, Lines 15 to 18 of the Ordinance, Larry Metz asked if the rear enhancements referred to Lots 1 through 4 or only Lots 3 and 4. Mr. Roper replied that in the event that any combination of lots occurs, that combination will trigger the rendering. That rendering shows examples of the types of architectural features that must be on the building. Chairman Bryan asked staff to clarify that.

Ms. Peebles pointed out that Mr. Roper and the County's legal staff indicated that Lake County is the applicant. However, on Page 1, Line 9 of the Ordinance, it states "Lake County on behalf of" the owners. It leads her to believe that she is requesting this. She asked that someone give her a letter stating that she is not applying for this change. Chairman Bryan and Mr. Morris were agreeable to that. Mr. Morris asked Ms. Marsh if she could do that. Ms. Marsh read into the record the owners that are named in the Ordinance. In response to Ms. Marsh, Ms. Peebles said she is part of Magnolia Point Clermont I, LLC. Ms. Marsh said that could be taken out.

Mr. Morris was informed by Ms. Peebles that she has read the Ordinance several times. Mr. Morris noted the sentence on Page 4, Line 4 regarding Lot 5. He said the previous ordinance did not contain that sentence. Ms. Peebles said they have every intention of the existing building being a medical and professional building so she did not have a problem with that sentence. She commented that Lot 6 was designed primarily for professional and medical yet they have requested a dance studio on Lot 6.

Mr. Wells asked Mr. Blankenship his general consensus now and for the future as this is proposed from the Homeowners' Association viewpoint. Mr. Blankenship stated that the Homeowners' Association initiated the change to get the restricted uses back to what they originally agreed to so they are in support of this.

Mr. Emery agreed that what is shown on the rendering is much too big for two lots. He thought this was a rendering for Lots 1 through 4. He personally did not want to see another strip center on SR 50. However, there is no language in this Ordinance or the original Ordinance to stop that from happening. His main concern was the restrictions. He has not heard anything in the discussions regarding the restrictions in the Ordinance. He said he was uncomfortable with language that obligates a property owner who is not present to discuss it. It appears the owners of Lots 3 and 4 are obligated to do what the owners of Lots 1 and 2 want to do. He did not feel that is the best solution. He would prefer to see the four lots developed as individual lots.

Regarding Page 2, Lines 22 and 23 of the Ordinance, Mr. Metz felt the language reads awkwardly. Ms. Block said she would clarify that.

Chairman Bryan stated that he felt this Ordinance accomplishes what was initially intended several years ago, and he can support it.

CASE NO.: PH#51-08-2 AGENDA NO.: 3

OWNERS: Clermont-Falls Creek Development, Magnolia Property Associates LLC, B & L Properties LLC, and Magnolia Point Clermont I, LLC PAGE NO.: 5

APPLICANT: Lake County

Mr. Greene read the following clarification language into the record for Section 1.F. on Page 4 of the Ordinance. He said No. 1 would be revised to read "Landscaping of Lot 6 shall be in accordance with the approved landscape plan. On Page 5 of that same section, No. 8 would be added to read "For those areas not specified by Items 1 through 7 above, landscaping shall be in accordance with the current Land Development Regulations."

Chairman Bryan added that there is some other language that has been suggested for clarification prior to the BCC.

MOTION by Larry Metz, SECONDED by James Gardner to recommend approval of PH#51-08-2 for an amendment to Ordinance No. 2006-8 in order to revise the uses allowed with the Planned Unit Development (PUD) with the following amended language under Section 1.F. of the ordinance: No. 1 would be revised to read "Landscaping of Lot 6 shall be in accordance with the approved landscape plan. On Page 5 of that same section, No. 8 would be added to read "For those areas not specified by Items 1 through 7 above, landscaping shall be in accordance with the current Land Development Regulations." In addition, the language on Page 2, Lines 21 to 23 should be revised to clarify that the uses on Page 2, Line 25 through Page 3, Line 10 are clearly intended to be excluded. On Page 4, Lines 15 to 18, the language should be revised to reflect that any architectural enhancements to the facades on the front and rear sides would be applicable in the event of any combination of Lots 1 and 2 or Lots 3 and 4. Also, any reference to Lot 5 in the ordinance shall be removed.

