

**MINUTES  
LAKE COUNTY ZONING BOARD  
MAY 5, 2010**

The Lake County Zoning Board met on Wednesday, May 5, 2010 in the Commission Chambers on the second floor of the County Administration Building to consider petitions for rezoning and conditional use permit revocations.

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, June 1, 2010 at 9 a.m. in the Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

**Members Present:**

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Egor Emery	District 4
Paul Bryan, Chairman	District 5
Mark Wells	At-Large Representative

**Members Not Present:**

Larry Metz	School Board Representative
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**Staff Present:**

Brian Sheahan, AICP, Planning Director, Planning and Community Design Division  
Steve Greene, AICP, Chief Planner, Planning and Community Design Division  
Rick Hartenstein, AICP, Senior Planner, Planning and Community Design Division  
Melving Isaac, Planner, Planning and Community Design Division  
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  
Erin Hartigan, Assistant County Attorney  
Wendy Breeden, Director, Public Resources Department  
David Hansen, Program Manager, Public Lands Division

Chairman Bryan called the meeting to order at 9 a.m. He led in the Pledge of Allegiance, and Timothy Morris gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor and that this meeting had been noticed pursuant to the Sunshine Statute.

Chairman Bryan explained the procedure for hearing cases on the consent and regular agendas. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case. Anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room. He added that this Board is a recommending board only, and the Board of County Commissioners will be hearing these cases on June 1, 2010 when a final determination will be made.

He noted that no speaker cards were submitted for any of the cases on the agenda.

Brian Sheahan, AICP, Planning Director, stated that there are no changes to the agenda at this time.

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**Minutes**

**MOTION by Timothy Morris, SECONDED by James Gardner to approve the April 7, 2010 Lake County Zoning Board Public Hearing minutes, as submitted.**

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

**AGAINST: None**

**NOT PRESENT: Metz**

**MOTION CARRIED: 6-0**

Consent Agenda

<b>CASE NO.:</b>	<b>PH#12-10-2</b>	<b>AGENDA NO.:</b>	<b>2</b>
<b>OWNER:</b>	<b>Royal Equestrian Development, Inc.</b>		
<b>APPLICANT:</b>	<b>Lake County Planning &amp; Community Design</b>		
<b>PROJECT NAME:</b>	<b>Royal Equestrian Ranch Club</b>		

<b>CASE NO.:</b>	<b>PH#10-10-5</b>	<b>AGENDA NO.:</b>	<b>3</b>
<b>OWNER:</b>	<b>Lake County Board of County Commissioners</b>		
<b>APPLICANT:</b>	<b>Parks &amp; Recreation Division (Wendy Breedon)</b>		
<b>PROJECT NAME:</b>	<b>Akron Meadows</b>		

<b>CUP Revocations</b>			
<b>CUP#909-2</b>	<b>J. &amp; N. Frederick</b>	<b>AGENDA NO.:</b>	<b>5A</b>
<b>CUP#953-4</b>	<b>C. Bodiford</b>		<b>5B</b>
<b>CUP#889-4</b>	<b>J. Henns &amp; P. Harper</b>		<b>5C</b>

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

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

**AGAINST: None**

**NOT PRESENT: Metz**

**MOTION CARRIED: 6-0**

**CASE NO.:** PH#11-10-5 **AGENDA NO.:** 1

**OWNER:** Lake County Board of County Commissioners  
**APPLICANT:** Wendy Breeden, Director of Public Resources,  
on behalf of Lake County

**PROJECT NAME:** J & L Ellis Property (Conservation Area)

Melving Isaac, Planner, presented the case and staff recommendation of approval. He showed the aerial from the final package on the screen. He said David Hansen, Public Lands Program Manager, was present to answer questions.

Chairman Bryan stated that no speaker cards had been submitted for this case.

**MOTION by James Gardner, SECONDED by Egor Emery to recommend approval of Community Facility District zoning to allow conservation and passive recreational uses in PH#11-10-5.**

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

**AGAINST:** None

**NOT PRESENT:** Metz

**MOTION CARRIED:** 6-0

CASE NO.: PH#2-10-3

AGENDA NO.: 4

OWNER: Floribra USA, Inc.  
APPLICANT: Jim Hall, AICP (VHB Inc.)  
PROJECT NAME: Windmill 27 PUD

