MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
May 29, 2013

The Lake County Planning and Zoning Board met on Wednesday, May 29, 2013 in County Commission Chambers on the second floor of the County Administration Building to consider petitions for Rezonings and Land Development Regulation amendments.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, June 18, 2013 at 9 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Kathryn McKeeby	District 1
Ted DeWitt	District 2
Rick Gonzalez	District 4
Paul Bryan, Chairman	District 5
Debbie Stivender	School Board Representative
Kasey Kesselring, Vice Chairman	At-Large Representative

Members Not Present:

Timothy Morris	District 3
Donald Heaton	Ex-Officio Non-Voting Military Representative

Staff Present:

Amye King, AICP, Growth Management Director
Brian T. Sheahan, AICP, Planning Manager, Planning and Community Design Division
Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Donna Bohrer, Office Associate, Planning and Community Design Division
Erin Hartigan, Assistant County Attorney
Ross Pluta, Engineer III, Public Works
Jennifer Cotch, Environmental Specialist, Conservation and Compliance Department
Susan Boyajan, Clerk, Board Support

Chairman Paul Bryan called the meeting to order at 1:00 p.m. and noted that a quorum was present. He led the Pledge of Allegiance, and Rick Gonzalez, Board Member, gave the invocation. Chairman Bryan confirmed that the meeting was properly noticed and explained the procedure for hearing cases on the consent and regular agendas, stating that they only hear the cases that are on the regular agenda individually. He stated that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Recording Secretary prior to proceeding to the next case. He added that this Board is a recommending board only, and the Board of County Commissioners will be hearing these cases next month when a final determination will be made.

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Adjournment		

AGENDA UPDATES

Mr. Bryan related that they were moving Tab 1, CUP #13/6/1-2, to the Regular Agenda, and he announced that Tab 3 has been withdrawn. He also disclosed that he had a conflict of interest on Tab 2, PH#12/13/3 on the Consent Agenda, since he is a real estate broker who represents the purchaser on that transaction, and he would not be involved in any discussion and will turn the gavel over to the temporary Vice Chairman during the vote on the Consent Agenda.

Mr. Brian Sheahan, Planning and Community Design Manager, Department of Growth Management, explained that staff had a last-minute request after the agenda packet went out for some wording changes for Case #PH12/13/3, and staff concurred with those changes; however, he noted that the item could remain on the Consent Agenda with the board's acceptance of those unless a board member wishes to discuss those.

MINUTES

MOTION by Kasey Kesselring, SECONDED by Ted DeWitt to APPROVE the April 24, 2013 Lake County Planning and Zoning Board Public Hearing minutes, as submitted.

FOR: **McKeeby, DeWitt, Gonzalez, Bryan, Kesselring, Stivender**

AGAINST: **None**

MOTION CARRIED: 6-0

CONSENT AGENDA

Tab 2 **PH#12/13/3** G. Summers/Florida Made Doors Company

MOTION by Debbie Stivender, SECONDED by Kathyrn McKeeby to APPROVE the Consent Agenda, consisting of Tab 2.

FOR: **McKeeby, DeWitt, Stivender, Gonzalez, Kesselring**

AGAINST: **None**

ABSTAIN: **Bryan**

MOTION CARRIED: 5-0

REGULAR AGENDA

Mr. Sheahan illustrated on the overhead monitor that all of the cases on the Agenda were properly advertised.

MOTION by Debbie Stivender, SECONDED by Kasey Kesselring to accept the withdrawal of Tab 3, LPA#13/3-3T, Green Swamp Rural Support Policy.

