

**MINUTES
LAKE COUNTY ZONING BOARD
MARCH 7, 2007**

The Lake County Zoning Board met on Wednesday, March 7, 2007 in the Commission Chambers on the second floor of the Round Administration Building to consider petitions for rezonings, conditional use permits, and mining site plans.

The recommendations of the Lake County Zoning Board will be submitted to the Board of County Commissioners at a public hearing to be held on Tuesday, March 27, 2007 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

Members Not Present:

Larry Metz	School Board Representative
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Staff Present:

Carol Stricklin, AICP, Director, Department of Growth Management
Brian Sheahan, AICP, Chief Planner, Planning and Community Design Division
Alfredo Massa, 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
Ryan Guffey, Senior Planner, Planning and Community Design Division
Karen Rosick, Planner, Planning and Community Design Division
Denna Levan, Associate Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ross Pluta, Engineer III, Engineering Division
Melanie Marsh, Deputy County Attorney

Chairman Bryan called the meeting to order at 9:00 a.m. He led in the Pledge of Allegiance and gave the invocation. He welcomed Mark Wells, the new At-Large Representative for this Board.

Robert Herndon and Donald Miller, outgoing Zoning Board members, were recognized by Chairman Bryan and Brian Sheahan for their years of service to the County and were given Lake County Board of County Commissioners/Department of Growth Management portfolios.

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

TABLE OF CONTENTS

<u>CASE NO.:</u>	<u>OWNER/APPLICANT/AGENT/PROJECT</u>	<u>AGENDA NO.</u>
Consideration of Minutes	February 7, 2007	
Discussion of Consent Agenda		
Regular Agenda:		
PH#11-07-2	Cabin Boyz Investments, LLC/Sharon Martin, DCS & Consulting	1
PH#42-05-3	M. L. and Jonnette Spikes/Lake Country	2
PH#12-07-2	Heart House Ministries/E. W. Griffith	3
PH#10-07-3	Ely Frank Symphorien/Church Iglesia Refugio de Amor	4
CUP#07/3/1-3	Andrew J. and Joni Hansen	5
PH#87F-05-3	The Plantation at Leesburg Limited Partnership Miranda F. Fitzgerald, Esquire, Lowndes, Drosdick, Doster, Kantor & Reed, P.A.	6

Minutes

MOTION by Timothy Morris, SECONDED by Scott Blankenship to approve the February 7, 2007 Lake County Zoning Board Public Hearing minutes, as submitted.

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

AGAINST: None

NOT PRESENT: Metz

MOTION CARRIED: 6-0

Discussion of Consent Agenda

Chairman Bryan explained that anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room. He noted that speaker cards had been received for all cases on the consent agenda; therefore, those cases will be moved to the regular agenda and heard in their entirety.

Brian Sheahan, AICP, Chief Planner, confirmed the Proof of Publication for each case as shown on the monitor.

CASE NO.: PH#11-07-2

AGENDA NO.: 1

OWNER: Cabin Boyz Investment, LLC
APPLICANT: Sharon Martin, DCS & Consulting

Mark Wells declared a possible conflict of interest and left the Chambers.

Stacy Allen, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor and noted that this property is located in the Green Swamp Area of Critical State Concern in the Transitional future land use category. She pointed out that in addition to the restaurant site not meeting the requirements of the commercial location criteria in Policy 1-3A.1 of the Comprehensive Plan, it also does not meet the requirements of the Land Development Regulations (LDRs), Section 6.13.04.A1 regarding expansion of nonconforming uses. She noted that the restaurant site is located on an arterial and a local road rather than at the intersection of two collector roads or along a collector road. However, she said this request is an attempt to bring the property more into conformance than what it is presently.

In response to Timothy Morris, Ms. Allen said this restaurant has been on the site since 1949. Chairman Bryan added that the property has had CP zoning since 1993. Mr. Morris was informed by Ms. Allen that if this change was not granted, this facility would remain an existing nonconforming use. It would still be possible to operate the business. When Mr. Morris asked why there is a request to separate the properties, Ms. Allen replied that there are new owners of the properties. Chairman Bryan said there were no speaker cards received for this case; Ms. Allen noted that no written comments have been received.

Bret Jones, attorney for the applicant, said the restaurant was built in 1949. This rezoning request is being made due to the encroachment as described on page 5 of the staff report under item D. He explained that the applicant would like to divest the agricultural piece for financial purposes. However, there is a well and some other structures on that portion of the property that are needed for the business. The density will not be increased in any way. The bank will not grant any refinancing since there is an encroachment. At this time, the owner must own all nine acres to keep the small restaurant in operation. There are no changes proposed that are inconsistent with the proposed land uses. There will be no additional intensity or construction. They just want to bring all the encroachments onto one parcel of land.

If the sole purpose of this request is to eliminate the encroachment, Chairman Bryan asked why there is a request to rezone over four acres of land when only an extra quarter acre of land is needed. Mr. Jones explained that this is being requested because of the location of the well. It was not dug next to the building. Chairman Bryan said his concern was that this would allow almost five acres of commercial property in an area that does not meet location criteria. In addition, staff does not concur with the rezoning request. He did not have a problem with adding a small area of commercial designation to accommodate the real issue, but he could not support adding three or four acres to be able to make a line across the property to include the well. To allay that fear, Mr. Jones said there can never be any additional commercial development at this location because of the Green Swamp restrictions.