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

AGAINST: None

CONFLICT OF INTEREST: Blankenship

MOTION CARRIED: 6-0

**CASE NO.:** PH#56-08-2 **AGENDA NO.:** 8  
**OWNERS:** Orange County & City of Orlando  
**APPLICANT:** Douglas Pickell, P.E., PB Americas, Inc.  
**PROJECT NAME:** Water Conserve II (RIB Site #10)

**CASE NO.:** PH#57-08-2 **AGENDA NO.:** 9  
**OWNERS:** Orange County & City of Orlando  
**APPLICANT:** Douglas Pickell, P.E., PB Americas, Inc.  
**PROJECT NAME:** Orange County & City of Orlando  
RIB Site #1

Steve Greene, AICP, Chief Planner, presented PH#56-08-2 and showed the aerial from the case on the screen. He added that the property for PH#56-08-2 was recently purchased. No letters of opposition have been received other than one adjacent property owner, but this project is not anticipated to have an adverse impact on any other public facilities. Staff has found this request to be consistent with the Comprehensive Plan and Land Development Regulations (LDRs).

Mr. Greene presented PH#57-08-2 and showed the aerial from the case on the screen. He said this is a sister project, similar in nature to PH#56-08-2. This property was also recently purchased by Orange County and the City of Orlando to expand the current Water Conserve II project. Staff has found this request to be consistent with the Comprehensive Plan and Land Development Regulations (LDRs).

Mr. Greene added that Steve Richey, representative for an adjacent property owner, asked that these cases be removed from the consent agenda and added to the regular agenda.

In response to Mark Wells, Mr. Greene said the purpose of the Rapid Infiltration Basins (RIBs) is to handle reclaimed water.

Steve Richey said he filed a Notice of Appearance in December of 2008 indicating that he represented some adjacent property owners who were questioning the posting of the property. There seemed to be some confusion as to the size of the properties. At that time, he asked staff to send him a copy of the application and all the information that had been provided.

Mr. Greene showed an additional aerial on the screen and submitted it as County Exhibit A.

Mr. Richey stated that this property is being set aside for RIBs to recharge the aquifer forever since there is no expiration date. He noted the requirements that he has had to meet in the past when submitting an application and questioned the lack of information on these cases in the file. This project involves 1500 acres of RIBs in an area that environmentalists say has flora and fauna in order to percolate Orange County’s wastewater. He felt this is a quasi-industrial use. He said the RIB cages look like a shopping center storm water system except this is 1500 acres of them. At one time when the County was preserving open space in rural areas and Agriculture zoning, this was in Lake County’s interest; however, he questioned the basis of it being in the public’s best interest now. He noted that there are fewer conditions on this request than on the Harbor Hills storage facility. Florida Department of Environmental Protection (FDEP) is not even mentioned in the CFD Ordinance. Nitrates and phosphates are known to be in reuse water; that has posed a problem in the past. There is no provision in the Ordinance to monitor or report that situation. There is nothing in the Ordinance with regard to protecting Lake County’s groundwater, aquifer, or natural resources. He added that he saw nothing in the application, nor did he have a site plan to look at, showing what will be on this property. He saw no assessment of the lakes or the wetlands. He felt this would be point source pollution. The Wekiva model has specific statements stating that in order to protect water resources, spring sheds, and all those kinds of things, the Wekiva rules should be used as a model by government in the Wekiva and outside the Wekiva. He questioned why this area would deserve any less protection than Sorrento-Mount Plymouth. In the Wekiva Protection Area and the model, RIBs are prohibited because of the direct relationship of pollution in this kind of water to the Aquifer. It encourages agricultural disposal as that is the most efficient way to do it. There is nothing in the subject Ordinance about best management practices on anything.