Brian Sheahan, AICP, Planning Director, referred to the letter (County Exhibit A) received late yesterday afternoon from Jim Hall of VHB Miller Sellen and e-mailed to the Zoning Board members. The letter spoke of the reduction to 47 units from the originally requested 109 units. The staff report and presentation will go into detail on the issue of timeliness and whether this development meets timeliness. However, this is a significant change, and staff still supports their recommendation of denial. A postponement would normally be in order for a change of this magnitude to conduct additional analysis to evaluate whether the density could be recommended for approval. The issue with that option is that the County is scheduled to adopt its new 2030 Comprehensive Plan (the Plan) on May 25, 2010. The Plan changes the future land use of this property to Rural Transitional, which is a one to one maximum density with 50 percent open space. That Plan will not become effective until it is found to be in compliance by the State Department of Community Affairs (DCA), which has about 45 days to issue a Notice of Intent to find the Plan in compliance. There is an additional 21 days where any affected party can appeal that Notice of Intent so the effective date would be mid to late summer at the earliest, but it could be later than that due to the unknown of whether the Plan will be challenged. In addition, if this property is rezoned, the applicant would have to apply for vesting to move forward with their development if the Plan changes.

In response to James Gardner, Mr. Sheahan said the letter received would not affect timeliness at all. He added that if the development met timeliness, there is the potential to have up to three units per acre with conditions as the maximum density that could be allowed under the Planned Unit Development (PUD) zoning when meeting timeliness or 47 units.

When Egor Emery questioned hearing the whole presentation on this case when the Board may want to entertain a motion for postponement, Chairman Bryan said the decision to postpone would be made by this Board; but he would not want to postpone the case if the applicant did not want to.

The applicant, Jim Hall, said he would like to make a presentation before this Board makes a decision. The Zoning Board opened the public hearing.

Steve Greene, AICP, Chief Planner, presented the case and staff recommendation of denial. He showed the aerial and concept plan from the final package on the screen. He noted that the County received a letter from the School Board indicating that this proposed rezoning would not have any adverse impact on schools.

In response to Scott Blankenship, Mr. Greene said water and sewer are provided to the Plantation of Leesburg subdivision from the City of Leesburg. In order to provide water to the subject property, the City of Leesburg would need to request an increase in their consumptive use permit from St. Johns River Water Management District. In addition, there is a question concerning an arrangement for transmission lines. Also, consideration must be given to any expansion to the treatment facility with the additional capacity.

Timothy Morris asked if the staff's stance on this property for 47 units would change if the RMRP-zoned properties to the north and west were developed. Mr. Greene said he could not answer that. The properties have been vacant for some time. Mr. Sheahan said a mobile home park could be constructed, but the density requirements of timeliness would still need to be met because the Comprehensive Plan would trump the zoning.

If the Zoning Board would recommend approval of the PUD and staff says the project does not meet timeliness, Chairman Bryan asked how that would be handled. Erin Hartigan, Assistant County Attorney, said staff does not make the decision on timeliness; it is a recommendation. The Zoning Board would make their decision as with any other rezoning case. Mr. Sheahan added that the Board of County Commissioners (BCC) is the ultimate interpreter of the Comprehensive Plan.

<b>CASE NO.:</b>	<b>PH#2-10-3</b>	<b>AGENDA NO.:</b>	<b>4</b>
<b>OWNER:</b>	<b>Floribra USA, Inc.</b>	<b>PAGE NO.:</b>	<b>2</b>
<b>APPLICANT:</b>	<b>Jim Hall, AICP (VHB Inc.)</b>		
<b>PROJECT NAME:</b>	<b>Windmill 27 PUD</b>		

Chairman Bryan stated that no speaker cards have been submitted for this case.

Jim Hall of VHB Miller Sellen was present to represent the case. He said the requested 109 units was his mistake for not doing proper quality control; there was never any intention to construct any more units than the 47 units allowed by the Comprehensive Plan. He said they also endorse the required 50-foot buffer to the north, both for transition to the Rural future land use category and for the potential use to the north. He added that the 30 acres to the east are also owned by Floribra so the transition from this property to the east would be a self-born issue. There are water bodies on the eastern side that act as a buffer and a transition. They believe they have adequate transitional mitigation with the wetlands and the same ownership east for this 47-acre development. He noted that the City of Leesburg, the ultimate utility provider, has not annexed out close enough that they could request annexation into the City of Leesburg now.