When Mr. Morris asked if additional commercial could be placed on this property if it is rezoned to CP and there is already 5,000 square feet of existing commercial, Ms. Allen said that would not be possible since the property does not meet commercial location criteria.

Brian Sheahan, AICP, Chief Planner, said this zoning district would allow conditions on the rezoning. He said it appears that a majority of this extra land is wetlands. Mr. Jones concurred. The Zoning Board could ask for a conservation easement on the wetlands portion that would further restrict the ability to develop. Chairman Bryan said he would like to try to accommodate their request reasonably but not open up the area for further commercial development. Mr. Jones said he would not have a problem with that condition. Mr. Morris said he would feel comfortable with the request if the condition was added. Phyllis Patten was informed by Chairman Bryan that the rezoning as well as the condition would run with the land. James Gardner said he could support an approval under those conditions.

CASE NO.: PH#11-07-2 **AGENDA NO.:** 1
OWNER: Cabin Boyz Investment, LLC **PAGE NO.:** 2
APPLICANT: Sharon Martin, DCS & Consulting

Chairman Bryn said it appears as though the majority of the Board tends to agree with the purpose for the request; and if this Board can condition it appropriately and require a conservation easement on the wetlands, the Board would be willing to support the request.

MOTION by Timothy Morris, SECONDED by James Gardner to recommend approval of the request to rezone 4.32 acres to CP for the restaurant site and amend CP Ordinance #32-93 with a new legal description for the restaurant site, with the remaining five acres left as Agriculture zoning in PH#11-07-2 with the following conditions:

1. **There shall be no further expansion of the improvements.**
2. **A conservation easement shall be granted by the owner on that portion of the property within the CP zoning that is considered wetlands.**

FOR: Morris, Blankenship, Gardner, Patten, Bryan,

AGAINST: None

CONFLICT OF INTEREST: Wells

NOT PRESENT: Metz

MOTION CARRIED: 5-0

CASE NO.: PH#42-05-3

AGENDA NO.: 2

OWNER: M. L. and Jonnette Spikes
APPLICANT: Lake County

Stacy Allen, Senior Planner, presented the case and staff recommendation of approval to correct the legal description in Ordinance #2005-48. She showed the aerial from the staff report on the monitor.

Chairman Bryan referred to a speaker card submitted by Seti Navarro regarding the purpose of this hearing. After Chairman Bryan explained the purpose of the hearing and said there would be no changes, Ms. Navarro said Ms. Allen had answered her questions.

James Luebeke, adjacent property owner, said he would like a 15-foot landscape buffer between this commercial piece of property and his residence.

In response to Chairman Bryan, Ms. Allen said a 15-foot wide vegetative buffer would be required between commercial and residential. She said the portion of the site that extends farthest west is partially wetlands and is where the storm water is proposed. Mr. Luebeke submitted an aerial as Exhibit A. He said that portion of the property does not touch his property. He pointed out the location of his property on the aerial. Chairman Bryan confirmed with Ms. Allen that a 15-foot wide buffer would be required along the property boundary that Mr. Luebeke had pointed out. Ms. Allen added that this would be addressed during the site plan review and approval process.

MOTION by James Gardner, SECONDED by Phyllis Patten to recommend approval to correct the legal description recorded in Ordinance #2005-48.

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

AGAINST: None

NOT PRESENT: Metz

MOTION CARRIED: 6-0

CASE NO.: PH#12-07-2

AGENDA NO.: 3

OWNER: Heart House Ministries
APPLICANT: E. W. Griffith

Karen Ginsberg, Senior Planner, presented the case and staff recommendation of approval of CFD zoning with conditions. She showed the aerial from the staff report on the monitor.

James Gardner confirmed with Ms. Ginsberg that the central water and sewer service would be from the City of Clermont.

Bill Griffith of Heart House Ministries, applicant, said they have been in business in this area for six years. They have under this umbrella Green Isle Children’s Ranch and Haley’s House, a maternity home for unwed mothers. He said they are finally in a position to build a church on their property, which will establish an identity in the community rather than a storefront.

Paul Adams showed two photographs on the monitor and submitted them as Opposition Exhibit A. He did not feel there was adequate public notice given as required in Chapter 14 of the Land Development Regulations (LDRs) so the residents of this community were not aware of this public hearing. One sign was placed at the northern boundary in three inches of dirt; another sign was placed at the western boundary in three inches of dirt.

In response to Chairman Bryan, Melanie Marsh, Deputy County Attorney, pointed out that a picture of the posted sign was included as part of the staff report. In addition, notices were sent and the case was published so she felt there was sufficient notice and this case can go forward.

Mr. Adams referred to prior hearings, PH#68-04-2 and PH#52-06-2. The residents in this area have been adamantly opposed to any encroachment or development in this area. This is a rural area; the residents have agricultural-zoned properties and residences. In the past, they have had petitions with many signatures. However, when he queried his neighbors about this case, they were not aware of the request.

Mr. Adams said his property is adjacent to this property. According to the application, road access is to be provided on Johns Lake Road. That road is inadequate. The property is on a corner, creating a backlog of traffic. There is no traffic light at that intersection even though one has been promised repeatedly. Emergency services are not available in this area. The nearest emergency providers are in Minneola. There have been no changed conditions in this area; there has not been a church on this property for many years. Mr. Adams noted that the subject property is uphill from his house, and there is no drainage on Johns Lake Road. He gets minor flooding in his front yard when his neighbor uphill from his property washes his car. If pavement is put down on the subject property, he felt that he will have major flooding in his yard. Those issues have not been addressed on the application. Chairman Bryan explained that those issues would be addressed during site plan and permitting review with St. Johns River Water Management District. There could not be any after-development flow greater than what is existing now. Mr. Adams reiterated that he had an issue with the County feeling that it is reasonable notice to place posted signs three inches into the ground.

