



# LAKE COUNTY

DEPARTMENT OF  
GROWTH MANAGEMENT  
*Planning & Community Design Division*

November 7, 2008

Jodi Fisher  
Randy Holihan

RE: Yacht Club at Lake Susan Property (Presubmittal Comments)

Dear Mr. Fisher and Mr. Holihan:

This letter is to notify you that your application for presubmittal has been placed on the Development Review Agenda before the Development Review Staff on November 13, 2008, located at 315 W. Main Street, Tavares, Florida in the Administration Building, 2<sup>nd</sup> Floor, Room 235. A representative will need to be available at the meeting to represent this project.

A copy of the staff's comments has been included with this letter. The Development Review Agenda and staff comments for all projects are available for viewing on the website (site address is provided below) by accessing Board Agendas/Minutes...under Most Requested...then Development Review Staff Meeting Agendas.

My name is Rick Hartenstein and I have been assigned as your Case Manager to review your application request and will serve as your liaison. All future correspondence and inquiries should be directed to your case manager.

Rick Hartenstein, Senior Planner/Case Manager  
phone: (352) 343-9739 ext. 5400  
e-mail: rhartenstein@lakecountyfl.gov

If you have any questions or concerns, please do not hesitate to contact our office.

Regards,

Rick Hartenstein, Senior Planner/Case Manager  
Division of Planning and Community Design  
Growth Management Department  
(352) 343-9640 or (352) 343-9739

Enclosures

P.O. BOX 7800 • 315 W. MAIN ST., TAVARES, FL 32778 • P 352.343-9640 OR 352.343.9739 • F 352.343-9816  
*Board of County Commissioners • www.lakecountyfl.gov*

JENNIFER HILL  
*District 1*

ELAINE RENICK  
*District 2*

DEBBIE STIVENDER  
*District 3*

LINDA STEWART  
*District 4*

WELTON G. CADWELL  
*District 5*



**LAKE COUNTY**  
FLORIDA

Lake County Department of Growth Management  
Planning and Community Design Division

Voice: (352) 343-9739, ext. 5400 Fax: (352) 343-9595

Email: [rhartenstein@lakecountyfl.gov](mailto:rhartenstein@lakecountyfl.gov)

**PRESUBMITTAL REVIEW COMMENTS**

**To:** Steve Greene, AICP, Chief Planner

**Through:** Brian Sheahan, AICP, Planning Director

**From:** Rick Hartenstein, Senior Planner

**Re:** Lake Susan – Jodi Fisher & Randy Holihan (Applicants)  
Presubmittal Comments

**Date:** October 27, 2008

**DRS MEETING DATE:** November 13, 2008

**TYPE OF DEVELOPMENT:**

Residential  
Subdivision

Multi-Family  
Site Plan

Commercial  
Site Plan

Industrial  
Site Plan

Other (specify): **Presubmittal Application**

Proposed Use of Property: **(2) 3-Story 20 Unit Condominiums with Basement Parking, Community Pool, Marina w/Second Story Restaurant, and Pier Bar (Based on Conceptual Plan submitted by Applicant)**

**ZONING AND LAND USE CHONOLOGY:**

On December 17, 2004 a Special Master's (SM) proceeding (File # SM-11-01) was held and the recommendation regarding this project was provided to the affected parties. The Board of County Commissioners (BCC) accepted the Special Master's recommendation at the January 25, 2005 BCC public hearing on the County Manager's Consent Agenda, copy attached. The SM recommended a Comprehensive Plan amendment (FLU) AND rezoning suggesting a mixed-use PUD thereby addressing the 16 items alluded to on Page 2 of the recommendation.

On June 1, 2005, a Small-Scale Land Use Plan Amendment (SLPA#05/8/1-2) and a request to rezone 6.6 acres from R-3 & R-1 w/CUP to PUD (Planned Unit Development) (PH#72-05-2) to run concurrent with SLPA#05/8/1-2 was filed by Steven J. Richey, Esq. & Jimmy D. Crawford, Esq. representing the property owners Wolfgang Dueren/Lake Susan Lodge Trust. The request was to change the Future Land Use Category (FLUC) from Green Swamp Area of Critical State Concern (GSACSC) Transitional (1 du/5 ac. base density) to GSACSC Ridge (4 du/1 ac.). This request was presented to the Land Planning Agency (LPA) on August 18, 2005 with a staff recommendation of denial. The LPA voted 7-2 for denial of the request to change the FLUC from Transitional to Ridge, (copy of LPA minutes attached). This

case came before the BCC on September 27, 2005 at which time the applicant (Mr. Richey) withdrew the application for the SLPA and the existing FLUC of Transitional remained.

On September 7, 2005, after the withdrawal of SLPA#05/8/1-2, staff presented PH#72-05-2, (a request to rezone 6.6 acres from R-3 & R-1 w/CUP to PUD), to the Zoning Board with a recommendation of denial due to inconsistencies with the Comprehensive Plan. The Zoning Board heard all arguments from staff, the applicants, and people for/against the application. Based on all the information heard, the Zoning Board voted 6-0 to recommend approval of the PUD zoning for 15 units (copy of minutes attached). On September 27, 2005 staff presented the case before the BCC and gave a recommendation of denial based on incompatibility the Comprehensive Plan (Comp Plan) and Land Development Regulations (LDR). The BCC heard all arguments from staff, the applicants, and people for/against the application. Based on all the information heard, the BCC voted 5-0 to uphold the Zoning Board recommendation for approval of Ordinance #2005-86 approving the PUD Zoning.

On August 3, 2007 a presubmittal application was submitted by Florine Walters with Jupiter USA, Inc. The proposed project is consisting of 15 condominiums, a pool, and converting the existing restaurant into a community building. This application was withdrawn on August 15, 2007.

On December 7, 2007 another presubmittal application was filed by Florine Walters (Jupiter USA, Inc.) under the project name of "Yacht Club at Lake Susan, LLC PUD." On December 27, 2007 a DRS meeting was held where the inconsistencies with the Comp Plan were discussed together with the other reviewing department's comments.

On October 23, 2008 the County received another presubmittal application from Jodi Fisher & Randy Holihan. The application was filed under the project name Lake Susan. The request based on the conceptual plan is for two 3-story 20 unit condos of unknown size totaling 40 units, a community pool, marina with a 2<sup>nd</sup> story restaurant over submerged land, and a pier bar.

WILL REQUIRE F.L.U.M. AMENDMENT: Yes  No  TO WHAT LAND USE?  
**In order to develop the property at a density (4 du/ac), a Future Land Use Map amendment from Transitional to Ridge will be required. Even if the FLUC was changed to Ridge, the property's size would only allow a maximum of 20 units. This presubmittal application request exceeds the base density of Ridge by 20 units with or without the restaurant. Comprehensive Plan Policy 1-1.13(1)(h)(2) restricts residential building height to a maximum of forty (40) feet.**

WILL REQUIRE REZONING: Yes  No  **It will be necessary to amend the Planned Unit Development (PUD) as the present zoning only permits a total of 15 townhome units. As proposed, 3-story complexes are recognized as multi-family dwelling units, which is not a permitted use covered in the PUD Ordinance. However, the present zoning (PUD) granted by Ord. 2005-86 is inconsistent with the Future Land Use Category (FLUC) of Transitional with a base density of 1 dwelling unit to 5 acres. Based on what has been submitted, 40 units are not obtainable even if the FLUC was changed to Ridge (4 du/ac base density). The units possible under the current land use are one dwelling unit. The proposal exceeds the possible density allowed by the Transitional FLU by 39 units, and timeliness has not been applied for.**

#### **DEVELOPMENT REVIEW (Items/Issues to be referenced as applicable)**

Outside agency approvals, as required (SJRWMD, DEP, U.S. Army C.O.E., etc.) received? **No outside agency approvals have been received at this time. St. Johns River Water Management District Stormwater Permitting will be required if the density issues are corrected and this proposed project moves forward as a plat or site plan. Please note, if development is proposed over the waters of the state or impacts to wetlands, you will be**

**required to obtain Federal and/or State permits together with County permitting prior to any construction. Be aware the Comprehensive Plan limits development within wetlands and over submerged land to passive recreational uses and water dependent activities.**

Environmental concerns (wetlands, wildlife habitat, etc.) addressed? **Wetlands and environmentally sensitive areas will be a concern as the proposed project is located in the GSACSC and along the shore line of Lake Susan, classified as an "Outstanding Florida Water" (OFW). Is an Environmental Assessment required? An environmental survey meeting the requirements the Land Development Regulations (LDR), with special attention to LDR Section 6.04.02, will be required and should be submitted with the Site Plan or Preliminary Plat application.**

Floodplain info provided? **Floodplain information shall be provided with the Site Plan or Preliminary Plat application meeting the submittal requirements contained in Section 14.07.03 and 14.07.04 LDR for Preliminary Plat and Section 14.09.00 LDR for Site Plans. All proposed structures shall meet the requirements the Comp Plan and LDR, with special attention to Policy 1-19.3 Comprehensive Plan and Section 9.07.00 LDR.**

Landscape and other buffers provided? **Landscape and other buffers shall be provided in accordance with Section 9.01.00 LDR for landscaping and Wetlands in accordance with Section 6.01.05 LDR. Please be aware that a new landscape ordinance is under review and is anticipated to be adopted in the very near future. This new landscape ordinance may affect the proposed project.**

Access Management and ROWs correct? **Access shall be governed by the access management requirements set forth in the LDRs. This will be commented on by the Public Works Department.**

Water/sewer plans? **Lake County Environmental Health will provide comments regarding water and waste water.**



**LAKE COUNTY**  
FLORIDA

Lake County Department of Growth Management  
Planning and Community Design Division

Voice: (352) 343-9739 x5832

Fax: (352) 343-9595

gwenrick@lakecountyfl.gov

**PRE-SUBMITTAL COMMENTS**

---

To: Applicant and Rick Hartenstein, Senior Planner

Through: Steve Greene, AICP, Chief Planner

From: Grant Wenrick, ASLA Landscape Architect

Re: **Lake Susan Lodge – Pre-Submittal**

Date: November 5, 2008

---

- 1) During the construction plan submittal, a landscape plan shall be signed and sealed by a registered landscape architect.
- 2) Landscape requirements of the Joint Planning area within Clermont shall be adhered to per Lake County LDR 15.02.08. The applicant is highly encouraged to work with the City of Clermont as they often ask that additional Clermont Development Codes are met if the applicant signs a Utility Agreement with the City. Please contact Curt Henschel at the City of Clermont for information at 352-394-4083 Ext. 313.
- 3) Specifically a landscape buffer type B shall surround the perimeter of the property. Landscape buffer type B consists of four (4) required canopy trees and a continuous single row of screening shrubs per one-hundred linear feet. The minimum required canopy tree size shall be 2" to 2-1/2" Caliper x 8' Height x 4' Spread. The minimum required screening shrub shall be 3-gallon or 30" height. Landscape buffering along the southwestern and northeastern property line shall utilize a wall or fence per LDR Section 3.05.00 (B) and (C). The wall or fence shall be of sufficient height to screen from view any vehicles from the adjacent residential zoned property.
  - a. Additionally per Ordinance 2005-86 paragraph (D) (2) a landscape buffer type B shall be shown between the residential and commercial portion within the development as well.
  - b. A minimum of six (6) required canopy trees are required per upland acre of development; please demonstrate this calculation on the landscape plan.
  - c. At least one (1) canopy tree shall be shown at the ends of all rows of parking and in all the landscape islands. There shall be no more than fifteen (15) consecutive parking spaces or one hundred and sixty (160) linear feet of parking spaces before being broken by a minimum two-hundred square foot landscape island with one (1) canopy tree.
  - d. Existing qualifying canopy trees may be used to meet buffering or parking provided the trees are identified on the landscape plan and are located in the appropriate place to receive required tree credit. Please see table 9.01.03.E.10.f for a listing of existing tree credits based on caliper sizes.
  - e. FYI – landscape other than turf or low groundcover shall not occur seven and one-half feet from the front and sides of a fire hydrant and four feet to the back.
  - f. At least two different species of trees and shrubs shall be utilized.

