MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
March 29, 2017

The Lake County Planning and Zoning Board met on Wednesday, March 29, 2017, in County Commission Chambers on the second floor of the Lake County Administration Building to consider petitions for rezoning requests.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, April 18, 2017 at 9:00 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Laura Jones Smith	District 2
Lawrence "Larry" King	District 3
Rick Gonzalez	District 4
Sandy Gamble	School Board Representative

Members Not Present:

Kathryn McKeeby, Secretary	District 1
Jeff Myers	District 5
Kasey Kesselring	At-Large Representative
Donald Heaton	Ex-Officio Non-Voting Military

Staff Present:

Steve Greene, AICP, Chief Planner, Planning & Zoning Division
Tim McClendon, Planning & Zoning Division Manager
Christine Rice, Planner, Division of Planning & Zoning
Donna Bohrer, Office Associate, Planning & Zoning Division
Luis Guzman, Assistant County Attorney
Susan Boyajan, Deputy Clerk, Board Support

Chairman Rick Gonzalez called the meeting to order at 9:00 a.m. and noted that a quorum was present and that the meeting had been duly advertised. He led the Pledge of Allegiance, and Mr. Sandy Gamble gave the invocation. He asked if anyone wanted to make a public comment on something that was not pertaining to any of the zoning cases on the agenda, but no one wished to speak at that time.

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Tab 2	**Ord. 2017-XX**	**Mt. Plymouth-Sorrento CRA Design Standards**
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Tab 7	**CUP-17-01-5**	**Village Pet Spa CUP Amendment**

Other Business

Adjournment

MINUTES

MOTION by Laura Jones-Smith, SECONDED by Sandy Gamble to APPROVE the Minutes of February 1, 2017 of the Lake County Planning and Zoning Board meeting, as submitted.

FOR: **Gonzalez, Jones-Smith, King, Gamble**

AGAINST: **None**

MOTION CARRIED: **4-0**

PUBLIC COMMENT

No one wished to address the board at this time.

AGENDA UPDATES

Mr. Steve Greene, Chief Planner, Planning and Zoning Division, Economic Growth Department, noted that the cases had been duly advertised as shown on the monitor and related that there were a few changes to the agenda. He elaborated that Tab 2 would be pulled and re-advertised for a later date, and Tabs 6 and 7 would be moved to the regular agenda, with all other items remaining on the consent agenda.

The Chairman opened the public hearing, but there was no one who wished to speak at that time regarding the rezoning cases on the Consent Agenda.

Tab 3 was moved to the regular agenda in order to allow discussion regarding that item.

CONSENT AGENDA

TAB NO:	CASE NO:	OWNER/APPLICANT/PROJECT
Tab 1	**CUP#1/1/1-5**	**Evans/Hatch Family Cemetery Voluntary CUP Revocation**
Tab 4	**RZ-16-21-1**	**Cagan Crossings PUD Amendment**
Tab 5	**RZ-16-34-1**	**Horton PUD/Cagan Crossings**

MOTION by Laura Jones-Smith, SECONDED by Larry King to APPROVE the Consent Agenda Tabs 1, 4, and 5 of the Lake County Planning and Zoning Board meeting, as amended.