Judy Adams did not feel that enough information has been provided. She said this is a small site with an existing house that is being used. She did not know the size of the church or the parking lot plans. She was concerned that the scale of this project may not be appropriate for the size of the property. All the properties surrounding this property are residences with one to two units per five acres. Putting large buildings and parking lots on this property probably would not fit the character of the neighborhood and would not be pleasing to the residents. She was concerned that if the parcel is too small for the proposed plans, they may end up with inadequate parking and cars would park in her yard. She was also concerned with drainage if large parking lots are added. She said there has been great opposition to previous attempts to add churches along this road especially with one entrance and one exit on Johns Lake Road. The same problems have existed and were the reasons for the churches being denied in the past.

CASE NO.:	PH#12-07-2	AGENDA NO.:	3
OWNER:	Heart House Ministries	PAGE NO.:	2
APPLICANT:	E. W. Griffith		

When Chairman Bryan asked if she had contacted the County for additional information, Ms. Adams said her husband had asked but did not get anything besides what has been presented at this public hearing.

Ms. Ginsberg submitted a conceptual plan as County Exhibit A and showed it on the monitor. She said the church occupies about ten percent of the property. According to the Rural future land use designation, 20 percent of the property is allowed to be impervious surface so it meets that requirement. For CFD zoning, the requirement is 80 percent; but the future land use designation would prevail. She has spoken to the owner about the parking. There will be some kind of alternative parking when this is presented as a site plan. The owner is aware of the 80 percent open space requirement in the Rural future land use designation.

Mr. Gardner confirmed with Ms. Ginsberg that Haley’s House will remain in existence when the church is constructed.

Ms. Adams said there appears to be an enormous amount of parking on the property. She did not feel it would fit in with the character of the area. She did not want a large parking lot, but she did not want people parking in her yard. She again questioned whether the property is large enough for the proposed plan.

Often with churches, Chairman Bryan said much of the parking is grass rather than improved impervious area. Ms. Ginsberg stated that the owner understands that only 20 percent of the land can be built upon and that accommodations must be made for parking so that 80 percent is open space. Grass parking is recommended. The building is 18,000 square feet, which is nine percent of the property.

In response to Scott Blankenship, Ms. Ginsberg said she did not have any elevations at this time. When Mr. Blankenship asked about the hours of operation, Ms. Ginsberg said there have been no discussions on that issue. Mr. Blankenship said he also had a concern about lack of information. Ms. Ginsberg said the applicant is present and may be able to answer some questions.

Mr. Blankenship commented that with some of the prior cases on Johns Lake Road, there were issues with traffic. He asked if anyone had researched access off Hancock Road versus access off Johns Lake Road. Ms. Ginsberg said there is access to this property on both roads.

Ross Pluta, Engineer III, stated that Public Works is waiting for the bid opening for this intersection. If appropriate bids are received, the construction could start within two months. That would include left turn lanes on each leg of the intersection and a traffic signal. Melanie Marsh, Deputy County Attorney, added that the County recently acquired the remaining property that was needed in order to widen this intersection. Within the next three weeks, the existing fences will be moved back to the right-of-way line. The bids have gone out to widen the intersection and put in the traffic light. Mr. Griffith said it was his understanding that the closing date for the bids is March 8.

With this property being part of the Ridge area, Mr. Wells said that area tends to be prone to sugarsand. If grass was recommended for the parking area, he questioned whether there could be a future problem where the sand may not be proper stabilization for parking. Rick Hartenstein, Senior Planner, said that during the site plan review process, one of the parking requirements is that the drive aisles, at least for the fire lane portion of it, must be a stabilized surface that is able to support a 32-ton vehicle. Generally a stabilized surface with grass is requested for the parking area with pavement for the drive aisles. This parking design has worked well for churches in the past. It reduces the impervious surface, helps with storm water retention, and keeps it green.

Mr. Griffith said the application he submitted did not request a building design plan or site plan. He commented that he lives in the community and is concerned about what goes on there, but he felt the

CASE NO.:	PH#12-07-2	AGENDA NO.:	3
OWNER:	Heart House Ministries	PAGE NO.:	3
APPLICANT:	E. W. Griffith		

church would be a nice addition to that area. The current parking design allows for 127 spaces. Pervious and impervious surface with not discussed with staff. Another church he worked with was allowed pervious parking with no paving. They would be willing to stabilize the soil in the parking area and use grass parking; in fact, they would prefer that. There will be two retention ponds on the northern part of the property. They would be adequate to take care of any drainage on the property, which would protect the neighbors from storm water going on other properties. In response to Chairman Bryan, Mr. Griffith said their busiest time would be Sunday mornings with some children’s activities during the week in the evenings. There will be no recreational activities on the property. The property is not large enough for that. Presently, there are about 120 members in the church. Mr. Griffith said they want to be a good neighbor and asked for the opportunity to show that to the community.