- g. Please maintain clear sight lines at intersections and around buildings.
  - h. An automatic irrigation system with a rain sensor shut-off device shall be required when the landscape plan exceeds one-thousand square feet.  
Please make a note on the landscape plan to reflect this requirement.
- 4) Tree Removal Permit shall be filed with the construction plans for any protected trees that are slated for removal. Please see the plan requirements on the removal permit for requirements. Currently at least one-third (1/3) of the trees slated for removal must be replaced on site. If the amount of removed trees exceeds the amount provided by buffering and parking requirements, then additional trees shall be required. Protected trees classified as wetland trees of any size shall be replaced at the one-third (1/3) replacement ratio.
- 5) Address how your plan appears to alter the wetland to the northeast and the existing 2005-86 Ordinance states that natural wetlands shall be left in an unaltered state. Either the plan needs to be updated or the Ordinance shall be updated to reflect the proposed conditions.
- 6) Currently, there is a proposed update (not yet adopted) to the landscape code that states:
- a) Development Approval must be received by May 18, 2009 and one of the two following scenarios:
    - Projects must have received a pre-submittal letter dated by October 1, 2008 **OR**
    - Completed application prior to November 18<sup>th</sup> 2008.
  - Two of the three criteria must be met to use the existing landscape code. However, until the provisions are formally adopted by the Board we can not give a specific response at this time. Our assumption is that the Board will allow for flexibility for some projects that are pending or very near being submitted. It is also Staff's position that there should be some transition time before the new standards would apply. Thus, the cut-off dates listed above are subject to change and shift into the future potentially. At this time the final public hearing date has not been set as the Commission is requesting one more workshop.

You may have your landscape architect call me, Grant Wenrick, with any questions at 352-343-9739 Ext. 5832. We do currently require that commercial plans over one-half acre must be signed and sealed by a landscape architect.



Charlie Crist  
Governor

Ana M. Viamonte Ros, M.D., M.P.H.  
State Surgeon General

---

**Date:** November 5, 2008  
**To:** Rick Hartenstein  
**From:** Marcelo J. Blanco, Environmental Specialist II  
**Subject:** Presubmittal Memo for "Lake Susan"  
**Section/Township/Range:** 01-23-25  
**JPA:** Clermont

**Comments:**

- Future submittals will need to address wastewater issues at this location, the application lists "unknown" as the water & sewer provider.
- Future submittals will need to provide a site plan locating all wells and septic systems on this property and within 100-ft of the property lines.
- Future submittals will need to show the location of the existing lift station, pool, and grease traps on this property, as well as the transmission lines from the lift station leading off of the property and from the existing buildings to the lift station.
- Existing septic systems will need to be abandoned (DOH permits & inspections required).
- The existing pool will need to be properly abandoned.
- If not used, the existing lift station will need to be properly abandoned (DEP permit & inspection).
- If the existing lift station will be used, provide a letter from the controlling utility stating that service and capacity are available for this project. Any proposed changes to the lift station and its associated system (to include changes in capacity or character of sewage) must be approved through the DEP.
- No bathing areas can be permitted without DOH approval.
- Public swimming pool construction (to include spas) requires construction plan approval through the DOH regional engineer's office, and, prior to use – an operating permit through the local DOH office in Lake County.
- Future submittals will need to label whether the proposed retention area is designed normally-wet or normally-dry.

# MEMORANDUM

**PUBLIC WORKS DEPARTMENT**  
*Engineering Division*  
437 Ardice Avenue  
Eustis, FL 32726



**LAKE COUNTY**  
FLORIDA

P: 352.483.9052  
F: 352.483.9015  
[www.lakecountyfl.gov](http://www.lakecountyfl.gov)

**To:** Jodi Fisher/Randy Holihan  
**Cc:** Rick Hartenstein  
**From:** Seth Lynch  
**Date:** November 6, 2008  
**Subject:** Public Works comments for Lake Susan Presubmittal

---

Pre-submittal review is an informal, cursory review of the limited preliminary information provided. Eventually when a site plan is submitted by the applicant there maybe additional items required through the review of the plans.

- The project will be required have turn lanes on Lakeshore Drive meeting County standards.
- Additional right-of-way may be required for Lakeshore Drive.
- The project may require County Permits, such as driveway connection permits, right-of-way utilization permits, and others as they apply.
- The project must meet Stormwater Concurrency and Transportation Concurrency before the site plan could be approved.
  - The project shall require Traffic Impact Study (Analysis). Please contact Lake County Public Works for the methodology for the traffic study at (352) 483-9050. (Please submit 4 signed and sealed studies at the time of submitting site plan application or before submitting site plan application.)
  - The project may require St. Johns River Water Management District. If required a copy will need to be received by the County before site plan could be approved.
- The project will need to comply with all Lake County and Department of Environmental Protection (DEP) erosion control practices and St Johns River Water Management District (SJRWMD) requirements.

**Please Note:**

Lake County Public Works may have additional comments and requirements at the time a site plan is submitted for County review. These comments contained in this Memo are informational to help in determining where to proceed with future development.

---

JENNIFER HILL  
*District 1*

ELAINE RENICK  
*District 2*

DEBBIE STIVENDER  
*District 3*

LINDA STEWART  
*District 4*

WELTON G. CADWELL  
*District 5*

# MEMORANDUM

## GROWTH MANAGEMENT

Building Services Division  
315 W. Main Street, Room 523  
Tavares, Fl 32778



LAKE COUNTY  
FLORIDA

P: 352.343.9653  
F: 352.343.9771  
www.lakecountyfl.gov

**To:** Rick Hartenstein  
**From:** Al Sikes  
**Date:** 11/05/08  
**Subject:** Lake Susan (Pre-submittal)

---

Pre-submittal review is an informal, cursory review of the limited preliminary information provided. During the formal review process, additional items requiring correction may be noted.

Please provide **needed fire flow calculations for the building**. Needed fire flow shall be determined using Annex H and Annex I of the Florida Fire Prevention Code. Needed Fire Flow Calculations shall be included on the Site Plan. All required fire hydrants shall be indicated on the plans.

Required fire hydrants shall be located so that all portions of the building can be reached as a fire truck would lay hose by approved fire lines. [Maximum five hundred (500') feet]

Fire Department Access shall be provided in accordance with **Florida Fire Prevention Code**, 2004 Edition

Provide Approved Fire Department Access road in accordance with FFPC 1, 18.2.2. Fire Department access roads shall have unobstructed width of 20' and an unobstructed vertical clearance of 13' 6". Fire Department Access road shall have a surface designed to accommodate fire apparatus with a minimum weight of 32 tons.

The angle of approach and departure for any means of fire department access shall not exceed 1 ft drop in 20 ft (0.3 m drop in 6 m), and the design limitations of the fire apparatus of the fire department shall be subject to approval by the AHJ.

Fire Department access roads shall be provided such that any portion of the facility, or any portion of an exterior wall of the first floor of the building is located not more than 150' from fire department access roads as measured by an approved route around building.

When the building is protected with an approved Fire Sprinkler System, the distance is permitted to be increased to 450ft.

---

JENNIFER HILL  
District 1

ELAINE RENICK  
District 2

DEBBIE STIVENDER  
District 3

LINDA STEWART  
District 4

WELTON G. CADWELL  
District 5

A fire department access road shall extend to within 50' of a single exterior door providing access to the interior of the building.

Dead end fire department access roads in excess of 150 ft. in length shall be provided with approved provisions for turning around of fire apparatus.

Required fire lanes shall be provided with the inner edge of the roadway no closer than 10' and no farther than 30 feet from the building. Such lanes shall have a surface designed to accommodate fire apparatus with a minimum weight of 32 tons.

Fire lanes shall be marked with freestanding signs with the wording "**NO PARKING FIRE LANE BY ORDER OF THE FIRE DEPARTMENT**" or similar wording. Such signs shall be 12" by 18" with a white background and red letters and shall be a maximum of 7' in height from the roadway to the bottom of the sign. The sign shall be within sight of the traffic flow and be a maximum of 60 feet apart (FFPC 1, 18.2.2.5.8).

Underground mains supplying Fire Protection Systems, including fire sprinkler systems, and fire hydrants shall be installed by a licensed Fire Sprinkler Contractor. A permit is required before installation. All piping shall be hydrostatically tested at 200 PSI. Please note this on the plans.

Designate the Point Of Service for Fire Protection Systems. Tamper switches for valves controlling Fire Protection Systems shall be indicated on the Sign Plan.

Fire Department Connections shall be identified by a sign that states "NO PARKING, FIRE DEPARTMENT CONNECTION". Appliances shall have a clearance of seven and one half (7 ½') feet in front of and to the sides the appliances as required by FFPC 1, 18.3.4.2 and FFPC1, 18.3.4.3.

Al Sikes, Chief Fire Inspector  
Division of Building Services  
Department of Growth Management  
Fifth Floor of Administration Building (Round Building)  
315 West Main Street  
Tavares, Florida 32778

Phone: (352) 343-9653 Extension 5407  
Cell: (352) 636-5590  
Fax: (352) 343-9771  
Email: [asikes@lakecountyfl.gov](mailto:asikes@lakecountyfl.gov)



# LAKE COUNTY

---

## FLORIDA

### MEMORANDUM

To: Rick Hartenstein, Senior Planner

From: Jennifer Cotch, Environmental Specialist

Date: October 28, 2008

Re: Lake Susan Lodge Presubmittal Application

---

1. Please submit an Environmental Survey (Preliminary Environmental Assessment) to identify surface waters or wetlands (isolated or non-isolated) to be delineated by a wetland jurisdictional line (WJL), upland communities according to the FLUCFCS (include S2 or S3 ratings), threatened, endangered, or species of special concern by the FF&WCC, and an inventory of any wildlife corridors identified by the FGFWFC, FDEP, FNAI, and /or ECFRPC.
2. Site Plan should indicate the following:
  - a. Wetland Jurisdictional Line (WJL)
  - b. Base Flood Elevation
  - c. 25' Upland Buffer Setback Line from WJL
  - d. 50' Building Setback Line from WJL
  - e. 100' Setback Line for septic tank and drain field from WJL
  - f. Typical detail plan for building, including the well and septic system with appropriate setbacks noted, for at least the most restrictive lot

3. Please clearly mark the mean high water line on plans
4. The proposed project is located within the Green Swamp Area of Critical State Concern. All proposed development within this area, unless otherwise exempt, must provide a Master Land Use Plan. The Master Land Use Plan shall include, but not be limited to, the following:
  - a. A description of the scope of the proposed Development which shall include:
    - (1) The planning and engineering considerations to be used in achieving the objectives of this Code.
    - (2) The number of Dwelling Units, commercial acreage and square footage, the total Lot coverage, and the percentage of Open Space to be preserved.
    - (3) An implementation and phasing schedule.
    - (4) A concept Site Plan.
    - (5) A Site restoration plan.
  - b. Certified maps of the Site from a registered Professional Engineer or geologist, or soil Conservation survey which shall include:
    - (1) A soil analysis prepared by a Professional Engineer or geologist registered in the State of Florida or the U.S. Soil Conservation Service which is sufficient in detail to meet the requirements of this Chapter.
    - (2) The topography in not more than one (1) foot contours in the Wetlands and flatwoods and two (2) foot contours in the Uplands.
    - (3) The Flood prone areas of the particular Site.
  - c. A statement by a registered Professional Engineer or geologists indicating expected changes in the quality and quantity of ground water Discharge and artisan Aquifer Recharge of the Site before, during, and after Development and specifying any measure necessary to approximate existing quality and quantity in surface and ground waters.
  - d. A statement or Assessment by a registered Professional Engineer that Drainage Facilities Shall release water in a manner approximating the natural local surface flow regime, through a spreader pond of performance equivalent Structure or system, either on-site or to a natural Retention or natural filtration and flow area.
5. As stated in Ordinance # 2005-86, wetlands must be placed in a conservation easement to protect and maintain their natural and unaltered state. A copy of the recorded conservation easement would be required prior to site approval.
6. Please provide state and federal authorizations for the proposed docks over surface waters.
7. Please provide a copy of the lease agreement with the State of Florida allowing the proposed structure and proposed use over sovereign submerged lands

# Memo

To: Rick Hartenstein / Lake County  
From: Curt Henschel, Principal Planner City of Clermont  
CC: File  
Date: 11-04-08  
Re: Lake Susan Lodge – Pre Submittal

---

The City of Clermont Staff does have concerns regarding the proposed development.