Regarding the technical aspect of timeliness, he said this property meets the first hurdle of 40 percent development within the radius with 43 percent development. The rest of timeliness is more of a subjective, qualitative test. Much of that relates to the context of the neighborhood. Plantation has 2,800 units directly across the street. To the south is new commercial construction of a building. Plantation also has commercial (a shopping center) across the street. The subject property is zoned Agriculture, but there has not been agricultural uses on the property for quite a while. He noted that there is also a fair amount of development less than one-half mile away to the north on the east side of the road. There is water, sewer, and traffic capacity on US 27. He acknowledged that the City of Leesburg does not have their new consumptive use permit yet for the water. However, they understand that when the City of Leesburg does get that permit updated, this project will have to wait for the water. He did not feel there will be any problem with line capacity. This property is not very well suited for Agriculture zoning. When the Residential Density Chart was applied to this property, the result was 3.5 dwelling units per acre. Urban services such as police, fire, and schools are available. With only 15 acres of upland and a 36-acre request, they have 21 acres of open space of which they have set aside three acres for upland recreation. The property is adjacent to a major road. The only access will be US 27. The soils are adequate for development.

Mr. Hall submitted a CD of his PowerPoint presentation as Applicant Exhibit A and a hard copy of the presentation as Applicant Exhibit B.

In response to Mr. Blankenship, Mr. Hall said central sewer is currently available. Mr. Blankenship commented that development makes sense to him from a surrounding area standpoint since Plantation is across the street. Regarding the water issue, if the City of Leesburg will not provide water, the project will not go forward. If Leesburg is willing to provide water, annexation will probably be required.

Mr. Greene informed Chairman Bryan that the availability of central water and sewer is a standard condition per the Comprehensive Plan; it is a criteria for timeliness.

When Chairman Bryan asked what the predominant factor was in the staff's recommendation that it did not meet timeliness, Mr. Greene said it was the incompatibility with the adjacent uses and the spatial separation from the lone similar use, which is across US 27. On the immediate north, south, and east, there is no similar residential development for some distance.

**MOTION by Egor Emery, SECONDED by James Gardner to recommend denial of Planned Unit Development zoning to facilitate the development of a residential development in PH#2-10-3.**

Mr. Emery said he was pleased with the staff report; it was very extensive and quite accurate in most of its

**CASE NO.:** PH#2-10-3 **AGENDA NO.:** 4  
**OWNER:** Floribra USA, Inc. **PAGE NO.:** 3  
**APPLICANT:** Jim Hall, AICP (VHB Inc.)  
**PROJECT NAME:** Windmill 27 PUD

details. Although there was a substantial change presented at this public hearing, what has not changed is the timeliness factor. The subject property may eventually end up as part of the City of Leesburg, and he did not feel Leesburg is prepared to take it in at this time. He felt this should be denied until it is time.

Chairman Bryan pointed out that timeliness is a County issue. If this property was annexed into the City of Leesburg, timeliness would not be applicable.

**FOR:** Morris, Gardner, Emery, Wells

**AGAINST:** Blankenship, Bryan

**NOT PRESENT:** Metz

**MOTION CARRIED:** 4-2

**Update on Comprehensive Plan**

Brian Sheahan, AICP, Planning Director, stated that the County received their ORC (Objections, Recommendations & Comments) Report from the State Department of Community Affairs (DCA) on April 2, 2010. It was quite thorough. The majority of the comments were very minor in nature. There were only three or four comments that were substantive. Those will go before the Board of County Commissioners (BCC) at a workshop on May 11, 2010. The Zoning Board is encouraged to attend. It will entail an overall discussion on the draft report to determine the direction the BCC wants to take with the responses. That report, depending on the direction from the BCC on May 11, will be incorporated into the final draft of the Comprehensive Plan that will be considered for adoption on May 25. If it is adopted, it will be sent to DCA, which has 45 days to review the Plan and find it in compliance or not in compliance. The Notice of Intent to Approve is then put in the Florida Administrative Weekly for 21 days, during which time anyone can appeal the Plan. If it is appealed, the County will enter into Division of Administrative Hearings, where the County tries to work out its differences, which may require remedial amendment. There are several things going on such as Hometown Democracy, which could complicate this even further. If anyone has an issue with the Plan, the County is encouraging the public to be very specific and constructive.

As the time approaches when the Comprehensive Plan will be adopted, Chairman Bryan asked how staff will be addressing zoning requests as far as recommendations. Mr. Sheahan replied that beginning with the next public hearing, staff will include that information in the staff report for information only until the new Plan is effective. The Zoning Board cannot base its decisions on the new Comprehensive Plan until it becomes effective. When the Plan does become effective, there will be many nonconforming zonings. One of the exercises of the Plan was not to create nonconformities. The nonconforming provisions in the new Plan are more liberal than in the current Comprehensive Plan.

Egor Emery said the comments from the State make it clear that Mr. Sheahan and his staff did a very good job with crafting the document. The State was pleased with many sections of it. Mr. Sheahan said he appreciated that comment and said the document was an effort on the part of many members of the County staff as well as members of the public.

**Adjournment**

There being no further business, the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Paul Bryan  
Chairman