FOR: **Gonzalez, Jones-Smith, King, Gamble**

AGAINST: **None**

MOTION CARRIED: **4-0**

REGULAR AGENDA

TAB 3 - FERTILIZER ORDINANCE

Mr. Nick McCray from the Environmental Services Division of the Public Works Department explained that the fertilizer ordinance was being brought forward to comply with the Florida Springs and Aquifer Protection Act signed by the Governor in January 2016, which sets a deadline for jurisdictions within spring sheds and springs under the Basin Management Action Plan to have a fertilizer ordinance adopted by July 2017. He pointed out that this ordinance was a direct adaptation of the model fertilizer ordinance developed by the Department of Environmental Protection (DEP) and implements and formalizes industry-accepted best management practices, including a fertilizer setback, a no-application zone 10 feet from waterbodies, and a no-application timeframe during tropical weather and flood watches within Lake County. It also has some requirements for equipment, including cut-off shields so that no granular fertilizer is cast beyond the area of intended application and clean-up requirements for any errant fertilizer that gets on hard surfaces such as driveways and sidewalks. He noted that the ordinance reiterates a program that the County already has which prohibits fertilizer from being disposed down any existing storm drain. He added that these requirements apply to both private applicators on residential property as well as commercial applicators that require a licensing certification that is already a requirement in the state statute. He elaborated that the residential use requires that the green industry best management practices are followed which are set forth on the fertilizer labeling.

Mr. King asked whether the requirements set forth on Page 2, under Section C regarding Scope of Applications prohibits him from legally fertilizing his own yard or pasture.

Mr. McCray answered that farm and bona fide agriculture operations are exempt under this ordinance and would come under another program. He assured him that he could fertilize his property utilizing best management practices by following the labeling instructions on the fertilizer.

Mr. King asked whether the corrective measures to the soil referred to in the ordinance include herbicides.

Mr. McCray responded that this ordinance strictly dealt with fertilizer and did not include herbicides, noting that there were other ordinances and regulations that referred to the application of herbicides.

Mr. King asked when the prohibited application period referred to in the ordinance was.

Mr. McCray answered that tropical flood and hurricane watches that would bring imminent heavy rain would be the prohibited application period so that granular fertilizer will not be picked up as runoff into the receiving waterbodies.

Mr. King asked why nitrogen was only allowed to be applied at certain times, noting that there were different degrees of nitrogen that could be used on the soil.

Mr. McCray explained that this specific provision was regarding the first 30 days after sodding is planted and was a direct adaption from the model ordinance that was developed by DEP and the University of Florida, since the roots are very tender when sod is first laid down, with the roots susceptible to burning. He elaborated that there is a provision in the ordinance for a soil and tissue test which can be done at the Agricultural Extension in Tavares that will indicate whether a deficiency is identified and nitrogen should be added.

Mr. King expressed concern about the restrictions on what he could do with his own soil.

Mr. McCray emphasized that this ordinance was being brought forward to comply with the Florida Springs and Aquifer Protection Act.

Ms. Jones Smith elaborated that it was necessary to deal with water preservation in the water sheds and aquifers and the larger issue of the overuse of fertilizers in ways that cause damage to the environment. She added that it prohibits the use of fertilizer at a time that it is most likely to cause problems by running into environmentally sensitive areas and waterbodies during a major rain event that is issued by the National Weather Service.

Mr. Gamble clarified that the County has to have a fertilizer ordinance in place per state statute by July, since they are within the Wekiva Springshed and the Silver Springs Springshed. He asked whether the ordinance needed to be this stringent.

Mr. Kevin Coin from the Florida Department of Environmental Protection responded that the model ordinance is essentially the bare minimum that is required to meet the statute and added that the industry worked very hard to get this together. He mentioned that a lot of the required practices are already on the labels and are common-sense and basic practices that they know are going to help the environment. He noted that this will also generate some credit for the County towards meeting the reduction goal of the Basin Management Action Plan, which is the restoration plan to clean up the impaired springs. He explained that this ordinance is not a moratorium and will not stop the use of fertilizer, but it will help people do a better job with the timing of the application of fertilizer. He mentioned that 26 counties have already adopted a similar ordinance.

Mr. King asked what the penalty would be for violation of the ordinance.

Ms. Diana Johnson, Assistant County Attorney, responded that it will be a voluntary compliance program in Lake County in order to comply with the ordinance, and staff will not be enforcing it, since the County does not have the staff to do so; however, it needs to be adopted as an ordinance and part of their code per statute.

Mr. Gamble asked what the consequences would be at the state level for Lake County for not adopting this ordinance.

Mr. Coin answered that being in violation of the Springs and Aquifer Protection Act could open the County up for a multitude of potential third-party lawsuits.