1. The proposed density increase of 40 units.
2. Any changes proposed to the Future Land Use Map.
3. Development within the 100 year flood plain.

The City and the County have developed the Clermont Joint Planning Area regulation for reasonable growth within the area, and any deviation from the JPA regulations would go against the mission set out for the development of the Clermont Joint Planning Area.

IN AND BEFORE A SPECIAL MASTER  
IN AND FOR LAKE COUNTY, FLORIDA

LAKE SUSAN LODGE TRUST,

File No. SM-11-01

Petitioners/Owners,

vs.

LAKE COUNTY, FLORIDA,

Respondent.

---

SPECIAL MASTER'S RECOMMENDATION

This matter was heard by the undersigned Special Master pursuant to the provisions of the Florida Land Use & Environmental Dispute Resolution Act (F.S. §70.51) and Lake County Code Sections 14.20, et. seq., according to which the Special Master issues the following findings, conclusions and recommendations:

1. Background.

A. Subject Property. The Lake Susan Lodge is a facility located on an approximately seven (7) acre parcel of property bordering the shores of Lake Susan and Lakeshore Drive south of Clermont in south Lake County (the "lodge property"). It was developed as a lodge in the 1940's and has been continuously operated since then in various forms as a fish camp with cottages, marina, restaurant and other mixed used facilities. The lodge property is located within the transitional land use classification in the Green Swamp Area of Critical State Concern. Although the property enjoys an R-3 zoning classification which would potentially allow up to three (3) units per acre, the transitional land use classification and

location within the Green Swamp Area of Critical State Concern significantly limit the uses of the facility. However, the property has been operating for many years as a legally non-conforming use pursuant to Lake County Conditional Use Permit 624-3. The conditional use permit, among other things, permits the construction and operation of the lodge and marina which consists of various mixed uses. The property appears to have deteriorated from its 1940's vision and now consists primarily of a restaurant, numerous boat slips and stalls, a boat ramp and several cottages, some of which are no longer in use. The property is located on Lake Susan and is surrounded on its other three sides with residential communities including Osprey Pointe, an upscale community located directly across Lakeshore Drive from the lodge.

It is an understatement to state the lodge as it currently exists would not be allowed to be constructed today. The lodge was constructed prior to current environmental protection ordinances and laws and, as a legally non-conforming use, is allowed to remain in nonconformity with regulations regarding storm water runoff, parking, landscaping and regulatory issues. The Petitioner seeks to develop the property in conjunction with a neighboring parcel owned by Wolfgang Dueren ("the Dueren property") as "Lake Susan Landing" a twenty-one (21) townhome unit, age restricted community. Although various densities have been proposed, the final proposal as stated from the developer is as follows:

- (a) Remove all (15 existing, 18 permitted) motel units.

- (b) Removal of permitted package/convenience store.
- (c) Eliminate nonconforming wetland setbacks.
- (d) Eliminate direct stormwater runoff into Outstanding Florida Water ("OFW").
- (e) Treat all stormwater on the lodge property and the Dueren property to Outstanding Florida Water standards.
- (f) Connect all development on the lodge property and the Dueren property to central sewer.
- (g) No removal of protected trees.
- (h) Upgrade to code requirements all nonconforming parking and landscaping.
- (i) Close nonconforming driveway entrance.
- (j) Close the permitted boat ramp.
- (k) Construct 18 townhome units on the lodge property.
- (l) construct 3 townhome units on the Dueren property.
- (m) All townhome units will be age-restricted, adult only.
- (n) Entirely landscaped in Florida-friendly, drought resistant landscaping, no turf grass.
- (o) No underground irrigation system.
- (p) Eliminate all paved areas within fifty feet of Lake Susan.

B. Procedural History. The Petitioner met with Lake County's Growth Management Department staff in 2001 to discuss renovation of the lodge property. Petitioner's proposed uses of the property were inconsistent with the existing zoning and comprehensive plan land use for the property, and staff issued a letter to document this fact. Staff verbally indicated that support for a rezoning or comprehensive plan amendment would be difficult or impossible due to the Green Swamp critical area designation. In part due to the unique nature of the property, the parties discussed the possibility of resolution through the mediated portion of the Special Master proceedings. Subsequent to these discussions and without filing any formal application, the Petitioner filed its request for relief. Although the County responded, among other things, that the Request for Relief was untimely and not eligible for Special Master

proceedings, the County largely acquiesced to continue with the Special Master proceeding. Because the property was in the Green Swamp Area of Critical Concern Area, the Florida Department of Community Affairs was added as a party and has participated in the proceedings. Three separate mediation conferences have taken place on December 14, 2001, June 11, 2003 and June 28, 2004 resulting ultimately in an impasse.

2. Legal Analysis and Conclusions of Law.

Florida Statute 70.51, the "Florida Land Use and Environmental Dispute Resolution Act" ("the Act"), exists to provide relief for "any owner who believes that a development order, either separately or in conjunction with other development orders, or an enforcement action of a governmental entity, is unreasonable or unfairly burdens the use of the owners property." F.S. §70.51(3). The Act's provisions are to be "liberally construed to affect fully its obvious purposes and intent...in resolving disputes." F.S. §70.51(29). It is therefore understandable in light of the unique challenges that the Lake Susan Lodge property brings with it to understand why the Special Master proceeding was tempting both to the County and to the Petitioner. At least initially, the parties in good faith were attempting to carry out the intent of the Act to resolve a dispute and for this they should be applauded.

Unfortunately, the undersigned's authority as a Special Master is limited by the Act. Specifically, the Act requires as a prerequisite to relief that a "development order...or an enforcement action of a

governmental entity, is unreasonable or unfairly burdens the use of the owner's real property". No enforcement action is at issue in this case. Therefore the request for relief must be in response to a development order. The Act specifically defines this term as follows:

"Any order, or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit, and includes the rezoning of a specific parcel. Actions by the state or a local government on comprehensive plan amendments are not development orders"

In this situation, no development order was issued. The only documented action was a letter from the County acknowledging that the proposed uses would require a comp plan amendment and a rezoning. Although it is tempting to find otherwise, this does not rise to the level of a "development order" and therefore the request for relief was legally, technically premature. Moreover, the Act specifically provides that "before initiating a special [master] proceeding to review a local development order or local enforcement action, the owner must exhaust all non-judicial local government administrative appeals if the appeals take no longer than 4 months." In this case, no application was filed much less were any appeals taken. It is believed, however, by the undersigned that the Special Master proceeding was originally encouraged by the County to the Petitioner as an effort to resolve the dispute so it is difficult to "punish" the Petitioner for pursuing relief.

The Act provides that "if an acceptable solution is not reached by the parties after the special [master's] attempt at mediation, the special [master] shall consider the facts and circumstances set forth in the request for relief and any responses and any other information produced at the hearing in order to determine whether the action by the governmental entity or entities is unreasonable or unfairly burdens the real property." F.S. §70.51(17)(b). "If the special [master] finds the development order at issue, or the development order or enforcement action in combination with the actions or regulations of other governmental entities, is not unreasonable or does not unfairly burden the use of the owner's property, the special [master] must recommend the development order or enforcement action remain undisturbed and the proceeding shall end, subject to the owner's retention of all other available remedies."

In this case, quite simply, the undersigned cannot find that the development order or enforcement action were unreasonable or unfairly burdensome because there was no development order or enforcement action. Therefore, subject to the recommendations below, it is concluded that the Special Master proceedings shall end and the owner is free to proceed all other available remedies, including, but not limited to, proceeding a comprehensive plan amendment and rezoning as recommended below.

3. Recommendation.

It is evident that the current situation is in no one's best interest. The Petitioner is frustrated because the waterfront

property is not being used in anyway approaching its highest and best use. The Department of Community Affairs cringes at this classic example of development in "the good old days" before environmental regulations involving stormwater runoff, water retention, wetland setbacks, impervious surface standards and the like were enacted. Lake County sees the need for a more environmentally friendly site as well as a property that is more in keeping with the surrounding neighborhood and positively adds to the community, not to mention the tax base.

The Act provides that:

"A special [master's] recommendation under this section constitutes data in support of, and a support document for, a comprehensive plan or comprehensive plan amendment, but is not, in and of itself, dispositive of a determination of compliance with chapter 163. Any comprehensive plan amendment necessary to carry out the approved recommendation of a special [master] under this section is exempt from the twice-a-year limit on plan amendments and may be adopted by the local government amendments in s. 163.3184(16)(d)."

Additionally, although the Lake County Code states that "the special master's recommendation shall be advisory only and not binding on the owner or the County", [L.C. Code §14.20.23(A)], it also provides that "the special master's recommendation constitutes data which shall be considered with respect to any pertinent amendment to the comprehensive plan". (L.C. Code §14.20.23(B)).

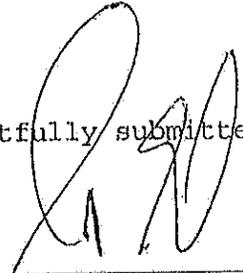
The Petitioner's proposal is summarized as sixteen (16) enumerated items set forth above (beginning on page 2). Of those sixteen items, all parties unanimously endorse at least thirteen of

the sixteen items. Only items k, l and m, which essentially propose to construct 21 age restricted adult only townhome units on the lodge property and Dueren properties, are controversial. The County and DCA are not against some units being constructed but it is the density that needs to be resolved.

Were this matter to move forward, a comp plan amendment and rezoning would need to be pursued. In doing so, it would be recommended that proposal items a-j and n-p be enacted and that the restaurant and docking/marina facility be limited in a trade off for proposed residential units. If all environmental proposals are implemented, a residential density similar to the existing cottage facilities (or exceeding the existing facility if the other non-residential areas are limited) should be appropriate. In doing so, as many aspects of the historic nature of the lodge property, an example of yesteryear in Florida, should be preserved. It is believed that a mixed use land use classification in the nature of a planned unit development with stringent environmental conditions to meet any concerns of the DCA and the Green Swamp Area of Critical State Concern should be developed. Comments from neighboring property owners need to be given significant weight in considering the comprehensive plan amendment. The DCA is encouraged to help with any approvals or state authorizations necessary because of the Green Swamp designation for the lodge property. The undersigned is confident that Lake County's planning staff as well as the Planning and Zoning Commission and the

County Commission in conjunction with the DCA and the applicant can accomplish this task.

Respectfully submitted,

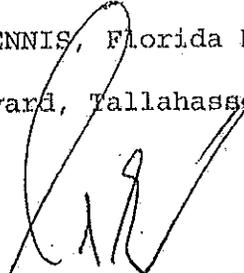


---

Scott A. Gerken, Special Master  
Florida Bar No. 0896632  
Stone & Gerken, P.A.  
4850 N. Highway 19A  
Mount Dora, FL 32757  
Telephone: (352) 357-0330  
Facsimile: (352) 357-2474

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to JIMMY D. CRAWFORD, Esquire, GrayRobinson, P.A., 1635 East State Road 50, Suite 300, Clermont, FL 34711; SANFORD A. MINKOFF, Esquire, County Attorney, Post Office Box 7800, Tavares, FL 32778; and TIMOTHY E. DENNIS, Florida Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-7018, this 17<sup>th</sup> day of December, 2004.



---

Scott A. Gerken

## A REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS

JANUARY 25, 2005

The Lake County Board of County Commissioners met in regular session on Tuesday, January 25, 2005, at 9:00 a.m., in the Board of County Commissioners' Meeting Room, Lake County Administration Building, Tavares, Florida. Commissioners present at the meeting were: Jennifer Hill, Chairman; Catherine C. Hanson, Vice Chairman; Welton G. Cadwell; Debbie Stivender; and Robert A. Pool. Others present were: Sanford A. "Sandy" Minkoff, County Attorney; William "Bill" Neron, County Manager; Wendy Taylor, Executive Office Manager, Board of County Commissioners' Office; and Toni M. Riggs, Deputy Clerk.

### INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Carolyn Richardson, Director, Support Services, Tax Collector's Office, gave the Invocation and led the Pledge of Allegiance.

Commr. Hill noted that Ms. Richardson is a dynamic community leader, and the March of Dimes Volunteer of the Year, and she appreciated her coming today.

### INTRODUCTIONS

Commr. Hill recognized Mr. Jon VanderLey, former mayor of Oakland, who was present in the audience.

### AGENDA UPDATE

Mr. Bill Neron, County Manager, stated that the Board members have been presented with Addendum No. 1, which as one consent item, and two discussion items. Also last week, the Board talked about canceling the February 15, 2005 Board meeting, because of the workshop scheduled for Monday, but no vote was taken by the Board. He would like to add that item to the agenda.

### COUNTY MANAGER'S CONSENT AGENDA

Commr. Hill stated that she would like to pull the request from Procurement Services, for a brief discussion of Item I. A. 1. Addendum No. 1, which addresses the contract for the Transportation Disadvantaged Program.

On a motion by Commr. Stivender, seconded by Commr. Hanson and carried unanimously by a 5-0 vote, the Board approved the County Manager's Consent Agenda, Tabs 1 through 3, as follows:

#### Utility Agreement/Lake Utility Services, Inc.

Request from Growth Management for approval of Utility Agreement with Lake Utility Services, Inc. (Prerequisite to LUSI constructing a water treatment plant on County Road 561), per Lake County Ordinance 2004-9.

#### Special Master Case/Lake Susan Lodge

Request from Growth Management for approval and acceptance of the Special Master Recommendation in Special Master Case SM-11-01 for Lake Susan Lodge.

Resolution/Local Agency Program Agreement/ FDOT

Request from Public Works for approval and signatures on the Resolution 2005-12 and the Local Agency Program (LAP) Agreement the Florida Department of Transportation (FDOT) for CR 48 Paved Shoulders from SR 19 to US 27, FPN 415472-1-A8-01.

ADDENDUM NO. 1  
COUNTY MANAGER'S CONSENT AGENDA -

BOARD MEETINGS/MV TRANSPORTATION, INC.  
TRANSPORTATION DISADVANTAGED PROGRAM

Commr. Hill addressed the request from Procurement Services and stated that she wanted to make sure that Commr. Stivender, who chairs the Transportation Disadvantaged Coordinating Board, and who was involved with the process through Procurement Services, was comfortable moving this forward.

Commr. Stivender explained that the applicants went through the appropriate committees, and they are comfortable with this going forward for negotiations. She noted that the County Attorney was included in the process.

On a motion by Commr. Stivender, seconded by Commr. Hanson and carried unanimously by a 5-0 vote, the Board approved Addendum No. 1, I. A. 1., the request from Procurement Services for approval of MV Transportation, Inc. as the top respondent for the Transportation Operator for the Lake County Transportation Disadvantaged Program and authorized staff to negotiate the contract, for final approval by the Board at a subsequent date as discussed and including the cancellation of the February 15, 2005 Board Meeting.

PUBLIC HEARINGS -  
ROAD VACATION PETITION NUMBER 1041 - HARBOR HILLS DEVELOPMENT  
LADY LAKE AREA - COMMISSION DISTRICT 5

Mr. Jim Stivender, Director of Public Works, addressed the Board to discuss Petition Number 1041, Harbor Hills Development LP, represented by Steven J. Richey, P.A., to vacate a utility and drainage easement, in the Plat of Harbor Hills, Unit 1, Lady Lake area, Commission District 5. Mr. Stivender stated that staff checked these easements, and there are no utilities on them and no need for them in the future, and staff is recommending approval to vacate.

Commr. Hill opened the public hearing and called for public comment. It was noted that Mr. Richey was present. There being no public comment, the public hearing portion of the meeting was closed.

On a motion by Commr. Cadwell, seconded by Commr. Pool and carried unanimously by a 5-0 vote, the Board approved Vacation Petition Number 1041 by Harbor Hills Development LP, Representative Steven J. Richey, to vacate a utility and drainage easement, in the Plat of Harbor Hills, Unit 1, located in Section 13, Township 18, Range 24, in the Lady Lake area - Commission District 5, and the execution of Resolution 2005-13.

**CASE NO:** SLPA #05/8/1-2

**OWNER:** Wolfgang Dueren/Lake Susan Lodge Trust

PAGE 1

**AGENT:** Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

John Kruse, Senior Planner, Planning and Development Services presented the staff report on the Small Scale Amendment Transmittal for Lake Susan Lodge, number SLPA#05/8/1-2.

Mr. Kruse said this was a request to change the Future Land Use Designation from Transitional Green Swamp Area of Critical State Concern (GSACSC) to Ridge (GSACSC). He explained this change was requested under the direction of a Special Master's Recommendation (SM-11-01). He said the fishing lodge was a non-conforming use and gave an explanation of the buildings and uses on the site. The owners have proposed replacing the rental cottages with 18 townhouses and to include 3 additional units on the adjacent property owned by Mr. Dueren for a total of 21 units on 6.6 acres. They would also like to keep the existing restaurant.

Mr. Kruse said the transitional future land use category limits the density to one dwelling per five acres unless timeliness is met in which case the density could be one dwelling per acre without the restaurant. The requested Ridge Future Land Use designation would allow up to four units per acre. The Geographic Information Systems (GIS) analysis shows 1.3 acres of wetlands and 2.1 acres within the 100-year floodplain. The current Land Development Regulations (LDRs) applicable in the Clermont Joint Planning Area (JPA) prohibit any alteration in the 100-year flood plain, which leaves a little over four acres available for development. After deducting land for roads and stormwater systems the average lot size would be one-half acre.

Mr. Kruse said neighboring development is on lots approximately one-half acre in size. He said the surrounding area is all single family dwellings and the owner is requesting townhouses. The owner is proposing a Planned Unit Development (PUD). According to the LDRs a PUD must have a minimum size of at least 10 acres and 60% of that is to be reserved for open space, which would leave a significantly diminished area available for development.

Mr. Kruse said if the future land use were changed to Ridge it would be the only parcel so designated in this section or any of the adjoining sections. In addition the Ridge designation is a land use that is scientifically based.

The only items not agreed upon in the Special Master's Recommendation are those which propose to construct 21 age restricted town home units on the Lodge property and that of Dueren. The agreement states that density remains to be resolved and staff is opposed to the number and the type of dwellings proposed.

In addition Mr. Kruse said this request is inconsistent with Policy 1-1.14 General Land Use Location Criteria because there is no commercial development adjoining the subject parcel. It is also inconsistent with Policy 1-12.4 titled Density Allocations.

**CASE NO:** SLPA #05/8/1-2

**OWNER:** Wolfgang Dueren/Lake Susan Lodge Trust

PAGE 2

**AGENT:** Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

Mr. Kruse said development of the property under the current land use designation of Transitional, with the subject parcel meeting timeliness would be the best use. If the future land use was changed to Ridge then the density and intensity of this project would be greater than the surrounding area. The staff recommendation is for denial.

Mr. Kruse said a letter had also been received from Peggy Cox in opposition to this request.

Sean Parks asked how the minimum PUD acreage requirement could be waived. Mr. Kruse said the size requirement for PUDs was in the Land Development Regulations.

In response to a question from Mr. Parks, Mr. Kruse thought the property must have been zoned R-3 before the current Comprehensive Plan was adopted.

Mr. Parks asked about the Level of Service (LOS) rating on Lakeshore Drive. John Maruniak, Traffic Engineer, Public Works said the LOS was between C and B on capacity.

Mr. Schue asked if the acreage requirement for a PUD could be waived. Ms. Marsh said the Board could waive that requirement because a PUD was a conditional zoning.

In response to questions from Mr. Schue about the Special Masters Agreement, Sanford Minkoff, County Attorney said under the Property Rights Act the County doesn't have the right to deny a petition from a landowner stating that their property is being overly burdened. He added that this Special Master was never approved or adopted by the County or the Department of Community Affairs (DCA).

When Richard Dunkel asked about the availability of central utilities Mr. Kruse said the County did not have confirmation on the availability of sewer. Because this property is within the Clermont Joint Planning Area (JPA) Mr. Dunkel asked if the City of Clermont had made comment on this request. Mr. Kruse said comments from them had not been received.

Ann Dupee asked how close this property would be to the southern connector roadway. Mr. Kruse said he did not know what the location of that road would be.

Jimmy Crawford, Gray Robinson P.A. said he was representing the applicant along with Steve Richey, Esq. He gave a brief history of the Lake Susan Camp including some of the uses that have been on the site. (Exhibit "A" & "A-1") It was built before zoning and environmental regulations existed. It has deteriorated recently because as a legally existing nonconforming use

**CASE NO:** SLPA #05/8/1-2

**OWNER:** Wolfgang Dueren/Lake Susan Lodge Trust

**PAGE 3**

**AGENT:** Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

renovations are restricted. He said the surrounding area has changed greatly and the Lodge is now surrounded by platted subdivisions (Exhibits "B" & "C").

Mr. Crawford discussed the legal history of the Lodge and presented an Affidavit of Thomas R. Ison, a deceased past owner of the property. (Exhibit "D") He said a Special Master hearing had been recommended by a former Director of Growth Management.

Mr. Crawford explained that the DCA was involved in this process from the beginning. He said the Lodge was an "environmental mess", with storm water running directly into Lake Susan, an Outstanding Florida Waterway (OFW). The restaurant is on sewer but the cottages are not. He said sewer capacity for this project had been reserved through a nearby development.

Mr. Crawford explained the environmental improvements that would be made if this request was approved. He said all the buildings would be on central sewer, all the current code regulations would have to be met, all nonconforming landscaping and driveways would be corrected and the boat dock would be removed. The plan is to construct 18 townhouses on the Lodge property and 3 townhouses on the Dueren property. All the residences would be age restricted and have no impact on schools. All the landscaping would be drought resistant and all pavement within 50' of Lake Susan would be removed.

Mr. Crawford discussed some of the communications with DCA including an e-mail from Rebecca Jetton. (Exhibit "E") Because an agreement had not been reached after 3 years the Special Master wrote the recommendation presented today. Mr. Crawford said that although the agreement was not binding Special Master recommendations are to be considered data in comprehensive plan amendments. He said this application met the conditions of the Special Master agreement. He said the agreement had been approved by the Board of County Commissioners (BCC) and presented a conditional approval letter from the DCA. (Exhibit "F" & "G")

Mr. Crawford said Knight Engineering had completed a traffic study that showed the traffic generated by the townhouses would be less than the current traffic generated by the convenient store and the motel units. (Exhibit "H")

David Jordan was bothered that all land use requests were always for increases in density. He said 15 units would be acceptable to him because it would not be an increase in density. He acknowledged it would increase the tax base, there would be no school impacts and the environmental benefits were considerable. He was concerned how it could be guaranteed that the plan would go forward as presented.

Mr. Crawford explained the PUD would have mandatory conditions attached to it. He

CASE NO: SLPA #05/8/1-2  
OWNER: Wolfgang Dueren/Lake Susan Lodge Trust  
AGENT: Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

PAGE 4

discussed the requested densities.

There was discussion about the Land Plan Amendment and the PUD processes.

Ms. Marsh said all statements made by the Special Master are inadmissible in any judicial or administrative hearing. She said waiving the minimum 10-acre requirement for a PUD would probably require the Applicant to appear before the Board of Adjustment (BOA) for a variance.

Mr. Schue was concerned that this application had in some fashion been reviewed previously by DCA and the BCC. It was his preference not to have these types of procedural changes in the future.

Mr. Schue said his most urgent concern was that this request for a Comprehensive Plan Amendment is within the Green Swamp Area of Critical State Concern (GSACSC). He was concerned this decision would be a precedent. He said the Green Swamp area had been scientifically determined and he did not want that scientific methodology to be undermined.