FOR: **McKeeby, DeWitt, Gonzalez, Bryan, Kesselring, Stivender**

AGAINST: **None**

MOTION CARRIED: 6-0

CASE NO. **CUP#13/6/1-3** **TAB 1**

OWNER: **RHONDA VEGA**
APPLICANT: **RHONDA VEGA**
PROJECT NAME: **VEGA KENNEL CUP**

Ms. Jennifer Cotch, Environmental Specialist and Case Manager, Department of Growth Management, Division of Planning and Community Design, related that Rhonda Vega has applied for a Conditional Use Permit (CUP) for a dog kennel on 31 acres in the Yalaha area located west of Bloomfield Avenue, and the property was zoned Agriculture and located within the Rural Future Land Use category. She stated that the property was originally granted a CUP on May 22, 2001 for its 32-stall boarding kennel that allowed a maximum of 44 adult dogs and 12 puppies under the age of six months, with the building permit for the kennel applied for and granted in 2001 and the CO for this structure granted on March 26, 2002; however, the CUP was voluntarily revoked on October 25, 2011, since the commercial boarding operation closed. She noted that during the time that the kennel was in operation, there were no complaints that were received from either Code Enforcement or Animal Services. She explained that the applicant is requesting to reestablish the kennel and to open a dog rescue along with reopening the commercial boarding in order to supplement some of the costs of the dog rescue. She pointed out that due to the applicant's large property of 31 acres, 20 dogs would be allowed without a CUP on this property, and the proposed ordinance would allow a maximum of 44 dogs at any given time and also place conditions on the kennel and its operation. She reported that the existing kennel structure meets the minimum required setbacks of 200 feet from all property lines per the Land Development Regulations (LDR). She related that staff had received three emails this morning from adjacent property owners who are opposing the CUP request due to loud barking dogs and the potential of dog waste contaminating water bodies adjacent to the subject property, and the proposed ordinance allows for landscaping to be utilized as noise mitigation in addition to the required 200-foot setbacks from all property lines for the kennel; the proposed ordinance also requires animal waste to be picked up and disposed of as required in LDR 3.01.04(18). She illustrated on an overhead map the distance of some nearby homes from the kennel structure, which ranged from 800 to 1523 feet away from the structure. She mentioned that the request is consistent with the LDR's and the Rural Future Land Use Category in the Comp Plan.

Mr. Ted DeWitt asked if the current requested CUP would reinstate the same conditions as the old one.

Ms. Cotch responded that it was a lot like the old one, but they have tightened up provisions and added to the requirements related to the treatment of the animals, such as for the size of the enclosures, disposal of animal waste, and making sure the vaccinations were up to date. She also mentioned that the subject property has not changed ownership since 1957 and has been passed down in the family, and some of the opposing property owners have been on their property since 1993 and 2011.

Ms. Rhonda Vega, the applicant, addressed the emails that were sent to staff by property owners who opposed the CUP, pointing out that she followed and had no complaints with the original CUP and was required to have the dogs out no longer than from 7 a.m. to 6 p.m. She assured that no dog was ever left outside at night and noted that it was dangerous to do so in her area. She opined that the neighbors who complained were hearing someone else's dog. She also commented that animal waste was disposed of offsite and that no waste was put into the septic system from the kennel. She added that she went through the appropriate process to go before the Board to get a CUP for the kennel the last time. She assured the board that the dogs were not barking at all hours, since they were brought into a completely soundproof kennel building after 6 p.m., and she emphasized that

anyone standing near that building would not be able to hear a thing. She indicated that she would fix anything that was a nuisance to her neighbors.

Mr. William Konnerth, a resident of Yalaha who lived near the subject property since 2011, expressed concern about the location and posting of the signs regarding the rezoning of this property. He noted that until recently there were no dogs on the subject property and that it was quiet prior to that time. He related that he enjoyed staying in his yard in the evening, and he moved to the country to enjoy the outdoors and the quiet. He commented that he now hears the applicant's dogs barking after 8:00 p.m., which creates a completely different atmosphere. He stated that he was opposed to the CUP and that there was a definite noise impact because of that facility. He expressed concern about the potential effect on the water due to the waste and urine that gets hosed out from the kennels, stating that it was also a major concern of a nearby blueberry farm owner. He mentioned that he expected several other opposing property owners to speak at the County Commission meeting.

Ms. Gayle Whitt Konnerth, who lives contiguous to the Vega property, commented that the reason there were no previous complaints about the previous kennel business was because her father, who previously owned and lived on the property until he passed away in 2010, was deaf and could not hear the barking of the dogs. She related that she and her husband had been living in the home since then, and it had been very quiet there until recently when the dogs started barking again. She pointed out that although the properties consisted of 30 acres, the property was very long, and the house was located not far from their property line with the Vega property. She stated that she could hear the barking from the dogs inside her home even in the evenings, and she was concerned about the nuisance resulting from 44 dogs barking all day long and that they would not be able to enjoy their property. She related that she grew up on that property since she was five years old, and they chose to keep the property and live there rather than selling it after her father died because of the location and how peaceful and quiet it was. She also expressed a concern that the noise was interfering with her husband being able to sleep during the day when he comes off his night-time shift as a firefighter. She also pointed out that there was not a large buffer between the properties other than a tree line made up of immature and low pine trees that have just been planted.

Ms. Elaine Yates, a resident of Yalaha who lives near the subject property, pointed out that she was of the opinion that everyone has a right to start a business, and she and her husband were willing to give the kennel a chance when the applicant applied for the first CUP in 2001; however, it was very noisy all the time due to that initial kennel. She commented that she could still hear the dogs in the indoor kennels, and she has been woken up at night on several occasions by dogs barking. She opined that it does not take much to make dogs bark, and one barking dog will make the rest start barking. She commented that she was very happy when the kennel closed down, because it resulted in a very peaceful atmosphere for everyone in the neighborhood, and she would rather that the kennel not open again. She also opined that the building was not a sound-proof kennel.

Mr. Bryan asked why she did not file a complaint when the kennel was initially in operation.