When Phyllis Patten questioned putting a church in a rural area, Mr. Hartenstein said past experience over several years has shown that churches in the Rural future land use designation work as well as any other future land use designation. Much of the impact would depend on the design of the site. The Comprehensive Plan permits CFD zoning in all future land use designations. The CFD zoning district is the preferred zoning district for churches rather than a Conditional Use Permit (CUP) as the zoning stays with the land and allows more control. In response to Chairman Bryan, Mr. Hartenstein said he was not aware of any complaints filed regarding impacts a church has brought into an area. His observation has been that a church that moves into an area generally goes out of its way to be a good neighbor for the community and tries to enhance and help the community.

When Chairman Bryan asked if during the site plan process, the public has an opportunity to comment, Mr. Hartenstein said the public would not; it is an administration process and is reviewed by staff under the requirements of the Comprehensive Plan, the Land Development Regulations (LDRs), and the ordinance pertaining to the zoning of that district. CFD zoning is a planned district; the Board has the right to add any restrictions that it feels would enhance this site and not negatively impact the neighborhood. He added that an amendment to this Ordinance would be required to permit a school in conjunction with this church unless a condition allowing a school was added to the Ordinance at this time.

Ms. Patten felt the two main issues to be considered are the impact of traffic and aesthetics. As far as aesthetics, Mr. Hartenstein said the applicant will be required to submit a landscape plan with the site plan. It would be reviewed according to the landscape requirements in Chapter 9 of the LDRs. This property is located within the City of Clermont’s Joint Planning Area (JPA) so there are additional landscape requirements that would be considered in the development of this site; comments would be provided by the City of Clermont.

Mr. Blankenship asked if the City of Clermont would have review of the design of the building. Melanie Marsh, Deputy County Attorney, pointed out that Section 15.02.04 of the LDRs includes architectural standards in the Clermont JPA.

Mr. Blankenship said that in the past, he has had a concern with the traffic on Johns Lake Road. He does not have much of a concern about a church in a rural area as there are considerable residences in the area. He would prefer the access being off Hancock Road versus Johns Lake Road; but with the signalization and widening of that intersection, his concern has lessened. In addition, if the City of Clermont has an opportunity for architectural review, he could support this request.

CASE NO.:	PH#12-07-2	AGENDA NO.:	3
OWNER:	Heart House Ministries	PAGE NO.:	4
APPLICANT:	E. W. Griffith		

MOTION by Scott Blankenship, SECONDED by Timothy Morris to recommend approval of CFD zoning for a church in PH#12-07-2.

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

AGAINST: None

NOT PRESENT: Metz

MOTION CARRIED: 6-0

CASE NO.: PH#10-07-3

AGENDA NO.: 4

OWNER: Ely Frank Symphorien
APPLICANT: Church Iglesia Refugio de Amor

Karen Rosick, Planner, presented the case and staff recommendation of approval of CFD zoning in order to build a church. She showed the aerial from the staff report on the monitor.

When Chairman Bryan asked if the site was large enough to have sufficient separation for the utilities, Brian Sheahan, AICP, Chief Planner, said that will be determined at the time of site plan approval. All pertinent requirements must be met.

In response to Scott Blankenship, Ms. Rosick said that if this property is rezoned to CFD for a church, it would be necessary to come back to amend the uses if something is wanted other than a church.

Francisco Symphorien, pastor of the church, said this is a Hispanic church.

Frank Symphorien, a member of Church Iglesia Refugio de Amor, said Francisco Symphorien has been a pastor for over 30 years and has been involved in this area for about ten years. He felt this site is perfect for church development. It would not be appropriate for a residential use. This church would serve as a barrier between the Turnpike and the community. They plan to comply with all the requirements of the site plan. At this time, the church has about 35 members. It is a growing church that serves the needs of the local Hispanic community and helps migrant workers around the Groveland area. It will not be a large church. When Chairman Bryan asked about the size of the facility, Frank Symphorien said a facility that would house about 150 members would be sufficient. The church does not have the financial capabilities to have a huge property. The plans are for a facility that would be small and affordable.

Chris Singh said he did not have a problem with a good, loving Christian church on the site. A church is good for a community. However, he would oppose a church that is against his way of life and that would destroy his customs. He was concerned about what kind of church is being planned. Chairman Bryan explained that the responsibility of this Board is to consider the land use, not who ultimately would be the occupants of the facility. Mr. Singh confirmed with Chairman Bryan that the occupants cannot be restricted in the future if the proposed church were to be sold. Mr. Singh spoke of the large number of accidents at the intersection of CR 561 and Turnpike Road. It would be best if the entrance could be further north on CR 561. When he asked if there would be a turn lane, Chairman Bryan said the staff report states that turn lanes will be required. He questioned whether there would be a school on the site.

Frank Symphorien said this church intends to be a good Christian church. He said there is a power line on the west side of the property, but it is not part of the property. The entrance/exit from the property would be as far away from the intersection as possible to reduce any traffic problems.

MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend approval of CFD zoning for a church in PH#10-07-3.

FOR: Morris, Blankenship, Patten, Bryan, Wells

AGAINST: Gardner

NOT PRESENT: Metz

MOTION CARRIED: 5-1

CASE NO.: CUP#07/3/1-3 **AGENDA NO.:** 5

OWNERS/APPLICANTS: Andrew J. and Joni Hansen

Sherie Ross, Public Hearing Coordinator, stated that she had received an envelope containing letters and petitions of opposition to be distributed to this Board. She submitted this evidence as Opposition Exhibit A and gave it to the Zoning Board members for their review.