Mr. Schue said incompatibility with the density of the surrounding area was also a serious concern. He thought the environmental improvements should be done.

Nadine Foley said she was in agreement with Mr. Schue. This parcel is not Ridge and the only reason for that land use to be requested was to increase the density. She would like to see this part of "old Florida" preserved but with the number of units allowed under the current zoning.

Mr. Carey was concerned about improvements that could be made under the current Transitional zoning classification.

Mr. Crawford said some improvements could be made in PUD with less density. He said the Ridge designation was chosen because a PUD is inconsistent with the Transitional Land Use. It is his understanding that without the increase in densities the businesses on this site would continue to operate as they are now.

Mr. Carey did not want to see the Lodge continue as it is. Mr. Crawford said the County Code prohibits structural alterations to legally existing nonconforming uses and therefore renovations are very limited. Mr. Carey said some refurbishing could be done. Mr. Crawford said the current Conditional Use Permit (CUP) requires it be operated just as it is and because of that requirement it is not economically feasible to do extensive improvements.

CASE NO: SLPA #05/8/1-2

OWNER: Wolfgang Dueren/Lake Susan Lodge Trust

PAGE 5

AGENT: Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

Ann Dupee commented on the history of Lake Susan Lodge and on the compatibility issue. She asked about the boat ramp and Mr. Crawford said the boat ramp could be reopened at this time. However, under the PUD they were agreeing to close the ramp.

Mr. Parks asked what was the Applicants lowest acceptable number. Mr. Crawford did not have a number from the owner but he thought perhaps 15 plus 1 unit for timeliness.

Mr. Dunkel said this property was in the Joint Planning Area (JPA) of Clermont and he was concerned that they had not made any comments. Mr. Crawford said the City of Clermont had been notified of this proposed amendment and no comment is in effect a comment. Ms. Newman agreed with Mr. Crawford's statement regarding the lack of comment from Clermont.

Mr. Minkoff said Mr. Crawford was correct and the BCC had considered the Special Master Agreement. He said when properly read the Special Master agreement stated that no relief was warranted to the property owner.

Mr. Minkoff didn't believe it was correct to portray the property owner as victimized by the Special Master process. He said Lake County makes good use of this process to mediate disputes and it has been very successful. The Special Master process is set up to help property owners.

### **Public Comment**

Egory Emory appreciated the history of the Lake Susan Lodge and thought the presence or absence of Clermont should not be open to interpretation. He said the property was not on a ridge it was lakefront and therefore wetlands. He referred to the staff report comments on the incompatibility with the surrounding area. He believed the Comprehensive Plan should not be changed unless there is compelling reason for community benefit.

Nancy Fullerton speaking on behalf of Alliance to Protect Water Resources (APWR) requested this application be denied. She said the number of questions asked by the LPA was evidence regarding the "number of holes" in this plan. She questioned why timeliness had not been done. Ms. Fullerton thought that changing a land use designation in the Green Swamp would be an unfortunate precedent. She commented the environmental gains would be tremendous but thought more consideration should be given to this issue. She thought the council members of Clermont were concerned about this application. Ms. Fullerton said no matter what the traffic study showed the traffic on Lakeshore Drive was bad. She encouraged the LPA to follow the staff recommendation.

John Ryan said he had been a participant in the State study for this land use designation.

CASE NO: SLPA #05/8/1-2

OWNER: Wolfgang Dueren/Lake Susan Lodge Trust

PAGE 6

AGENT: Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

He worked with DCA mapping the Green Swamp. He said the Ridge designation is based on a unique characteristic on the east side of the swamp; where water falling on the Ridge flows into the Green Swamp. They had traveled extensively in Lake and Polk Counties to define the boundary of the Ridge area. He explained this parcel does not have the definitive geological land form required under the Ridge designation and there is no scientific basis to award this property a Ridge designation. He said this property should not be designated Ridge just so the owner can get the density he wants to have.

Vicky Zaneis believed the staff report should be followed. She said this didn't seem to be a common sense location for this type of use.

Rob Kelly, Citizen's Coalition of Lake County, discussed the flood plain issue and the surrounding residential densities. (Exhibits "A", "B" & "C") He said the Citizen's Coalition has been very active in protecting the Green Swamp. Mr. Kelly thought using economic consideration as a reason to change the land use designation would set a very unfortunate precedent. He asked that this request be denied.

Mr. Dunkel asked for clarification on the flood plain issue. Mr. Kruse explained the map presented by Mr. Kelly.

Mr. Crawford said the restaurant is currently on sewer provided by the Ladd development to the south. The motel cottages are on septic. He said he did not understand how people concerned about protecting the Green Swamp would be against this project because of the environmental benefits from this proposed change. He admitted the soils are not Ridge soils. Mr. Crawford thought the primary reason for the Green Swamp designation was based on it's recharge value and yet the area that recharges the Green Swamp is Ridge, which has higher allowable densities. He said this designation was requested for the density. The basis for it was economic, the only way to get the cottages off septic is for there to be a reasonable return to the investors.

Mr. Jordan said great comments had been made by the public including those regarding a precedent being set. Another was the unsuitability of changing a technical designation to allow increased density in the Green Swamp. He did not want to see any density increase in the Green Swamp. He said that consideration of an application is not a precedent. He would like to see the cottages off septic tanks and that making money is not a sin unless someone else is being damaged.

**MOTION by Sean Parks, SECONDED by Michael Carey to deny the land use designation from Transitional to Ridge with the condition that a maximum density of 9 townhouses is appropriate for the site because of the historical uniqueness of the site.**

**CASE NO:** SLPA #05/8/1-2

**OWNER:** Wolfgang Dueren/Lake Susan Lodge Trust

**PAGE 7**

**AGENT:** Jimmy Crawford/Gray Robinson/Steven J. Richey, P.A.

Mr. Schue asked if it was possible to condition the motion.

Ms. Marsh confirmed that Mr. Parks intention was to limit the site to 9 townhouses if the BCC voted to allow the land use change. She explained the BCC could not condition the land use change. She said that would be a zoning issue not a Comprehensive Plan issue.

Mr. Schue suggested amending motion to be for denial.

Mr. Parks asked how the LPA recommendation for a maximum 9 units could be transmitted to the BCC. Ms. Marsh said it would appear in the minutes and it could also be incorporated into a second motion. Mr. Parks said his rational was to get the improvements started on the site.

Mr. Parks withdrew his motion and Mr. Carey withdrew his second.

**MOTION by Sean Parks, SECONDED by Michael Carey to deny the request to change the land use designation from Transitional to Ridge.**

Mr. Schue said he was in support of the motion and this site does not have the Ridge soil characteristics. He added that the economic issues could be addressed in another manner.

Mr. Carey could not support the change from Transition to Ridge. However, he recognized some advantages to this plan and would like to see the plan modified.

**FOR:** Newman, Foley, Schue, Carey, Parks, Dunkel, Elswick

**AGAINST:** Dupee, Jordan

**PASSED:** 7-2

Mr. Parks said the number of townhouses was important to him and he would like to see the positive environmental changes.

There was a 5 minute break.

REZONING CASE SLPA#05/8/1-2 – WOLFGANG DUEREN/LAKE SUSAN LODGE TRUST, OWNERS – JIMMY D. CRAWFORD, GRAY ROBINSON/STEVEN J. RICHEY, P.A., APPLICANTS – TRACKING #77-05-SLPA – TRANSITIONAL TO RIDGE

Mr. Steve Richey, Attorney, addressed the Board and stated that he would like to continue indefinitely Rezoning Case SLPA#05/8/1-2, Wolfgang Dueren/Lake Susan Lodge, Trust, Owners; Jimmy D. Crawford, Gray Robinson/Steven J. Richey, P.A., Applicants; Tracking #77-05-SLPA; a request from transitional to ridge, which will take it off of the agenda. If they need to come back and revisit that, then they will re-advertise and start that over again.

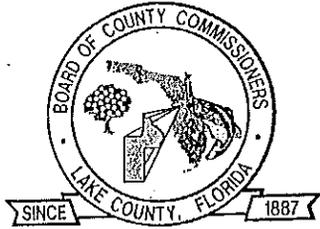
Commr. Cadwell disclosed that, during the break, Mr. Richey and Mr. Jeff Richardson, Planning Manager, Planning and Development Services, were having a discussion about this case, and he overheard the discussion; he was not actually talking to them, and he did not understand what they were talking about.

Mr. Richey stated that the contentious nature of this situation had more to do with the Comprehensive Plan from transition to ridge and rather than deal with that today, he would like to deal with the Planned Unit Development (PUD), and to indefinitely continue that and see if they can resolve it without any kind of Comprehensive Plan amendment. He explained that, if they do a PUD and there is some issue with the State, and they want a Comprehensive Plan amendment, then they would deal with that at that time by re-advertising and starting over.

Under discussion, it was clarified that, by postponing they would go through the re-advertising process again and not have to pay the application fee again; if the Board preferred for them to withdraw the case, they could address the fees.

Commr. Hill called for public comment. It was noted that no one wished to address the Board regarding the request for withdrawal.

No action was taken by the Board.



Lake County  
DEPARTMENT OF GROWTH MANAGEMENT  
315 West Main Street • P.O. Box 7800 • Tavares, Florida 32778-7800  
[www.lakegovernment.com](http://www.lakegovernment.com)

Building Division  
(352) 343-9653 Fax 343-9654  
South Lake  
(352) 394-5962 Fax 394-0197

October 26, 2005

Code Enforcement  
(352) 343-9639 Fax 343-9471

Wolfgang Dueren  
Lake Susan Lodge Trust  
545 DeLaney Avenue, Bldg 7  
Orlando FL 32807

Comprehensive Planning  
(352) 343-9632 Fax 343-9595

Geographic Information  
Systems  
(352) 343-9775 Fax 343-9777

RE: SLPA#05/8/1-2  
PH#72-05-2

Planning & Development  
(352) 343-9739 Fax 343-9595

Dear Mr. Dueren

Public Lands Management  
(352) 343-9648 Fax 343-9595

This is to inform you that on September 27, 2005, the Lake County Board of County Commissioners approved to accept *withdrawal* of the above requested Small-Scale Land Use Plan amendment and approved the above requested rezoning to PUD (Planned Unit Development), as requested with conditions and the clarifications not to expand the existing restaurant beyond its current footprint and no additional seats.

Zoning/Customer Service  
(352) 343-9641 Fax 343-9767  
South Lake  
(352) 394-6466 Fax 394-8226

The Ordinance (#2005-86) has been processed for recording and a copy will be provided to you. An unrecorded copy is being provided for your review.

Should you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,

Mary Harris, Public Hearing Coordinator  
Department of Growth Management  
Division of Planning & Development Services

"Earning Community Confidence Through Excellence in Service"

Tracking #

## DRAFT

CASE NO.:

PH#72-05-2

AGENDA NO.:

16

OWNERS:

Wolfgang Dueren/Lake Susan Lodge Trust

APPLICANTS:

Jimmy D. Crawford, Gray Robinson/  
Steven J. Richey, PA

John Kruse, Senior Planner, presented the case and staff recommendation of denial. He showed the aerial from the staff report on the monitor. This property is located in the Green Swamp Area of Critical State Concern. He noted that the Local Planning Agency heard this request for a small scale land plan amendment to change the future land use from Transitional to Ridge; the Local Planning Agency recommended denial of the request.

Steve Richey was present to represent the case along with Jimmy Crawford. He said this is an example of trying to apply common sense, both with the Land Development Regulations and Comprehensive Plan, to improve a situation that has the potential of deteriorating over the years. The only issue has to do with economic availability and feasibility versus leaving it like it is.