MOTION by Laura Jones-Smith, SECONDED by Sandy Gamble, to approve the Fertilizer Ordinance.

FOR: **Gonzalez, Jones-Smith, Gamble**

AGAINST: **King**

MOTION CARRIED: 3-1

TAB 6 - CAT PROTECTION SOCIETY CFD AMENDMENT – RZ-16-23-4

Christine Rice, Planner, Division of Planning & Zoning, related that the applicant for this rezoning case is Dennis Robinson, and the 4.18-acre subject property is located in the Eustis area adjacent to Getford Road and currently owned by the Cat Protection Society. She reported that the subject property is currently zoned Residential Professional, is within the Urban Low Future Land Use Category, is currently vacant, and is located adjacent to the existing Cat Protection Society Cat Shelter. She noted that the existing cat shelter is permitted by the Community Facility District Ordinance No. 2001-21, which the applicant is requesting to amend to include the adjacent subject property and to increase the maximum number of sheltered cats from 250 to 450. She elaborated that the applicant has also expressed a desire to include a waiver to establish a 130-foot setback from the eastern property line in lieu of the required 200-foot setback for construction of a second cat shelter on the adjacent property. She reported that staff recommended the 200-foot setback as required per the Land Development Regulations based on the total width of the two combined parcels, and she added that the amendment is consistent with both the Community Facility District (CFD) zoning and the Urban Low Future Land Use category. She concluded that staff recommended approval of the proposed CFD amendment to include the subject property and to increase the maximum number of sheltered cats.

Mr. Gamble asked whether they are asking for a variance for the 130-foot setback.

Ms. Rice explained that the applicants are asking for a waiver of the setback requirements, noting that a 100-foot setback was previously allowed for the parcel they originally owned because the property would not accommodate the 200-foot setback on each side; however,

the original parcel combined with the additional parcel would allow them to accommodate the 200-foot setback.

Mr. Dennis Robinson, the applicant, related that they are requesting the 130-foot waiver, since that is the most economical location for the new building. He elaborated that they are 500 feet from the north and the south and are inhibited from moving in any other direction because of an easement to the power company for power lines almost 500 feet into the property as well as an existing well. He explained that the 200-foot setback will require them to remove numerous trees as opposed to just a few small pine trees with a 130-foot setback and that there is an orange grove to the east. He stated that the building itself would be 60-foot wide with a 15-foot screen room for the cats on the east side for the more favorable sun position in order for the screen room to avoid getting too hot. He also requested relief from the landscaping requirement, since they would not be disturbing anything on the first several hundred feet of the property which was heavily wooded, which creates a buffer from the road. He assured the board that there would be no additional traffic created by the rezoning and no driveway connection to Getford Road, since they would be using the existing driveway.

Ms. Jones Smith clarified that all the trees on the property were identified on the survey and that the rear setback would also be 200-feet. She opined that she believed there was a reasonably clear area where the building could be constructed off of the southeast corner of the building that would comply with the setback which would not disturb any trees.

Mr. Robinson replied that the tree survey is not a complete one of the property and is only of the proposed area and where they would have to move the building if the setback waiver was not granted. He pointed out that there were numerous trees on the back side and the front side, and the lot was heavily wooded, which he pointed out on an aerial photograph.

Ms. Jones Smith asked for staff's opinion regarding the trees, the existence of the well and the drain field, and the power line easement the applicant had referenced.

Ms. Rice showed the location of the power line easement on the overhead map and indicated that some amount of tree removal would be required no matter where the building was constructed, but she did not know to what extent without a full survey. However, she clarified that staff recognized it was possible more trees would have to be removed in one area versus the other. She presented some photographs of the site.

Mr. Gonzalez indicated that he has been on the site and did not see any reason not to grant the setback waiver.

Mr. Robinson clarified that there were numerous mature oak and pine trees on the property.

Ms. Jones Smith asked the applicant whether he would be unable to construct the building if he was not granted the setback waiver.