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval with conditions. He showed the two aeriels and three pictures from the staff report on the monitor. Mr. Hartenstein noted that the ten acres of uplands of the CUP is where the actual structures for the school are located. The Hansens have deed to the lake bottom for 37 acres of Lake Morgan and try to operate within that 37-acre area so they are not causing a problem for the adjacent subdivision.

Mr. Hartenstein said one letter of support, which is not part of the package, and an additional letter of opposition were received for a total of 11 letters of opposition. He submitted the letter of support as County Exhibit A and the letter of opposition as County Exhibit B and gave them to the members for their review.

Timothy Morris said he noticed that a lot of the e-mails came in the first of February. He asked that if there is opposition on a case, the letters/e-mails be sent out with their packet so they are aware of who may be coming in and what their concerns may be. In response to Mr. Morris, Mr. Hartenstein pointed out that based on the 2006 aerial, not a lot of houses have been built in the Ranch Club development on the eastern side of Villa City Road. He was not concerned about the western side of Villa City Road since it is a distance from the lake area. He only noticed two lots on the lake that have been developed. All the lots have lake access through a private boat ramp in connection with the subdivision.

Regarding the statement in the staff report that Code Enforcement had received no valid complaints, Mr. Morris asked about the nature of the complaints that had been received. Mr. Hartenstein replied that he was aware of only one complaint received, and that was regarding the hours of operation. It was determined that the Hansens were within the boundaries of the stipulated hours of operation so it was not a valid complaint.

Mr. Morris said he was not aware that the County had agreed to allow the sliders to be on the lake overnight previously. Mr. Hartenstein said only one slider can be permanently mounted; the rest are floaters. Any slider/floater left on the lake overnight must have appropriate lighting. The Hansens have been following those restrictions.

As requested by Mr. Morris, Melanie Marsh, Deputy County Attorney, explained that not all lake bottoms are owned by the State. There is a provision regarding sovereign water from 1845 stating that if there was a lake in existence at that time, then the State would own it. If it is not sovereign waters, then it can be deeded like any other piece of property.

James Gardner pointed out that Mr. Hartenstein had said the Hansens owned part of the lake bottom. When he asked who owned the rest of the lake bottom, Mr. Hartenstein said he could not say as he did not do a title search on it. Mr. Gardner questioned whether the Hansens could stop people from using their part of the lake. Ms. Marsh spoke of riparian rights issues regarding who can use the lake, but it would not prohibit them from owning the underlying property. However, that is not an issue for this Board. In response to Mr. Gardner, Mr. Hartenstein said he was not aware of this lake ever drying up.

Mark Wells asked if Ranch Club or any other subdivision has been granted common access via a boat ramp to the lake for its residents. Mr. Hartenstein said it is his understanding that only Ranch Club and property owners who may own property on the lake have lake access. Ranch Club has a private launching facility that went through the proper development permitting for the residents of that subdivision. Mr. Wells was informed by Mr. Hartenstein that the preliminary plat for Ranch Club was approved on January 29, 2002. On February 18, 2003, the final plat was approved by the Board of County Commissioners

CASE NO.: CUP#07/3/1-3 **AGENDA NO.** 5
OWNERS/APPLICANTS: Andrew J. and Joni Hansen **PAGE NO.:** 2

(BCC). The Hansens were originally granted a Conditional Use Permit (CUP) for this site in 1998.

Mr. Morris asked if staff was comfortable with the applicants not coming back before this Board and the BCC and letting Code Enforcement deal with the issues especially since there are a number of people who are opposed to this. Mr. Hartenstein said the opposition has been the same every year, the same people and the same concern; however, there are never any complaints about the operation of the ski school filed against the Hansens. The operation is routinely inspected by Code Enforcement and found not in violation of any of their conditions. They stay in compliance with the conditions that are set forth. He felt it is a hardship placed on the Hansens to come back and file an application and go through the public hearing process when the past history shows no violations. Chairman Bryan agreed that a public hearing every year is unnecessary. Mr. Hartenstein reiterated that it is up to the Board to make that determination. Chairman Bryan commented that he has heard most if not all of the public hearings for the Hansens, and he complimented Mr. Hartenstein on his staff report and history of the case.

Andy Hansen was present to represent the case. He said the school has been at this location on this lake and using that waterway since 1973. He explained the history and operation of the school. They used to have ski jumps and slalom courses but do not have them anymore. Sliders are what they currently use. The resistance to this school has been primarily from developers. When they purchased the existing school 15 years ago, they were at a different location on Moon Lake. It was an orange grove at that time, and they leased a portion. When the property was sold to a developer, they were forced to leave. They then applied for a new CUP at a new location, which was the same lake but across the street. Despite their use of the lake, it is still a good fishing lake. Their boats do not create a lot of noise. He agreed that the buildings with the original facility were unsightly; but when they moved to the new location, they built a new facility that was compatible with the residential area. The immediate residents are pleased with the facility. They have a 15-passenger van so the facility generates very little traffic. Orange Avenue was a dirt road originally, but it is now paved. Their boats do not pollute the water. The Ranch Club residents were told by the Ranch Club sales people that his school would be leaving in a few years. He felt that was a misrepresentation. The Hansens were told that the boat ramp being built was for use only by those who owned property on the lake, not for the entire development. Based on riparian rights, the residents in Ranch Club have as much right to use the lake as the Hansens do. The lake has been used for fishing only by the residents and their guests. The boat ramp has caused significant ramifications to the operation of their ski school.