Jimmy Crawford gave a history of this property. He stated that Lake Susan Lodge was established as a fish camp in the 1940s. This is a legally existing nonconforming use. It is located in the Green Swamp Area of Critical State Concern. Since 1991 or 1992, the lodge has become increasingly run down. The owners want to upgrade the property. They contacted the neighbors, who would like to see the motel removed and converted to a residential use. A plan was formed based on environmental improvement. The fish camp was built with disregard to many of the environmental regulations that are in effect at this time. The plan addresses the recommendation of the special master. This would include removing the impervious surface that is within 50 feet of Lake Susan, taking out the boat ramp, putting in an Outstanding Florida Waters (OFW) storm water system, allowing no underground irrigation, and adding Xeriscape. There are two driveway entrances, which is nonconforming under current standards. One will be closed. In addition, the new development will be connected to a central sewer system, which would be provided by the residential development to the south. When the plan for 36 townhouse units was brought to the County, staff was not comfortable with that number. However staff felt it was a good idea and suggested the owners file to go through a special master proceeding. That was in 2001. In 2004, they were still going through the special master process. It was determined that the special master process was not the best way to settle this. A rezoning or/and a land use plan amendment needed to be filed. They went through that process. Three negotiating sessions were held at which density was the only real issue. Mr. Gerken was the special master and wrote the recommendation. He agreed that this was a good idea but the wrong process. Since the project makes sense and everyone agrees that based on the environmental improvements some density is appropriate, he felt a land use plan amendment should be done. The Board of County Commissioners (BCC) approved the special master recommendation, and the applicants filed for a land plan amendment and a rezoning. The Ridge classification is the only classification that he felt clearly allows what they want to do. The Ridge classification is allowed in the Green Swamp Area of Critical State Concern so that is what they applied for.

Mr. Crawford said Department of Community Affairs (DCA) agreed that no more than 21 units should be allowed if all the environmental restrictions are included. The County did not agree with that determination. He explained that all parties to a special master proceeding, in this case DCA, the County, and the owners and the applicants, must accept, reject, or modify the recommendation. He submitted a letter from DCA (Applicant Exhibit A) regarding this recommendation and read a portion of it into the record. Even with the DCA letter, staff continued to recommend denial. In his report, Mr. Kruse said multifamily should only be allowed as a transition between a higher intensity use and a residential use. He felt that is what is being done in this request. They have high intensity use, a commercial restaurant, and residential use across the road. On both sides, they want to buffer that with the townhouses they are proposing. The other policy used as a basis for denial concerned neighborhood cohesiveness. They want to replace a transient motel with upscale townhouses, unit for unit. He submitted eight letters of support from the neighbors in the area as Applicant Exhibit B. He read one of the letters into the record.

Sandy Minkoff, County Attorney, came into the meeting.

*DRAFT*

<b>CASE NO.:</b>	<b>PH#72-05-2</b>	<b>AGENDA NO.:</b>	<b>16</b>
<b>OWNERS:</b>	<b>Wolfgang Dueren/Lake Susan Lodge Trust</b>	<b>PAGE NO.:</b>	<b>2</b>
<b>APPLICANTS:</b>	<b>Jimmy D. Crawford, Gray Robinson/ Steven J. Richey, PA</b>		

Timothy Morris said there has been talk of 12 townhouses, 15 townhouses, and 21 townhouses. He questioned which was correct. Mr. Crawford reiterated that the original plan was for 36 townhouses. When this application was filed, they were under the impression that there were 15 existing motel units on the property. However, when they visited the property they found only 12 units. Some were two-bedroom units. Eighteen units are permitted in their Conditional Use Permit (CUP). They want to replace the existing 12 units on the Lodge property and add three more units, or possibly four if the land plan amendment is approved, on Mr. Dueren's property for a total of 15 townhouses.

Steve Richey confirmed with Mr. Crawford that central water and sewer is available and is currently serving the restaurant. Mr. Crawford added that they have bought capacity for 36 townhouses. Mr. Richey also confirmed that the capacity was reserved when the restaurant was added to central water and sewer.

There was no opposition in the audience.

Greg Beliveau with LPG said he has done a cursory review of the timeliness analysis to determine if timeliness could be met on the property. He submitted an assessment map as Applicant Exhibit C. He noted that the development around the site is quite intensive. He looked at the area within one-half mile radius of the property, and this property can easily meet the "rooftop test" of over 40 percent. It almost reached 70 to 80 percent rooftops within a half-mile radius. He felt this project could meet the transition requirements for timeliness to allow development of this site. They did an aerial search and found the majority of these developments do meet the test of at least over 50 percent, if not 100 percent, of the subdivisions have developed. Staff also stated that the site has some constraints on it that made the site somewhat of a problem to development. He submitted a flood plain acreage map as Applicant Exhibit D and a land use/land cover map as Applicant Exhibit E. This property was developed in the 1940s when environmental constraints were not part of the culture. He pointed out areas of fill material, noting that the actual wetlands on the site have been reduced through impacts historical from the 1940s to the 1960s. He also looked at the 100-year flood plain since it was stated that residential development could not be placed on the site because of 100-year flood plain restrictions. He noted that again through historical impacts, portions of the 100-year flood plain have already been impacted and paved over. Therefore, they can place residential units above the 100-year flood plain so they can design approximately 15 units on this site and comply with open space requirements and other requirements in the Transitional and/or Ridge future land use classification.

In response to Mr. Morris, Mr. Beliveau said he does not have a site plan; but one will be available for the BCC public hearing. The site plan will show compliance for the 15 units. He spoke of the densities in the area that already comply with the Ridge criteria. From a land use prospective, having the Ridge future land use classification at this location could be a good transition. They will be converting to a residential use with a restaurant that is more upscale, which is something the area desires and supports. Mr. Richey confirmed with Mr. Beliveau that the 15 proposed townhouses are consistent and compatible.

Scott Blankenship was informed that the restaurant would remain. The liquor store and boat ramp will be removed. Mr. Richey said that if the restaurant was removed, they would not be adding additional residential units. What is grandfathered and vested is what is being rolled into this Planned Unit Development (PUD). Mr. Crawford said the restaurant is built almost entirely within the 100-year flood plain and wetland areas.

Eric Schwalback, a resident on Lakeshore Drive, five houses from this property, said the entire City of Clermont wants the restaurant to remain. They do not want the existing units on the site. What is there now does not benefit the community. He said the most recent card he got said 15 units were being requested. The neighbors do not have a problem with 21 units. However, they would like that portion of

*DRAFT*

CASE NO.: PH#72-05-2

AGENDA NO.: 16

OWNERS: Wolfgang Dueren/Lake Susan Lodge Trust  
APPLICANTS: Jimmy D. Crawford, Gray Robinson/  
Steven J. Richey, PA

PAGE NO.: 3

the canal cleaned up and the restaurant improved. This project will not affect the schools.

Mr. Richey clarified that these will be adult only homes.

**MOTION** by Donald Miller, **SECONDED** by Scott Blankenship to recommend approval of PUD zoning for 15 units in PH#72-05-2.

**FOR:** Morris, Blankenship, Gardner, Herndon, Miller, Metz

**AGAINST:** None

**NOT PRESENT:** Bryan

**MOTION CARRIED:** 6-0

REZONING CASE PH#72-05-2 – WOLFGANG DUEREN/LAKE SUSAN LODGE TRUST,  
OWNERS – JIMY D. DRAWFORD, GRAY ROBINSON/STEVEN J. RICHEY, P.A.,  
APPLICANTS – TRACKING #87-05-PUD – R-3 & R-1+CUP TO PUD

Mr. John Kruse, Senior Planner, Planning and Development Services, presented Rezoning Case ph#72-05-2, Wolfgang Dueren/Lake Susan Lodge Trust, Owners; Jimmy D. Crawford, Gray Robinson/Steven J. Richey, P.A., Applicants; Tracking #87-05-PUD; a request to rezone from R-3 & R-1+CUP to PUD (Planned Unit Development) for the development of 21 age restricted town homes with the elimination of the current nonconforming uses, except for the existing restaurant on 6.6 acres. As noted in the Summary of Analysis, the applicants are requesting this change under the direction of a Special Master's recommendation (File No. SM-11-01). The Lake Susan Lodge is a facility that borders the shore of Lake Susan and Lakeshore Drive, south of Clermont. The subject parcel is located within the Clermont Joint Planning Area (JPA). The lodge was developed in the 1940's and has continuously operated since that time as a fish camp with cottages, a marina, a restaurant, and other mixed use facilities. The applicants have indicated that the lodge currently features 15 cottage units and related accessory uses; staff has only been able to verify 10 cottages with a total of 12 living units. More detailed information was included in the summary. Since the lodge was developed prior to current laws and regulations, it exists as a legal nonconforming use; termination of this use would require the owner to comply with the present Land Development Regulations (LDRs) and Comprehensive Plan. The owner wishes to replace the 15 cottage units with 18 town home/condominium units, and to construct three additional units on Mr. Dueren's adjacent property, for a total of 21 units on 6.6 acres; and to keep the existing restaurant as part of the overall development plan. Since the parcel lies in the Transitional future land use category, the density is limited to one dwelling unit per five acres, with an increase to one unit per acre, if the parcel meets the timeliness criteria established in Policy 1A-2.1 of the Comprehensive Plan; therefore, at best, they would be allowed up to six units on the subject parcel if the project meets timeliness assuming the removal of the restaurant; the density calculation would have to be lowered to accommodate the existing restaurant. A timeliness study should have been conducted because, if the parcel met timeliness, the maximum allowable density would be one unit per acre. A staff conducted GIS analysis shows that wetlands comprise approximately 1.3 acres of the parcel; about 2.1 acres lie within the 100-year floodplain. The joint LDRs with the City of Clermont allow no alteration of the 100-year flood plain; therefore, a little over four acres could be used for development. As noted, a PUD is the only zoning designation that would permit multifamily development; however, the LDRs requires a PUD to be 10 acres in size; the parcel has a gross area of only 6.6 acres; 60% open space is required with a PUD located in the Transitional future land use category or 40% open space in the Ridge future land use category.

Mr. Kruse explained that the Special Master's recommendation is only a recommendation and is not binding on the County's part. The proposal was summarized as 16 enumerated items; all parties unanimously endorsed at least 13 of the 16 items; items k, l, and m, which essentially proposes to construct 21 age restricted, adult only town home units on the lodge property and Dueren properties, are

controversial. The County and the Department of Community Affairs (DCA) are not against some units being constructed; it is the density that needs to be resolved. None of the 16 items address a Comprehensive Plan amendment; and staff is opposed to the proposed number of town homes to be constructed and the dwelling type. He further explained that the Special Master's recommendation has merit especially in outlining the highest and best use of the subject parcel; however, the development of the property under the current future land use designation of Transitional, with the subject parcel meeting timeliness, appears to be the best use. This determination is based upon the density of the surrounding single-family residences, the Comprehensive Plan, and the LDRs. If the parcel was developed at a ratio of one dwelling unit per acre and clustered on the upland portion of the parcel, the density and intensity would be comparable to the existing single-family residences in the immediate area. If the future land use is changed to Ridge, the density and intensity would be greater than that of the surrounding area; therefore, staff is unable to support the request based upon its incompatibility with the Comprehensive Plan and LDRs.

Commr. Hill opened up the hearing to the applicant or the applicant's representative.

Mr. Steve Richey, Attorney, stated that he is representing the applicant. At the Zoning Board meeting, they reduced the total number of units that they had requested to 15 town houses, which are adult only and, hopefully, to develop it better than what is there now and that was agreed to by everyone. Mr. Richey consulted with Darin Gray, with the City of Clermont, and asked why they had not commented on this request, and their response was that what is being proposed would be better than what exists there now and, therefore, they did not comment. Mr. Richey stated that he has worked on this project for eight years, because he is the one that negotiated the central sewer for the restaurant, and Mr. Jimmy Crawford, Attorney, has been working to resolve the issue with regard to the cabins. He explained that historically there have been 15 cabins, but they were combined and built together to reduce the number. Today they are asking for 15 town houses for adults only on the total piece of property, in addition to the CUP property. They are also asking for approval of a PUD for less than 10 acres and, even though the rules say a PUD must be 10 acres, they are asking the Board to waive the 10 acre requirement in an attempt to do what is better than what exists there today. He explained what exists there today, which included a restaurant, a boat ramp, a gas facility, 23 boat storage facilities, and 13 motel units. He noted that, as he looks at the minutes from the Zoning Board meeting, he felt they pretty succinctly set it forth.