Ms. Yates responded that she does not like to complain, but she felt that she had to express her opinion at this hearing to oppose the CUP and the reopening of the kennel. She commented that she believed that the applicant has already had a chance to show this would not be a nuisance.

There being no one else who wished to speak regarding this rezoning case, the Chairman closed the public hearing and gave the applicant an opportunity for rebuttal to address some of the issues that were raised or anything else she wanted to conclude in her presentation.

Ms. Vega invited the board out to her property to see whether they hear dogs that are enclosed in the shelter in order to resolve the differing stories between her and Mrs. Yates, stating that she guaranteed they would not be able to hear anything outside of the shelter. She also emphasized that she did not want to give up her initial kennel business and CUP, but she was very sick with cancer, which rendered her unable to take care of the animals in the manner she felt would be satisfactory. She commented that this was her life's work and that she has helped many animals in her career.

Mr. Bryan responded that the board would not be allowed to come out to the kennel, so they would have to find another way.

Ms. Vega suggested sending a representative from Animal Control instead.

Mr. Gonzalez noted that there was nothing in the current ordinance regarding noise, and he asked if she would object to staff putting a requirement in there about noise.

Ms. Vega replied that she would absolutely not object to that, and she added that every dog has to physically be walked outside. She also added that although they pick up the waste and hose down the concrete runs that are covered for some of the older dogs, she does not see that as an issue as much as the chemicals that are used on the nearby blueberry farm. She pointed out that although everything on her side of the pond is green, the side of the pond near the blueberry farm is all brown, and one of the complaining neighbors shoots rifles on a rifle range at all hours of the day, which is very disruptive.

Ms. Stivender stated that she remembers this case from when she was a County Commissioner, and noted that they were very cognizant of making sure everything was inside to negate the noise. She pointed out that the applicant was allowed to have 20 dogs without the CUP and that the applicant was too ill to keep paying the fees to continue the CUP at the time she discontinued it. She also noted that she never received complaints about the applicant's business, which was in her district.

Ms. Vega stated that currently there are ten of her own dogs on the property. She also specified that she had ten covered concrete pens for smaller or older dogs and six large fenced yards, and all 44 dogs are never out at the same time but are rotated all day from about 9:00 a.m. She also mentioned that she has never heard a sound from the kennel, even though her home is on the property and the closest one to the kennel.

Mr. Kesselring indicated that he had boarded his dogs at this kennel several years ago, which he found always very clean and well taken care of. He opined that he could see that dogs could be barking outside during the day, but he believed it would be difficult to hear it once they are put inside the enclosed area of the kennel.

Ms. McKeeby clarified with staff that the applicant was now allowed 20 dogs without any permit or oversight because of the amount of acreage of her property. She commented that she could see that barking dogs would be a problem early on a Saturday morning.

Mr. Bryan commented that he would rather have controls and 40 dogs than no controls and 20 dogs.

Ms. Cotch clarified that there is a County noise ordinance that would come into effect if dogs are barking all hours of the day and night.

Ms. Stivender asked whether there was a way to put requirements for any additional screening on that bottom property in Section E in the ordinance regarding landscaping, buffering, and screening

when the applicant does the site plan, since it is agricultural. She mentioned that since the building is already there, the applicant will only have to get the use reactivated.

Ms. Cotch responded that they could put that into the ordinance, but there would normally be no landscape buffer required, since all of the properties are zoned Agriculture in that area; however, in the past staff has tried to use some sort of landscape buffer when there has been an issue.

Ms. Stivender mentioned that Section E in the ordinance she previously referred to also states that landscaping may be used for noise mitigation if recommended by accepted noise studies, so Code Enforcement will ask for that if they start receiving complaints, and they would be required to put in the additional landscaping in order to stay open.

Ms. Cotch noted that it is indicative that there is a landscape buffer between the Vega property and the subject property consisting of 8,000 pine trees, but those trees are not mature yet.

MOTION by Kasey Kesselring, SECONDED by Debbie Stivender for approval of CUP#13/6/1-3, Vega Kennel CUP.

FOR: **McKeeby, DeWitt, Gonzalez, Bryan, Kesselring, Stivender**

AGAINST: **None**

MOTION CARRIED: 6-0

OTHER BUSINESS

Mr. Sheahan clarified that staff had sent two emails in very close proximity regarding the case that was withdrawn today by the choice of the applicant. He explained that the intent of that email was to indicate to the Planning & Zoning Board that it was outside staff's purview to approve the withdrawal, because it was less than five days. He apologized for any confusion about the meaning of that email, noting that the BCC reduced that requirement from ten to five days. He commented that the process worked flawlessly, since they were able to contact everyone who wanted to speak regarding the withdrawn case.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:00 p.m.

Respectfully submitted,

_____	_____
Susan Boyajan	Paul Bryan
Clerk, Board Support	Chairman