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**OWNERS:** Orange County & City of Orlando  
**APPLICANT:** Douglas Pickell, P.E., PB Americas, Inc.  
**PROJECT NAME:** Water Conserve II (RIB Site #10)

**CASE NO.:** PH#57-08-2 **AGENDA NO.:** 9  
**OWNERS:** Orange County & City of Orlando  
**APPLICANT:** Douglas Pickell, P.E., PB Americas, Inc. **PAGE NO.:** 2  
**PROJECT NAME:** Orange County & City of Orlando  
**RIB Site #1**

Mr. Richey reiterated the need for a site plan in this CFD zoning. He read the purpose of CFD zoning from the LDRs. The Ordinance does not speak to hours, lighting, noise levels, or access roads. He did not feel this Board should recommend approval of these two cases based on the information available. He suggested that either the applicant “go back to the drawing board” or this Board send a recommendation of denial to the Board of County Commissioners (BCC). He felt this request is an environmental concern that goes beyond this piece of property and needs to be addressed properly.

At the request of Egor Emery, Mr. Richey submitted the following exhibits: Map of the Wekiva Study Area: Surface Water Basins, Groundwater Basin and Recharge (Opposition Exhibit A), Hydraulic Characteristics and Nutrient Transport and Transformation beneath a Rapid Infiltration Basin, Reedy Creek Improvement District, Orange County, Florida (Opposition Exhibit B), and Florida Department of Community Affairs, Division of Community Planning Model Goals, Objectives and Policies Wekiva Study Area April 14, 2006 (Opposition Exhibit C). He said the map submitted as Opposition Exhibit A goes with Opposition Exhibit C.

Timothy Morris said he would feel uncomfortable moving forward with these cases due to the lack of information. He would entertain continuing these cases for 60 days to obtain the site plan and other information necessary to evaluate these requests properly.

Chairman Bryan asked for staff’s response as to why there is practically no detailed information in the report. Mr. Greene explained that a concept plan is required, which has been provided. A detailed analysis is not required to support a rezoning request. On occasion staff asks an applicant to provide a transportation study, but that is not an LDR requirement. That is usually done to accommodate the Zoning Board. Most detailed information is provided at site plan review. Cases in the past with detailed concept plans were provided due to the nature of the activity. When Chairman Bryan asked Mr. Greene if staff was still comfortable with their recommendation of approval with limited information, Mr. Greene replied that Mr. Richey did bring up valid concerns; therefore, Mr. Greene said he would entertain Mr. Morris’ recommendation to take 60 days to get more information from the applicant.

In response to Mr. Emery, Mr. Greene said the Development Review Staff with representatives from various County departments review the site plan. Mr. Emery said he would like to see a project of this magnitude come before several elected or appointed bodies.

Due to the size of the property and its significant impact, Scott Blankenship questioned whether 60 days would be enough time to accomplish all that needs to be done.

Mr. Greene discussed the aerial he had submitted as County Exhibit A. He pointed to the land areas being proposed for the development of RIB Site #1 and RIB Site #10 and the nearby existing RIB Site #2. He indicated that RIB Site #1 and RIB Site #10 would be developed similarly to RIB Site #2. He also noted that the existing RIB Site #2 is just south of a Clermont subdivision, east of US 27.

Douglas Pickell, Senior Engineer and Manager with PB Americas, said they were hired by Orange County and the City of Orlando on behalf of this project. They have served as the general water resources and project consultant to the Water Conserve II project for about 17 years. He said some of the facts presented by Mr. Richey are not completely true. The Water Conserve II project is currently comprised of about

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<b>APPLICANT:</b>	<b>Douglas Pickell, P.E., PB Americas, Inc.</b>		
<b>PROJECT NAME:</b>	<b>Orange County &amp; City of Orlando RIB Site #1</b>		

3750 acres; 180 acres of that are actual developed RIBs, about five percent of the total acreage that is disturbed and developed. He pointed out Site 2 on County Exhibit A, noting that is the present site that has been developed in Lake County. That is a 1000-acre site of which 800 acres were developed. The remainder of the site was completely undisturbed. The subject sites, 1 and 10, have been permitted by FDEP. They are not planning on constructing many more RIBs than are pictured on the exhibit. On behalf of their client, they performed extensive groundwater modeling and engineering prior to submitting an application to FDEP. As part of the process of design, they had to submit and receive an environmental resource permit from FDEP and the water management districts. In the process of putting those applications together, they were required to address environmental concerns. In response to Mr. Morris, Mr. Pickell said those items were not included as part of the application. A conceptual plan was provided.