Mr. Jimmy Crawford, Attorney, Gray Robinson, addressed the Board and stated that he is only here because he represented Lake Susan Lodge through this Special Master process, and he wanted to give a brief history of that. In 2001, Tom Eison and Bob Davis were owners and operators of the facility together with Wolfgang Dueren. They had complaints about the property as it became more run down, so they developed a plan for 32 town home units; they brought in to County staff; staff liked the idea but, because it is Green Swamp, staff wanted them to file a Special Master petition. They ran into more problems in the Special Master process; the County did not like their number of units (32); and Rebecca Jetton and the Florida Department of Community Affairs (DCA) did not like it either. They

spent the next two and a half years having three mediation sessions trying to develop a plan that everybody could like and, in the end, they just could not get there, so they had Scott Gerken write his Special Master recommendation. Mr. Crawford reviewed the Special Master Recommendation, items a – p, in the final proposal from the developer, as follows; and the document was submitted to the Deputy Clerk and marked and entered as Exhibit A-1 for the Applicant:

- (a) Remove all (15 existing, 18 permitted) motel units.
- (b) Removal of permitted package/convenience store.
- (c) Eliminate nonconforming wetland setbacks.
- (d) Eliminate direct stormwater runoff into Outstanding Florida Water (“OFW”)
- (e) Treat all stormwater on the lodge property and the Dueren property to Outstanding Florida Water standards.
- (f) Connect all development on the lodge property and the Dueren property to central sewer.
- (g) No removal of protected trees.
- (h) Upgrade to code requirements all nonconforming parking and landscaping
- (i) Close nonconforming driveway entrance.
- (j) Close the permitted boat ramp
- (k) Construct 18 townhome units on the lodge property. **(This number has been reduced to 12)**
- (l) Construct 3 townhome units on the Dueren property.
- (m) All townhome units will be age-restricted, adult only.
- (n) Entirely landscaped in Florida-friendly, drought resistant landscaping, no turf grass.
- (o) No underground irrigation system.
- (p) Eliminate all paved areas within fifty feet of Lake Susan.

Mr. Crawford explained that the Special Master Recommendation was approved by the County and, even though Mr. Kruse has indicated that it is not binding on the County, it was approved by a 5-0 vote by this Board; and DCA has approved it. He reviewed a letter from Valier J. Hubbard, AICP, Director, Division of Community Planning, DCA, which modified the Special Master’s Recommendation, as follows, and the document was submitted to the Deputy Clerk and marked and entered as Exhibit A-2 for the Applicant:

“Accordingly, the Department modifies the recommendation to clarify that any proposed development must be consistent with the future land use element requirements in the Lake county Comprehensive Plan for the 100-year flood plain and open space. If these requirements are met, the Department believes that the recommended density may be appropriate.”

Mr. Crawford stated that they had objections to the land use plan amendment both from staff and others, and they have a letter of objection from Peggy Cox who says that Ridge is not an appropriate land use there. He explained that Ridge land use requires 40% open space; Transition requires 60%. He did not think that they could meet the 60% open space requirement, so he thought they had to go to Ridge. Mr. Greg Beliveau is going to testify that, since they reduced the number of units, they can meet the 60%, so he does not believe that the land use amendment is required and the Board can approve it as a PUD. He stated that it will go to DCA, if it is approved here, for their decision.

Mr. Richey explained, if the Board approves it today, and there is an issue with regard to land use, then that issue will be dealt with independently; the Comprehensive Plan is a separate issue, which is why he withdrew it.

Mr. Greg Beliveau, Land Planning Group (LPG), Mount Dora, addressed the Board and stated that they had been asked to do an analysis on the Lake Susan Lodge, and to look at several components; one is to fit three four-unit buildings and one three-unit building, a total of 15 units, to see if they can comply with the transition land use requirements in the Comprehensive Plan, as well as to do an analysis to verify timeliness on this location. They performed both tasks and coordinated with Griffey Engineering to look at traffic impacts, which resulted in a lower impact because these are age restricted units. Mr. Beliveau noted that they developed several exhibits, as shown, of the surrounding areas that are developed and a timeliness analysis, which were presented to the Deputy Clerk and marked and entered as Exhibits A-3 through A-6 for the Applicant. The area is heavily developed and the densities average around 2  $\frac{3}{4}$  to 3 units per acre; everything to the west and north is developed subdivisions; the surrounding land uses appeared to show urban expansion and transition; the timeliness analysis shows that they exceed the requirement of 40% developable; there is 179.5 acres of wetlands within the one mile radius; Lake Susan Lodge is five acres; open water bodies are over 1,000 acres within that mile acreage; they have over 546 acres being developed in that area; and they meet timeliness. He explained that, with 15 units, they can meet 64% open space on the site; they have no 100-year flood impacts; they have no wetland impacts; and it exceeds the transition requirement of 60%. There were some requirements from some of the abutting property owners that the entry feature be equivalent to what are across the street at Osprey Pointe, and the wall has been included as a requirement. They have no problem complying with the requirements that were in both the transition, as well as those raised by staff; and the density equates to a little over 2.3.

Mr. Crawford noted that Osprey Pointe HOA is here and wants to speak as well.

Mr. Richey noted that, in this site plan, it has them retrofitting and taking out impervious service that was put there since the 1940s and bringing that into compliance.

Mr. Beliveau submitted the proposed site plan to the Deputy Clerk, which was marked and entered as Exhibit A-7 for the Applicant.

Commr. Cadwell wanted to make sure that right now the wastewater is to the restaurant, not to those other units, but that it will be provided to any additions. Mr. Richey clarified that everything shown on the site plan will be on central water and sewer; they bought capacity for the 32 units that were originally proposed but they are down to 15 units today.

Commr. Cadwell wanted to make sure that the applicant can engineer the stormwater with the restaurant in this location and Mr. Crawford noted that this is required as a condition of the PUD; if they cannot, they will have to reduce the number of units.

Commr. Hanson pointed out that the applicant did a good job of clustering.

Commr. Hill opened the public hearing and called for public comment.

Mr. Bernie Woody stated that he is on the Board of Directors for the Osprey Pointe Homeowner

Association (HOA). He stated that the Association has been involved with the architectural design and environmental aspects of the modification and upgrading of Lake Susan Lodge, and they wholly support their activities. They coordinated very well with them on their intentions for the entranceway; they are very sensitive to the water runoff; and they feel that the density is more than compatible with their residents across the street. Mr. Woody submitted a letter from the Osprey Pointe Community Board of Directors dated September 26, 2005, which was marked and entered as Exhibit A-8 for the Applicant.

Ms. Peggy Cox, Oak Island Lane, Clermont, stated that they are opposed to the land use amendment but, since that has gone away for awhile; she wanted to ask a few questions about the rezoning. She is troubled by some of the things but she is also pleased to say that she believes the environmental improvements regarding stormwater and sewer should be taken care of; however, they absolutely could be done under the legal nonconforming use that now exists. Ms. Cox stated that the County held a special master hearing that involved the owners, attorneys, County staff, and DCA, but no decision had ever been made rejecting or approving a rezoning of that property. She stated that this was five or six years ago, and this whole process has excluded input in public hearings.

Mr. Sandy Minkoff, County Attorney, clarified that the property owners came in and made a request of staff to build the units and staff turned them down. Under the Bert-Harris Act, they claimed that this decision by staff was unfair and burdened their property, which brings in this special master process, which is a two step process. The first part is a mediation type process and the second involves a recommendation by the special master to the Board of County Commissioners (Board). All of the adjacent property owners are notified and public participation is allowed and encouraged during that process. In this particular case, as Mr. Crawford indicated, mediation sessions were held and there never was an agreement that could be reached that the staff and DCA felt comfortable agreeing to. The ultimate recommendation by the special master was that the County did not act unfairly and did not burden this property and that no relief was warranted. That recommendation was brought back to the Board, and the Board approved it which basically said that they get no relief under this act but it was not exclusionary. The act requires that all adjacent property owners get notice and are allowed to participate.

Ms. Cox stated that she thinks this is a fine develop, however, she tends to agree with the staff recommendation that, under transitional and meeting timeliness, the density should be what is allowed in single family homes. Once you put that density there, as a variance, you are creating a variance to your PUD ordinance and to several other things. She does not know that four or five single family homes in that area would be a detrimental development and you could certainly achieve the 60% open space and meet all of the other environmental requirements. In looking at the conceptual drawing, the boatsheds were staying and that is a problem. She wanted to know if they were going to be restricted only to the people who own the condo town homes or be rented out as part of the commercial restaurant business. She explained that it would be difficult to have a boat rental/marina without having fuel facilities. It would be different if it was for the owners of the condominiums which are to be built because they would have to provide parking for people who rent the boatsheds and deal with those

environmental issues. Ms. Cox stated that those are her objections to the rezoning, and she is glad to see that they are staying within the open space requirements of transitional and are correcting the environmental hazards.

Ms. Nancy H. Fullerton stated that she is speaking for Alliance to Protect Water Resources. She agrees essentially with what Ms. Cox has said and she knows that the Board has read the comments from the Land Planning Agency (LPA) where she stated their concerns. The main one concern was the land use amendment and, since that hopefully has forever gone away it changes how they look at it. She has made a trade-off list in terms of what the applicant has done, so he has not gone for his land use change; he has kept the density at the current rate of 15. In regards to the boat ramp, if that is for any type of public use, it should not be allowed; if it stays for the residents, then that is another issue. She noted that, when this is in front of the Board, then it is the issue of how much they change the Comprehensive Plan, and there is the question of whether they allow the variance of ten acres, or do they allow the nonconforming use density. Since they are indicating that they meet timeliness, then she would ask why they do not go ahead and do their five or six single family units; she would like to hear them comment on why they are not going that route. She stated that it is great that they are doing all of the environmental changes, but they would have to be done anyway because it would happen with any change.

Mr. Eric Schwalbach stated that he lives on the canal and five houses down from the property. He teaches middle school and he is here today to show the Board pictures that he took this morning of what is currently on the property. He stated that he disagrees because, after talking to people, he has found out that it has continuously gotten worse and, if he thought it was getting better, then he would not be here today. Mr. Schwalbach stated that he would like to see them get rid of the gas tank as much as he likes being able to get gas for his boat. He submitted the 14 pictures to the Deputy Clerk, which were marked and entered as Exhibit A-9 for the Applicant.

Mr. Crawford explained that currently there are 23 slips that exist there, and they are rented out to everyone in the neighborhood. They are going to reserve 15 of those, if they get 15 units for the owners, and only eight will be rented out instead of the entire 23. They are willing to give up the gas tank that exists there now, even though they felt like it offered a community service and it is in an enviro-safe tank but, if the County feels like it is an environmental detriment, they would remove the gas facilities they have there.

In regards to the discussion about them using their timeliness density and building four or five units, Mr. Crawford explained that the restaurant/lodge itself is actually built almost entirely in the 100 year flood in the wetlands, and they would never be able to build it today. The density is calculated on the uplands, so they could actually build the four or five units that they would get using timeliness, not touch the restaurant property at all, not make the environmental improvements, and the project would stay just like it is today.

Commr. Hill wanted to know if there are any specific regulations to address the fuel consumption and fuel tanks if they do keep the tanks on site, and Mr. Kruse noted that there is an

Administrative Code that addresses above ground fuel tanks and two County inspectors would look at that.

Commr. Pool pointed out that there are currently three locations that sell gas, Cyprus Cove, Lake Susan Lodge, and Lake Minneola. He had proposed, as the Clermont Mayor, a dry dock facility, and the environmental people fought dry dock storage.

Mr. Richey reviewed the proposed Ordinance noting the following changes:

Page 2, Land Uses, A. 1. Residential - a. – a total of 15 age-restricted residential town homes

Page 2, Land Uses, A. 2. Commercial – a. – The use of the site for commercial use shall be limited to the existing restaurant and boat storage facility. No expansion of the existing restaurant shall be allowed.

Mr. Richey addressed the language that states there will be no expansion to the restaurant but noted that he was assuming they could upgrade that restaurant to make it nicer but not make it bigger. They will be upgrading the quality of the place with the town houses, and the restaurant would automatically benefit from an upgrading of it. They are proposing to do this without expanding the footprint of it.

Mr. Minkoff explained that the problem with this facility is that part of it is inside and part of it is outside so, if you use footprints, you could enclose the outside area, for example, which would make it a very large restaurant. He is not suggesting one way or the other but that the Board should put in the ordinance exactly what they mean so, at site plan approval, staff will not read it a different way.

Discussion occurred regarding language that would be appropriate to clarify that there will be no expansion of the facility. Mr. Richey proposed an expansion of the existing restaurant to allow additional seats. He referred to the proposed Ordinance noting the following change

Page 2, A. 2. Commercial – a. – The boat ramp, convenience store, package store and gas shall be removed.

Page 3. C. Open Space – Sixty (60) percent shall be provided as open space because they are not changing the land use.

Mr. Crawford stated that Susan's Landing Homeowners Association is the immediately abutting subdivision to their southwest, and they have a letter of support that he would like to submit into the record. The letter was submitted to the Deputy Clerk and marked and entered as Exhibit A-10 for the Applicant.

Commr. Cadwell stated that, with 15 residents living there, and eight rental spaces, to take that gas system out, they may open it up to worse problems and, even though they can approve for them to do that, he does not know if it is going to make it any better.

Commr. Pool stated that he appreciates the fact that they are willing to take it up but he wondered how they could aesthetically and environmentally and safely provide that service; it is exposed and it is not something that people want to see.

Mr. Richey explained that they will be taking the ramp out and fixing all of that stormwater and,

therefore, alleviating the concern with that gas facility.

Commr. Cadwell stated that it seems that they just make it harder and harder for folks that do not live on the water to actually enjoy the water.

Discussion occurred regarding making the area safe and aesthetically pleasing because the residents do not want to look at the gas system. It was noted that, if they leave it there, then it will have to be landscaped nicely and the applicant asked that this be left up to them at site plan approval.

Commr. Hill noted that the public hearing had been closed.

On a motion by Commr. Pool, seconded by Commr. Stivender and carried unanimously by a 5-0 vote, the Board upheld the recommendation of the Zoning Board and approved Rezoning Case PH#72-05-2, Wolfgang Dueren/Lake Susan Lodge Trust, Owners; Jimmy D. Crawford, Gray Robinson/Steven J. Richey, P.A., Applicants; Tracking #87-05-PUD; Ordinance 2005-86; a request for rezoning from R-3 and R-1+CUP to PUD (Planned Unit Development) for the development of town homes with the elimination of the current nonconforming uses, except for the existing restaurant, as follows: for 15 town homes all adult only (A. Land Uses: 1.a.) dealing with all of the issues brought forward including the stormwater; the boat launch being closed; the 60% open space, the restaurant not being allowed to expand its existing square footage or footprint; but leaving the gas option open and allow the owners to try and make the system aesthetically pleasing and not a detriment to the area.

Mr. Kruse asked for clarification on the restaurant, and it was clarified that the capacity of the restaurant is currently there, inside and outside dining, and they are not going to expand the existing restaurant beyond its current footprint and no additional seating.

CFN 2005167927  
Bk 02987 Pgs 0207 - 2121 (6pgs)  
DATE: 10/25/2005 09:43:59 AM  
JAMES C. WATKINS, CLERK OF COURT  
LAKE COUNTY  
RECORDING FEES 52.50

**ORDINANCE #2005-86**  
**Tracking No.#87-05-PUD**  
**Wolfgang Dueren**  
**Lake Susan Lodge Trust**  
**PH# 72-05-2**

**AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Lake County Zoning Board did on the 7<sup>th</sup> day of September, 2005, review petition PH# 72-05-2, a request for rezoning from R-3 (Medium Residential) and R-1 (Rural Residential) with a Conditional Use Permit (CUP) to PUD (Planned Unif Development). The property is generally located in the Clermont area - parcel is Southeast of the intersection of Lakeshore Dr. and Osprey Pointe Blvd. (Sec. 01/ Twp. 23S/ Rge. 25E) (6.6 +/- Acres)

LEGAL DESCRIPTION: [EXHIBIT "A" - ATTACHED]

AND, after giving Notice of Hearing on petition for a change in the use of land, including a notice that said would be presented to the Board of County Commissioners of Lake County, Florida, on the 27<sup>th</sup> day of September, and

WHEREAS, the Board of County Commissioners reviewed said petition, the recommendations of the Lake County Zoning Board, and any comments, favorable or unfavorable, from the public and surrounding property owners at a Public Hearing duly advertised, and

WHEREAS, upon review, certain terms pertaining to the development of the above described property have been duly approved, and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida, that the Land Development Regulations of Lake County, Florida, be altered and amended as they pertain to the above tract of land subject to the following terms:

BOARD SUPPORT

ORDINANCE NO. #2005-86

(Tracking #87-05-PUD) (PH#72-05-2) (Wolfgang Dueren/Lake Susan Lodge Trust.)

Section 1. Terms: The terms and conditions of this Ordinance shall mean and include the total of the following land uses. The County Manager or designee shall amend the Zoning Map in accordance with this Ordinance. The previous Conditional Use Permit (CUP #624-2) will be null and void upon the acceptance of this Ordinance.

A. Land Uses:

1. Residential:

a. Number & Type of Residential Units:

A total of 15 age-restricted residential town home units (all adult only) shall be permitted on the site. Prior to any development occurring, deeds and covenants shall be recorded to indicate that the State of Florida and Federal Fair Housing Act, which restricts occupancy to eighteen years or older, will be observed. All the existing cottages and other residential structures shall be removed.

b. Setback Requirements:

All structures shall be a minimum of fifty (50) feet from the wetland jurisdictional line or the edge of Lake Susan, whichever is greater. No impervious surface shall be within fifty (50) feet of Lake Susan.

A fifty (50) foot setback shall be from Lakeshore Drive for all structures.

All side setbacks shall be fifteen (15) feet or greater.

2. Commercial:

a. Acreage and Commercial Uses

The use of the site for commercial use shall be limited to the existing restaurant and a boat storage facility limited to 15 boat slips for the town homeowners. No expansion of the existing restaurant beyond its current footprint and no additional seating shall be allowed. The existing marina, boat ramp, convenience store, and package store shall be removed. No impervious pavement shall be within fifty (50) feet of Lake Susan.

b. Parking

Parking shall be provided in accordance with the requirements of Section 9.03.05 of the Land Development Regulations.

ORDINANCE NO. #2005-86

(Tracking #87-05-PUD) (PH#72-05-2) (Wolfgang Dueren/Lake Susan Lodge Trust.)

B. Public Facilities:

1. Water and Wastewater Facilities:

The PUD shall be served by a central water and sewer system.

2. Drainage/Stormwater Management:

The applicants shall submit drainage calculations and a stormwater management plan when filing for plat approval/site plan.

3. Fire Protection:

The applicants shall comply with all County fire protection requirements.

C. Open Space:

Sixty (60) percent of the base site area utilized for residential and commercial purposes shall be provided as open space.

D. Landscaping:

1. All landscaping shall comply with the landscaping requirements contained in Section 9.01.00 of the Lake County Land Development Regulations.

2. A Type B landscape buffer with a width of 15 feet shall be provided along the perimeter of the PUD, as well as between residential and commercial areas within the development. The buffer shall be adequately maintained at all times.

3. A minimum of six trees per acre of open space shall be required on the uplands portion of the site.

E. Environmental:

1. Wetlands:

In accordance with Policy 1-2.1E of the Lake County Comprehensive Plan, wetlands within a project must be placed in a conservation easement that shall run in favor of, and be enforceable by, a homeowner's association or the County, at its option. The conservation easement shall require that the wetlands be maintained in their natural and unaltered state. To the extent practicable, wetlands shall not be included as part of any platted lot, other than a lot platted as a common area, which shall be dedicated to the homeowners' association or the County for ownership and maintenance.

2. Floodplain Protection:

The project shall comply with Section 9.07.08(D), Site Plan and Subdivision Standards, of the Land Development Regulations, which states that the 100-year floodplain shall be used solely for the storage of floodwaters and for passive recreation and conservation facilities. No alteration of the flood plain shall be allowed.

F. Signage:

All signage shall comply with the applicable sign requirements contained in Chapter 11 of the Lake County Land Development Regulations.

G. Transportation Improvements:

The development shall comply with all applicable County and FDOT access management requirements.

H. Development Review and Approval:

Prior to the issuance of any permits, the applicants shall be required to submit formal preliminary plats and/or site plans for review and approval by the Lake County Development Review Staff. The preliminary plat and/or site plans shall meet all submittal requirements and comply with all County codes and ordinances, as amended.

I. Future Development Orders:

Any requested development order must comply with the Lake County Land Development Regulations, as amended, and the Lake County Comprehensive Plan, as amended.

J. Future Amendments to Statutes, Code, Plans and/or Regulations:

The specific references in this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County Comprehensive Plan, and Lake County Land Development Regulations shall include any future amendments to the Statutes, Code, Plan, and/or Regulations.

Section 2. Conditions as altered and amended which pertain to the above tract of land shall be as follows:

A. After establishment of the facilities as provided herein, the aforementioned property shall only be used for the purposes named in this Ordinance. Any other proposed use must be specifically authorized by the Zoning Board and the Board of County Commissioners.

B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner within the

boundaries of the above described land, without first submitting the necessary plans in accordance with Chapter XIV, of the Lake County Land Development Regulations (LDRs) and receiving approval from the County Manager or designee upon obtaining the permits required from other appropriate governmental agencies.

- C. This Ordinance shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.
- D. The transfer of ownership or lease of any or all of the property described in this Ordinance shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to this Ordinance and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following procedures contained in Chapter XIV of the Lake County Land Development Regulations (LDRs), as amended.

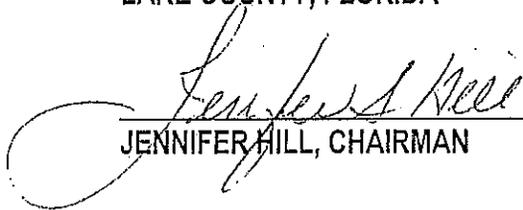
Section 3. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this 27th day of September, 2005.

FILED with the Secretary of State October 14, 2005.

EFFECTIVE October 14, 2005.

BOARD OF COUNTY COMMISSIONERS  
LAKE COUNTY, FLORIDA

  
JENNIFER HILL, CHAIRMAN

ATTEST:

  
JAMES C. WATKINS, CLERK OF THE  
BOARD OF COUNTY COMMISSIONERS  
LAKE COUNTY, FLORIDA

APPROVED AS TO FORM AND LEGALITY

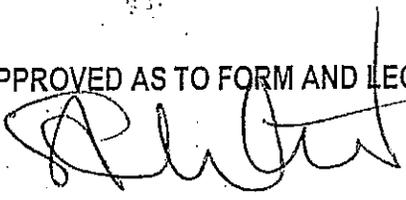
  
SANFORD A. MINKOFF, COUNTY ATTORNEY

EXHIBIT "A" – LEGAL DESCRIPTION

ORDINANCE NO. #2005-86

PH#72-05-2

Tracking No. #87-05-PUD

Wolfgang Dueren / Lake Susan Lodge

Steven J. Richey, P.A. / Jimmy Crawford, Gray Robinson, P.A.

ORDINANCE BY THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

LEGAL DESCRIPTION: Begin 533 ft S of NE cor of Sec run SW'ly along Hwy 931.5 ft to POB, run SW'ly along Hwy to NE cor of Lot 1, Lake Susan Homesites, S 20 deg 03' E 238 ft, SE'ly along canal to Lake, NE'ly along Lake to Point S 45 deg 33' E of POB, N 45 deg 33' W to POB; Begin 533 ft S of NE cor of Sec, run SW'ly along Hwy 828.2 ft for POB, cont along Hwy 103.3 ft, S 45 deg 33' E 483.9 ft to Lake, N'ly along Lake 110 ft, N 45 deg 33' W to POB. All being in Sec 1 Twp. 23S Rge. 25E.