Mr. Robinson indicated that the planned location is the most economical place for them to put

the building, and moving it to another location would increase their cost to some extent, although he could not say by how much, since tree removal can be extremely expensive at about $600 to $800 per tree for about 40 trees. He summarized that he was not sure they could afford to build the building somewhere else on the property.

Ms. Jones Smith commented that she believed she had inadequate information to determine whether to grant the waiver, since they do not have a complete tree survey.

Mr. Robinson noted that a tree survey for the entire property would cost over $1,000 more.

Ms. Rice commented that it did appear that there were more trees in the location that the building would have to be with the required 200-foot setback than where the applicant originally planned for the building to go with only a 130-foot setback.

Ms. Jones Smith opined that this was a large site and suggested that the building be located either exactly where staff proposed or further south where the southern wall would become the northern wall of the building, which would still comply with the required setback.

Mr. Greene elaborated that the applicant proposed a location that would result in less development cost for them and that the other location that staff recommended is cost prohibitive to them. He noted that staff does not require a tree survey until a development application comes forward, and the Land Development Regulations regarding rezoning do not require that level of data. He stated that the information that was provided did not provide enough detail regarding an accurate tree survey and count. He explained that the applicant has to justify the purpose of the waiver in order have it granted, and the Planning and Zoning Board's task is to determine whether or not there is a hardship to be recognized that would prohibit him from meeting the 200-foot setback.

Ms. Jones Smith asked whether the applicant can seek the waiver at the time that they do the development application.

Mr. Greene responded that there is a process where they would accept a development application concurrent with the rezoning which would allow the applicant to provide the detailed information through the development application process to support his request.

Mr. Gonzalez summarized that the hardship in this case would be the significant cost of moving the building to another location, noting that extending a driveway for emergency vehicles would also have to be done with the staff's proposed location.

Ms. Jones-Smith stated that she believed it would be beneficial to the applicant to postpone this rezoning until it comes back with the development application so that he has support to justify the hardship for the waiver of the setback.

MOTION by Laura Jones-Smith to DENY the rezoning and that the applicant postpone the rezoning application and submit the development application in conjunction with

the rezoning application in order to adequately evaluate the hardship and waiver fairly. Motion died for lack of a second.

Mr. Gonzalez opined that they should also grant the applicant a waiver from the landscaping ordinance, since the subject property was a rural site where the buildings were not visible from the road, and there was no reason to have landscaping around those buildings. He also commented that he did not believe they should require the applicant to build another 200 feet of road to comply with the arbitrary setback.

Ms. Jones-Smith disagreed that the setback requirement was arbitrary and stated that she believed this was a rural lot surrounded by development, including a neighborhood to the east and single-family residences to the west, although there was farmland to the north. She also opined that there is not enough evidence at this time to imply that a hardship would exist if the applicant relocated the building.

Mr. Gamble commented that there was no development planned to the north, east, west, and south of the subject property anytime in the near future.

Mr. Gonzalez added that this facility would have no effect on the existing subdivision.

MOTION by Sandy Gamble, SECONDED by Larry King, to approve Tab 6, Rezoning Case #RZ-16-23-4, Cat Protection Society CFD Amendment with the conditions set forth by staff, and to grant the waiver to allow the 130-foot setback as well as the waiver of the landscaping requirements for any future construction on the property.

FOR: **Gonzalez, King, Gamble**

AGAINST: **Jones-Smith**

MOTION CARRIED: 3-1

<u>TAB 7 – CUP-17-01-5 – VILLAGE PET SPA CUP AMENDMENT</u>

Ms. Rice reported that the applicant for this rezoning case is Marcia Gosline, and the subject property is located in the Lady Lake area west of Rolling Acres Road and is currently zoned Agriculture (A) with an Urban Low Future Land Use Category (FLUC). She added that there are two existing kennels located on the property, one of which was originally permitted by a Conditional Use Permit requested in case #CUP10/10/1-5, which was amended and replaced by Conditional Use Permit 14/9/1-5. She explained that the applicant is requesting to amend the previous CUP 14/9/1-5 in order to increase the maximum number of dogs that are permitted at one time within the front grass play area from 5 to 20 as well as to amend the CUP to eliminate the condition that only allows the front grass play area to be used on Tuesdays and Thursdays. She mentioned that the proposed CUP amendment is consistent with the Agriculture zoning district and the Urban Low FLUC, and staff recommended approval of this proposed amended CUP.