Chairman Bryan commented that it appears the applicant has a lot of information already, but it was not part of the application so those with concerns have not had an opportunity to review it. It also appears that this Board would like more detailed information as well. A continuation of an appropriate time period to obtain that information has been suggested. He asked if the applicant would be agreeable to that. Mr. Pickell said he could not speak on behalf of the owners. As engineers, his company is on hold with further development of these plans and application until such time as the rezoning is granted. A set of construction plans is 90 percent complete.

When Chairman Bryan asked if an environmental assessment of the acreage has been made, Mr. Pickell said it has. Chairman Bryan said he does not have a comfort level with this Board being willing to move forward without the information discussed.

Mr. Blankenship felt it would be in the best interest of the applicant to continue these cases.

When Mr. Emery asked if Mr. Pickell could testify about the hydrology of the area under the proposed basins, Chairman Bryan stated that if these cases are to be continued, it would be better to have all the information presented at the same meeting.

Bob Cadle, Wastewater Division Manager for the City of Orlando, said the idea behind the RIB sites is to provide disposal when it is raining. The primary means of application of the reclaimed water is through landscape irrigation, agriculture, and other uses. These RIBs are used only during rainy weather when the other users don't want reclaimed water. He said the City of Orlando does not have a problem with providing information. There will be plenty of open space with protection for the endangered species. Orange County has several hundred acres set aside for a gopher tortoise preserve. Within the property, there will be some areas that have never been and will never be developed. He added that the actual area of the constructed RIBs is very small compared to the total area being requested for rezoning. Not all of the area lends itself to RIBs.

When Chairman Bryan asked Mr. Cadle if 60 days would be an adequate amount of time to get all the information together and present it to staff, Mr. Cadle and Mr. Pickell said that would be fine.

Mr. Richey said he would need additional time to review that information prior to the Zoning Board public hearing. He added that a site plan is needed so he will know what will be placed next to the adjacent properties. He would also like some conditions and terms that will protect those adjacent property owners.

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<b>PROJECT NAME:</b>	<b>Orange County &amp; City of Orlando RIB Site #1</b>		

At the request of Mr. Emery, Mr. Richey discussed the Carlton property boundaries.

Larry Metz stated that he would like to see a revised ordinance with more clarity when these cases are heard again. Regarding Page 2, Lines 14 to 16 of the proposed ordinance for PH#57-08-2, there is nothing provided in Exhibits A and B that tightens this up at all. It is loose and open ended.

Mr. Greene suggested that the following information be provided by the applicant: some level of environmental assessment, some level of site plan, copies of any FDEP permits or applications, some suggested monitoring of the activity, some definitive location of where the RIB sites will be situated on the property, any setback requirements that FDEP would impose, and analytical information regarding water flows.

Mr. Metz felt it would be helpful to have a copy of today’s minutes on these cases included in the packet when these cases are heard later.

James Gardner felt this is Orange County’s problem; he saw no benefit to Lake County with this request. He felt this could be quite injurious to Lake County.

**MOTION by James Gardner, SECONDED by Larry Metz to recommend denial of CFD zoning to accommodate construction of rapid infiltration basins for the Orange County/City of Orlando Water Conserve II project in PH#56-08-2.**

Although he would ordinarily agree with Mr. Gardner, Mr. Emery said there appears to be a lot of information missing from the presentation, which is available and ready to come to this Board. He would prefer to invest the time to wait for that rather than make a recommendation at this time. In terms of fairness to both parties, Mr. Blankenship felt a continuation would allow this Board to make a more informed decision. He would not be in support of denial if a continuation is in order.

Mr. Gardner said a motion for denial does not necessarily defeat the case, but to him it would state a stronger position of the Board right now than a continuance would. He felt a continuation would indicate acquiescence.

Mr. Wells felt it was also important that the Board be aware of the proximity to existing wells in the immediate area and/or St. Johns River Water Management District’s opinion of such.

Mr. Metz said Mr. Gardner’s motion is well taken as far as the strict interpretation of the petition. He does not feel the petition is sufficient, as presented. However, the consensus of the people who came before the Board today was that it would be prudent to explore this in more detail and get the information before the Board in order to make a fact-based intelligent decision. That cannot be done at this time. He did not feel it would show acquiescence to the overall approval of the petition later on to support a continuation. He could not commit to an approval until he had heard all the evidence. At this time, there is only one motion before the Board.

**FOR: Gardner, Wells, Metz**

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RIB Site #1

**AGAINST:** Morris, Blankenship, Emery, Bryan

**MOTION DEFEATED:** 3-4

**MOTION** by Timothy Morris, **SECONDED** by Scott Blankenship to continue PH#56-08-2 until the April 1, 2009 Lake County Zoning Board public hearing.

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

**AGAINST:** None

**MOTION CARRIED:** 7-0

**MOTION** by Timothy Morris, **SECONDED** by Scott Blankenship to continue PH#57-08-2 until the April 1, 2009 Lake County Zoning Board public hearing.

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

**AGAINST:** None

**MOTION CARRIED:** 7-0

**CASE NO.:** CUP#08/11/3-5 **AGENDA NO.:** 11

**OWNER:** Tail End Farms, LLC  
**APPLICANTS:** Paul and Marni Lewis  
**PROJECT NAME:** Tail End Pet Resort & Spa

Chairman Bryan noted that this case had been on the consent agenda, but Egor Emery had asked to remove it from the consent agenda and place it on the regular agenda. He added that this case was heard in September of 2007.

In response to Chairman Bryan, Mr. Emery said his major concern was that the Conditional Use Permit (CUP) expired, and he wanted some information on the nature of what has been changed in terms of going forward. He also wanted to discuss the setbacks as he was concerned about the neighborhood.

Rick Hartenstein, Senior Planner, presented the case. He stated that the applicants had run into some difficulties with financing. When the CUP expired, the applicants were in the process of submitting a site plan, but that was not considered construction commencement so the CUP expired. The applicants refiled their application. There had been no issues with the placement of the kennel or the whole operation with the original site plan. However, when the engineer started his work for the development of the site plan, he had an environmental consulting firm visit the site and mark out the wetland jurisdictional lines; they found that the wetlands actually included some isolated "pull-ins," which made it difficult to meet the setback. The applicants applied for a variance that went before the Board of Adjustment (BOA). On December 11, 2008, the BOA approved the variance, allowing a 50-foot setback from the road right-of-way and a 100-foot setback from the northern property line. This helped the applicants in the placement of where the kennel would be in order to meet the other restrictions as far as their setbacks because of the wetland lines. The BOA had some legitimate concerns regarding environmental issues. Those environmental issues that were added as conditions with the granting of the variance have been incorporated into the ordinance as far as daily pickup of waste; setback requirements are also included in the ordinance. Other than that, the ordinance is the same as what was previously approved.

Chairman Bryan confirmed that the new ordinance reflects the approved variance and the restrictions and conditions that were set out in that variance.

Mr. Hartenstein stated that staff is recommending approval. He said there has been no opposition. The last time this case was heard there were some neighbors who had concerns and attended the meeting. There has been no correspondence from any adjacent property owners on this re-application. If this request is approved, it will allow the applicants an additional 24 months to commence construction from approval and enactment date of this new CUP.

When Mr. Emery asked how often the timeframes are changed for the CUPs, Mr. Hartenstein said each CUP is its own unique situation. Mr. Emery was informed that because this CUP was expiring when the applicants were in the process of submitting their site plan, staff could not review the site plan. The applicants needed to renew the CUP in order to continue the process. At this time, Mr. Hartenstein said he did not know the applicants' new timeframes.

**MOTION by Timothy Morris, SECONDED by Scott Blankenship to renew CUP#07/8/1-5 to allow for a pet resort and spa (kennel) and associated caretaker's residence in CUP#08/11/3-5. CUP#07/8/1-5 expired on September 24, 2008 due to no commencement of construction.**

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

**AGAINST:** Gardner

**MOTION CARRIED:** 6-1

**Discussion**

Egor Emery said that he appreciated the Board's indulgence on previous cases. He is trying to learn what he can work out with staff beforehand so he tends to want to hear it in public where he can hear all the concerns. However, if he can work with staff on how these issues can be handled ahead of time, he will try to do that. Mr. Hartenstein said it is his understanding that anytime a Zoning Board member has questions or concerns pertaining to a case, staff should be contacted.

**Adjournment**

There being no further business, the meeting was adjourned at 11:25 a.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Paul Bryan  
Chairman