In response to Chairman Bryan, Mr. Hansen said only 10 to 15 percent of the subdivision is built out. No one from Ranch Club has used the lake during the school's operating hours. Phyllis Patten was informed by Mr. Hansen that they did not have a problem with the residents of Ranch Club using the lake. Chairman Bryan commented that Ranch Club has no restrictions regarding the use of the lake whereas the Hansens do.

Regarding the use of the sliders, Mr. Hansen said the sliders became an issue when one of the opposing members showed a photograph of the largest slider to the Board member. The photograph was blown up and made it look very imposing. The Florida Department of Environmental Protection (FDEP) permitted 11 sliders for them to use. The BCC restricted them to four. They would like to continue going through FDEP to regulate the sliders in the water. When Mr. Morris asked why eight sliders were needed for one boat, Mr. Hansen said it is a course. Their school is trying to be competitive in the marketplace. Chairman Bryan asked if the FDEP process was a public hearing process. Mr. Hansen replied that it was done through the FDEP staff. In addition to Code Enforcement oversight, Mr. Hansen named the many permits, fees, inspections, and taxes the school is subject to. He felt the school is very well governed.

Mr. Hansen said it is a hardship to come back to the County each year. It invites opposition each year as hundreds of letters are sent out to property owners as part of the public hearing process.

CASE NO.:	CUP#07/3/1-3	AGENDA NO.	5
OWNERS/APPLICANTS:	Andrew J. and Joni Hansen	PAGE NO.:	3

In response to Ms. Patten, Mr. Hansen said Lake Morgan is 67 acres, of which they own 40 acres. Lake David is a public lake with a public boat ramp. They have used it for 35 years. It is similar in size and nature to Lake Morgan. Ms. Patten was informed by Mr. Hansen that the sliders range in size from 12 feet long, 12 inches wide, and about 1-1/2 feet off the water to six feet high, 60 feet long, and about five feet wide.

In response to Chairman Bryan, Mr. Hartenstein said the deletion of the allowable number of boats was originally part of the request; but during conversation, it was determined that staff was not comfortable with multiple boats on the lake. Mr. Hansen said he could accept the staff recommendation of eight sliders, but he would prefer it going back to FDEP for their recommendation.

When Scott Blankenship asked the location of the four additional sliders, Mr. Hansen said he does not have the drawing with him. He noted that this property is closer to the industrial park than to the residences in the Ranch Club.

Mr. Hartenstein said he does not have a copy of the drawing, but he said they would be following a circular pattern, close to the edge of the lake. All the additional sliders would be floaters. Ms. Patten was informed by Mr. Hansen that the sliders would have reflector lights. There are no boats on the lake in the evening.

Tom Herrmann, vice president of the Ranch Club Homeowners Association, noted the letters and petitions that had been submitted earlier as Opposition Exhibit A and submitted a map as Opposition Exhibit B. He said he has lived in Ranch Club for two to three years. The wakeboard school is an ecological nightmare. The waves play havoc on the land. Ranch Club has 116 homeowners or landowners. It is an agricultural/residential area. He questioned how a commercial property could continue to exist in an agricultural/residential area. He read the BCC minutes from a public hearing eight or ten years ago regarding the granting of a new CUP for three years to give the Hansens an opportunity to find a new location for their business. Ranch Club did not exist at that time. In 2002, the Hansens were given another three-year CUP. Then Ranch Club came to the area. He acknowledged that there are only two houses on the lake. People want to build, but there is a concern with the wakeboard school. When residents bought property in Ranch Club, they were told that the wakeboard school had a temporary CUP and the Hansens were looking for a place to move to. There are about 60 homes on the west side of the road. All residents have access to Lake Morgan. He pointed out that he had submitted 60 signed petitions of opposition out of 116 home sites. Currently there are 16 completed homes. Four or five more are under construction and five homes have been approved to be built. He said he was pleased that no more than one boat will be allowed in the operation of the school. No more sliders should be permitted; this is a small lake. There are few boats on the lake because there are few residents in Ranch Club at this time; but they are coming. He was strongly opposed to a permanent CUP. The CUP must be reviewed on a yearly basis. Moon Lake is a very shallow lake and not a valid lake for wakeboarding. Mr. Herrmann said he was present on behalf of the homeowners in Ranch Club and other surrounding members to show their support for not continuing this CUP and to ask the Hansens to find a new lake for their business. This is an agricultural/residential area and not zoned for commercial.

Chairman Bryan asked if noise was an issue with the residents of Ranch Club. Mr. Herrmann said he personally did not have a problem with noise; but for people living on the lake, it is an issue. One of the biggest concerns is the destruction of the shoreline.

Mr. Hansen said he is always on the lookout for a new location for his business because it would be easier to be on a piece of property where they owned everything. However, he has not been able to find what he wants. It is not easy to duplicate an operation that has been in existence for 35 years. He said there are no environmental issues with the shoreline. They generally use Lake Morgan for their school; but occasionally they use Lake Emma and Lake David.

CASE NO.:	CUP#07/3/1-3	AGENDA NO.	5
OWNERS/APPLICANTS:	Andrew J. and Joni Hansen	PAGE NO.:	4

Chairman Bryan asked Mr. Hansen if he would like to be there permanently. Mr. Hansen said he would.