Ms. Jones-Smith asked why the five-dog and Tuesday and Thursday limitations were put in place in the original Conditional Use Permit.

Ms. Marcia Gosline, the applicant and co-owner of the Village Pet Spa, recapped that they had purchased the business in August 2013, which had staff consisting of three kennel assistants, a groomer, the owner, and the owner's daughter at that time; however, they now had 20 employees on their payroll, including 14 kennel assistants, 4 groomers, a general manager, and an onsite facilities manager and had doubled the capacity of the business with the addition of a second building. She opined that their success as a small business is one that Lake County could be proud of. She explained that the restriction of the Tuesday and Thursday use was put into the CUP due to an offhand comment that the previous owner made that she only used the grassy play area during those days, but she opined that this restriction along with the restriction of only five dogs at a time in the play area is an illogical restraint which is harmful to an efficient and profitable business. She assured the board that the business had the resources and staff to supervise the pets while in the play yard, and they have a need for expanded use of that yard. She respectfully requested that the board act on the recommendations of the County's professional Growth Management staff and accept the amendment to the CUP eliminating the restrictions on the use of the front grass play yard.

Mr. Andrew Mayo, a resident of Neshanic Station, New Jersey, who owns vacant property adjacent to and south of the subject property, recapped that the prior owner illegally ran a kennel from 2003 to 2010 until she was forced by the County to be in full compliance for both the building on the property and the kennel business, and she obtained a CUP at that time. He commented that the new owners are very good neighbors, have invested money in the property, keep the property very clean, and have recently reconstructed the original kennel building; and he had no problem with having that business there. He explained that the conditions in the CUP stating that five dogs at a time could use the grass play area from 7 a.m. to 7 p.m. Tuesdays and Thursdays were placed in the previous CUP as a result of his concerns about noise, since he was planning on building a house on his property. He mentioned that he owned the adjacent property for 34 years, which was before the original kennel was there, and pointed out that the grass play area was a large space that takes up almost 20 percent of the depth and about 85 percent of the width of the subject property. He summarized that his concern was noise mitigation and usage of the play area. He recapped that he and the owner came to an agreement during the previous CUP process that the business would include sound abatement materials consisting of a membrane placed over a chain link fence in a back gravel play area. He presented a photograph of a street-level view of the grass play area showing that it was quite large and not soundproof. He added that Ms. Gosline has been marketing the play area on their website, and she would have the ability to make more money with the requested changes. He pointed out that there were Lake County zoning regulations and an ordinance concerning the impact of animal noise on adjacent property owners. He requested that the board consider the installation of soundproof pet fencing along either the entire perimeter south and west on her property or along the existing fence on the south side and continuing to the north so that he could quietly enjoy his property, noting that he had diagrams of each of those options. He expressed disappointment that he was not informed by his

neighbors about this CUP amendment request and stated that he can hear the dogs from his property.

Ms. Jones Smith asked whether his concern was more with noise abatement and noted that the sound abatement material is not cheap. She asked whether it would be more beneficial to look at the number of dogs and the days per week in the front play area.

Mr. Mayo responded that the CUP that was granted in 2010 was a compromise between him and the P&Z board at that time, and he indicated that his preference was for noise abatement fencing. He commented that he can currently hear the dogs that are out in the play area and that he would be affected by the noise coming from the kennel no matter where on the property he builds his home. He expressed concern about having dogs in the play area seven days a week, especially early on a Sunday morning, and requested some relief from the noise.

Mr. Edward Livingston, co-owner of the Village Pet Spa, noted that it is permitted in the Code to have animals on their Agriculture zoned property and that they have had no complaints from any of the neighbors from the development west of the property or other adjacent property owners about noise. He mentioned that the noise abatement costs about $5,000 for 80 feet of run. He pointed out that the dogs in the play area are usually running and playing rather than barking, and there is always at least one employee supervising five or six dogs that are out there at a time. He recapped that the business run by the previous owner was a very small operation, and they upgraded everything when they took it over. He reported that business has doubled every year since they have taken over, and their customers are requesting more alternatives for their dog's recreation, especially since some dogs do not do well on gravel lots and need to be on the grass. He opined that they should be able to use the property as it is zoned. He emphasized that Mr. Mayo does not currently live on the adjacent property.

Mr. King asked for a list of services their business provides.

Mr. Livingston answered that they provide overnight boarding for dogs and cats, grooming services, and dog day care services. He opined that there was more noise coming from the dogs across the street from their property than from their kennel. He also opined that he should not have to negotiate with Mr. Mayo regarding what is in the Code and that they have been good neighbors who have improved the property greatly since taking it over. He summarized that there currently is no noise problem.

Ms. Jones Smith asked whether the gravel play area or the kennel is located on the other side of the noise abatement fencing they already have up.

Mr. Livingston responded that there are two different kennels in between that fence that both use the same gravel play area. He commented that they try to give the dogs as much time outside as possible, and their customers expect their dogs to get a lot of time outside.

Ms. Jones Smith asked whether it was possible to look at limiting the number of dogs in the play yard in the early morning hours and allow more dogs out there during business hours from 9:00 a.m. to 5:00 p.m.

Mr. Livingston indicated that there was a very small chance of having 20 dogs out in the play area on a Sunday morning.

Mr. King clarified that property owners within 500 feet of the subject property received notification cards of this rezoning hearing. He commented that the aerial map of the area showed that there were several nice houses in that vicinity, but only one property owner in the immediate area came to the hearing to express opposition to this request.

Ms. Jones Smith clarified that the property was zoned Agriculture, but the applicant needed a CUP to operate the kennel, which would theoretically also be for a breeding operation. She asked whether there was a way to accommodate both parties somewhat, and she stated that she believed it would make sense to allow 20 dogs in the grass play area, since they have a large operation; however, she felt that they need to limit the hours in the mornings on the weekends.

Mr. Gonzalez stated that he believed it was fine to limit the hours to after 9:00 a.m. on Saturday and Sunday.

Ms. Rice indicated that staff did not have a problem with that limitation.

Mr. Mayo proposed a compromise where 20 dogs are allowed out in the area with the two handlers Monday through Friday from 10:00 a.m. to 5:00 p.m. and Sundays from 11:00 a.m. to 4:00 p.m. and opined that most people drop off their dogs during the day. He asked to have peaceful enjoyment of his property.

Ms. Jones Smith expressed concern that those hours would be the hottest period of the day during the summer months which could result in the dogs getting overheated quickly. She reiterated her suggestion about changing the weekend hours so that Mr. Mayo could enjoy his weekend mornings without being woken up early.

MOTION by Laura Jones Smith, SECONDED by Sandy Gamble, to approve Tab 7, Rezoning Case CUP-17-01-5, Village Pet Spa CUP Amendment with the hours of operation of the front grassy play area when more than five dogs are present at one time be limited on Saturdays and Sundays from 9:00 a.m. to 7:00 p.m. and Monday through Friday from 7:00 a.m. to 7:00 p.m.

FOR: **Jones-Smith, Gonzalez, King, Gamble**

AGAINST: **None**

MOTION CARRIED: 4-0

OTHER BUSINESS

Mr. Greene reminded the Planning & Zoning Board that the next meeting would be on May 3, 2017.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:34 a.m.

Respectfully submitted,

Susan Boyajan
Clerk, Board Support

Rick Gonzalez
Chairman

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Planning & Zoning