Chairman Bryan reiterated that this school was in existence well before Ranch Club. However, he did have a concern about enlarging the operation with additional sliders. He questioned whether more sliders would create more issues. He did not want to take away the existing sliders, but he questioned whether it is wise to add more. Mr. Hansen said the original operation had two slalom courses and a ski jump on the lake. They have reduced that. The sliders may seem like more, but the location of the use is less because it is just along that one shoreline. Chairman Bryan said they are not attractive to look at from across the lake.

When Chairman Bryan asked Mr. Hartenstein if there was an ecological deterioration of the shoreline and about the aesthetics of additional sliders. Mr. Hartenstein said he did observe these areas. It appeared the shoreline had been cleared, but he could not verify whether or not there is some enforcement action with another governmental agency that actually enforces that; the County does not enforce that. As the water level has dropped, some things can be seen in one small area only. Chairman Bryan confirmed with Mr. Hartenstein that this is on someone else’s property. The other areas of the shoreline where vegetation had not been removed did not have any visible impacts.

Mr. Hartenstein submitted three pictures dated February 1, 2007 that had been attached to an e-mail (County Exhibit C).

Regarding aesthetics, Mr. Hartenstein showed some additional pictures and submitted them as County Exhibit D. When Chairman Bryan asked if these photographs accurately represent what he saw, Mr. Hartenstein said they do. He added that he did not see any major impact from the opposite side of the lake. He did not find it very intrusive.

Ms. Patten felt there were safety issues in addition to the aesthetics. Mr. Hartenstein said the safety issue would be the lighting so boats would not run into the sliders. Chairman Bryan said lighting will be required for the sliders.

When Chairman Bryan asked Mr. Hartenstein if he felt adding four sliders would create new issues, Mr. Hartenstein said he did not believe that it would as long as the sliders are kept as floating so they can be moved or relocated if they become a nuisance. That is included in the Ordinance.

Mr. Hermann stated that lot 16 was cleared and replanted so the shoreline would not erode. The owners of that lot went through the proper procedure to do that. However, the wakeboard has created three different ridges in their land. As a result, the owners now have their property on the market for sale at \$750,000. He added that the owner of lot 13 was going to clear that land; but when the owners saw what happened on lot 16, that project was “put off.”

Mr. Hartenstein stated that the County does not permit any shoreline clearing. The County does not regulate that. Any shoreline alterations would be addressed by St. Johns River Water Management District or FDEP.

Mr. Hansen said he and his wife saw the clearing taking place by the landowner. That landowner is the one who is most opposed to their operation being in this area. It was a significant clearing of the weeds in front of the water that keep the wakes from eroding the shoreline. There was no St. Johns permit issued for this procedure. Nicole from Code Enforcement visited the site and told Mr. Hansen that the owner was not in compliance. There were others living on the water who cleared their land without permits. The developer had compliance issues with the clearing that took place. Because of the clearing that has taken place, the water is not pristine as it once was. He added that he has spoken to Ranch Club representatives and offered to sell his property to them if they do not want the school there.

CASE NO.:	CUP#07/3/1-3	AGENDA NO.	5
OWNERS/APPLICANTS:	Andrew J. and Joni Hansen	PAGE NO.:	5

Mr. Blankenship said he did not want to shut down a profitable operation yet he was concerned about the expansion or any change. He would be in support of allowing the operation to continue as it has been, but he did not want any alterations. Chairman Bryan noted that the staff proposal does reflect some changes.

MOTION by Timothy Morris, SECONDED by Mark Wells to recommend approval of the renewal of CUP#05/12/1-3 in Agriculture zoning for the operation of a ski school and wakeboard training facility in CUP#07/3/1-3 with the following conditions:

- 1. The number of sliders shall be increased from four to six.**
- 2. Only one boat from the school shall be in operation on the lake at one time.**
- 3. The following operation restriction in the Ordinance shall be deleted: “When the lake (Lake Morgan) is being used by abutting property owners and/or guest, the wakeboard facility cannot operate a boat on the lake.”**
- 4. The requirement to seek renewal each year for the operation of the school on Lake Morgan shall be eliminated.**

James Gardner said he could support the motion except that he would like to amend the renewal requirement to every two years rather than eliminating it.

Chairman Bryan said it is his understanding that the annual inspections would still be required even if the renewal is eliminated. The renewal requirement opens up the public hearing process every one or two years. Mr. Hartenstein confirmed that is correct. Any time the school is not in compliance and an issue is brought forward to Code Enforcement, Chairman Bryan said that problem must be addressed by the owner and brought back into compliance. Mr. Hartenstein added that it is possible that could entail going before the Code Enforcement Special Master where a recommendation could be made for the school to come back to this Board and the BCC for possible revocation of the CUP.

Regarding Condition No. 4, Mr. Morris said the school has had one unfounded complaint. The public hearing process each year invites opposition. This is a good business. That is why he was agreeable to eliminating the renewal requirement.

Although he understood the reasoning of Mr. Morris, Mr. Gardner said his reasoning is that as the Hansen’s operation increases in size and scope, the Ranch Club could also grow in size and are entitled to a rehearing every two years. Mr. Morris pointed out that the Code Enforcement Special Master could require the public hearing renewal process if it gets too busy on the lake. Mr. Blankenship noted that there would be no “get too busy” violation unless the school goes outside the permitted operating hours. However, safety concerns should always be a consideration.

Mr. Hartenstein clarified that it is staff’s position that the one-year renewal restriction was placed in the Ordinance by the BCC. Staff has left it in the Ordinance waiting to see if the BCC wants to take it out. It is staff’s recommendation that it could be removed and be regulated through annual inspections and the special master process.

AMENDMENT by Timothy Morris, SECONDED by Mark Wells to require a two-year renewal process.

Chairman Bryan said he did not agree with the amendment as it puts the owners in a precarious situation. It is putting an operating business subject to the whims of the BCC every two years. He felt it was unfair.

CASE NO.: CUP#07/3/1-3 **AGENDA NO.** 5

OWNERS/APPLICANTS: Andrew J. and Joni Hansen **PAGE NO.:** 6

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

AGAINST: None

NOT PRESENT: Metz

**MOTION, AS
AMENDED,
CARRIED:** 6-0

CASE NO.: PH#87F-05-3

AGENDA NO.: 6

OWNER: The Plantation at Leesburg Limited Partnership

APPLICANT: Miranda F. Fitzgerald, Esquire
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

Ryan Guffey, Senior Planner, presented the case and staff recommendation of approval. He showed the aerial from the staff report on the monitor. He said there are two associated ordinances with this petition—A Planned Unit Development (PUD) Development Order Ordinance and a Development of Regional Impact (DRI) Ordinance. The staff report and summary are the same for both Ordinances. The Division will entertain two separate motions for the proposed ordinances. The rezoning will amend the Development Order to make the changes as stated on Page 1 of the staff report. Mr. Ryan read into the record a letter dated March 6, 2007 from the Lake-Sumter Metropolitan Planning Organization (MPO) to Cindy Hall (County Exhibit A) and summarized a letter dated February 20, 2007 from the East Central Florida Regional Planning Council to Carol Stricklin (County Exhibit B), which states that the East Central Florida Regional Planning Council basically agrees with staff that this is a nonsubstantial Notice of Proposed Change and, therefore, is a local issue. He also submitted as County Exhibit C and showed on the monitor a chart showing the differences between the 2003 Development Order and the Proposed Development Order.

Miranda Fitzgerald was present to represent the case. She stated that the staff report prepared by Mr. Guffey was so comprehensive that she had nothing to add. She was in agreement with all the staff recommendations and said she would appreciate the Zoning Board's recommendation of approval.

Maurice Fray, resident of the Plantation at Leesburg, said he is not in opposition to this action. However, he questioned whether this is a valid application. He thought it was originally submitted in 2006, and there was a continuation of the application. Since then the community has been turned over to a new board comprised of the homeowners. Prior to that time the homeowners' association was controlled by the developer. He felt this application should be ratified by the new board. No one in the community has had any voting privilege on this change. Most of the community is owned by individual family members, not the developer.

Mr. Guffey said this application came before the Zoning Board in March of 2006. At that time, the applicant received an indefinite continuance.

Ms. Fitzgerald explained that because this is a DRI, there are different requirements that apply to this project than apply to typical projects. This Development Order is not expiring. The Plantation at Leesburg is going to remain the master developer until 2009 under this project. The only party that has the ability to move forward with the Development Order at this time is the master developer. Because the residential portion of the project has turned over to the existing homeowners does not take away the rights and the standing of the master developer to proceed. Anybody who wanted to appeal this Development Order and is an owner of property in this project would have the ability to do that. Therefore, she felt the application is valid, and they do have the ability to go forward. The application was never withdrawn. They filed the application in 2005; the delay was due to negotiations for a transit condition. As a result of that, a \$10,000 voluntary contribution was given. Staff had requested a continuation to work out this issue.

Melanie Marsh, Deputy County Attorney, said she did not believe Mr. Fry's concern is an issue. She added that the zoning agendas are reviewed by Sanford A. Minkoff, County Attorney, prior to them coming forward. If it had been an issue, he would have brought it up.

Andy Minster (no speaker card), also a resident of Plantation at Leesburg, said he did not understand the proposal and asked for an explanation.

Ms. Fitzgerald said they had an obligation under the original Development Order to go through a Traffic Monitoring and Modeling Study every time the project moves into the next phase of development. This application will reduce the number of residential units, reduce the amount of commercial, leave the build

CASE NO.: PH#87F-05-3 **AGENDA NO.:** 6
OWNER: The Plantation at Leesburg Limited Partnership **PAGE NO.:** 2
APPLICANT: Miranda F. Fitzgerald, Esquire
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.

out date the same as it was, and incorporate a traffic study that has been reviewed by the State acknowledging that they have no further traffic mitigation and have made a voluntary contribution to transit.

MOTION by Timothy Morris, SECONDED by James Gardner to recommend approval of the DRI amendment in PH#87F-05-3.

FOR: Morris, Blankenship, Gardner, Patten, Bryan, Wells
AGAINST: None
NOT PRESENT: Metz
MOTION CARRIED: 6-0

MOTION by Timothy Morris, SECONDED by James Gardner to recommend approval of the PUD amendment in PH#87F-05-3.

FOR: Morris, Blankenship, Gardner, Patten, Bryan, Wells
AGAINST: None
NOT PRESENT: Metz
MOTION CARRIED: 6-0

Public Records Seminar

Melanie Marsh, Deputy County Attorney, stated that extra copies of the materials are available for anyone who was unable to attend the public records seminar put on by the County Attorney's office.

Adjournment

There being no further business, the meeting was adjourned at 12:20 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman