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**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION  
JUNE 10, 2008**

Meeting open at 9:05

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Darla Lipke**, at 9:00 a.m. in the County Council Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, Florida. On roll call, the following members answered present, to-wit:

**DARLA LIPKE, CHAIR  
FRANK SEVERINO, VICE CHAIR  
GARY HUTTMANN, SECRETARY  
TAVER CORNETT  
STONY SIXMA  
JAY YOUNG  
JAMES RUSSELL**

**STAFF PRESENT**

**MICHAEL DYER, Assistant County Attorney  
MARY ROBINSON, Building and Zoning Director  
SCOTT ASHLEY, Planning Manager  
DAVID ZECHNOWITZ, Planner III  
JOHN H. STOCKHAM, Planner III  
CHRISTIAN NAGLE, Planner II  
YOLANDA SOMERS, Zoning Secretary  
MARCY CHAFFIN, Recording Secretary**

## PUBLIC HEARINGS ON SPECIAL EXCEPTION AND ZONING CASES

**Chair Lipke** explained the procedure for forwarding the Commission’s decisions to the County Council and invited the public to speak for or against any of the cases being heard.

**Michael Dyer, Assistant County Attorney**, explained that decisions by this body on special exception cases and cases which rezone real property from one classification to another pursuant to the Zoning Ordinance are recommendations only to the County Council and do not constitute a final hearing. New evidence may be introduced at the County Council public hearing. Decisions on variances made by this body constitute final action, subject to an appeal to the County Council. What this means is that no new evidence may be presented at the time of the County Council public hearing on appeal. An aggrieved party that appeals such a decision is confined to the record made before this body. Hearings by this body on rezonings, special exceptions and variances are quasi-judicial in nature meaning that this body is acting more like a court and must take into account all oral, written or demonstrative evidence presented. Their decisions on these cases must be based on competent, substantial evidence in the record. Competent, substantial evidence has been defined, as that evidence a reasonable mind would accept to support a conclusion.

**Mr. Dyer** asked for disclosure of ex parte communications. He recommended that any Member who has had communications with a member of the public or the applicant on any agenda item, state so at this time with a brief comment.

- **Chair Lipke:** No
- **Member Severino:** No
- **Member Huttman:** No
- **Member Cornett:** No
- **Member Russell:** No
- **Member Young:** No
- **Member Sixma:** No

## PUBLIC HEARING ON ZONING APPLICATIONS

### A. CONSENT AGENDA

NONE

### B. ITEMS TO BE CONTINUED

**Z-08-024 – Application of Glenn Storch, Storch Morris & Harris, LLC, Attorney for Owner, K1J6, LLC, Owners**, requesting a Rezoning from the A-3 (Transitional Agriculture) zoning classification to the A-2 (Rural Agriculture) zoning classification. The property is located at the terminus of Airport Road, approximately ¼ mile north of CR 15-A, the property is the Bob Lee Airport; ± 33.23 acres (Zechnowitz) 6017-00-00-0050 **30-day continuance requested**

Member Sixma **MOVED** to continue case **Z-08-024** for 30 days. Member Russell **SECONDED** the motion. The motion **CARRIED** unanimously.

### C. NEW BUSINESS

**PUD-08-034 – Application of Daniel Johns, P.E., Agent for Owner, Florida Baptist Children’s Homes Inc, Owners**, requesting a Rezoning from the R-3 (Urban Single-Family Residential) zoning classification to the Florida Baptist Children’s Home MPUD (Mixed Use Planned Unit Development) zoning classification. The property is located on the west side of Ingham Road, approximately 100 feet north from its intersection with 10th street near the New Smyrna Beach High School and City of New Smyrna Beach ; ± 12.7 acres (Zechnowitz) 7419-23-00-0360 Tentatively schedule for the **July 19, 2008 County Council at 2:00 p.m.**

**David Zechnowitz, Planner III**, presented the Staff Report. The applicant’s are proposing to develop the parcel as a residential group home for neglected children. The concept plan is to be developed in 4 phases featuring 3 residences, each designed to accommodate a maximum of 10 children and two house parents. It will include a 12,000 square foot service center to be built in phase 3 which will be used for offices, counseling and indoor recreation area. This commercial component of the project is the reason for the mixed planned used development designation as opposed to the residential planned use. The property currently has a single family residence, garage, barn, and horse stables to be used concurrently with the first residence built in phase one. The existing house will be used for temporary offices until the service center is built. Permanent access will be on Ingham Road via a 24 foot wide drive and the existing residential drive will be used temporarily until the house is demolished. Proposed 15 foot wide landscapes buffers along Ingram Road and existing natural vegetation along the sides and rear of the property will visually screen the site from view. The property will have 7.8 acres dedicated as common area, 3.8 acres will be for tree preservation and 3.9 acres for active recreation including horse stables and a

# DRAFT

horseback riding area. The total amount of the common area is 60% of the entire site. The property's future land use designation is urban low intensity which provides for residential development at a density range of 1 dwelling per five acres, up to a maximum of 4 dwelling units to the acre. The category may also allow individual office buildings as transitional uses in a manner to be compatible with the allowable residential. Based upon the submitted preliminary plan and development agreement as revised by Staff, the proposal is consistent with the urban low intensity definition. The group home concept is compatible with the existing development in the area because of the residential structures planned at the density proposed. The service center will be screened from view by the landscape buffers and the setbacks along Ingham Road. Traffic generation will not adversely affect the level of service of thoroughfares in the vicinity, however, Ingham must be paved to county standards required in the land development code. The site contains jurisdictional wetlands which must be protected with buffers and trees and specimen trees must be preserved. The site will be served by central water from New Smyrna Beach Utilities Commission and septic systems until the sewer becomes available to the site. New Smyrna Beach has no comments or concerns. Staff recommends **APPROVAL** subject to condition outlined in the Staff Report.

**Charlie Cox, Vice President, Programs for Florida Baptist Homes Inc., 1005 Sikes Blvd, Lakeland and Daniel Johns, 3869 S. Nova Rd, Project Engineer.**

**Mr. Cox** stated he has been with the Florida Baptist Homes, since January 1986. He and his wife started as house parents, which is living in a house with children. He stated they wanted to assure the community that these are children that have been abused, neglected, and it is not behavioral issues. They do not serve adjudicated delinquent children. He stated their desire is to provide a family environment and they serve private clients and state children. He stated there is the question as to need in this area. He stated they get referrals from area schools, counselors, pastors and others for private placements. He stated a situation may be that grandparents have custody of children because the parents are in prison and they need a placement. They have been doing this since 1904 and there are six similar situations across the state. One of the reasons we selected this site is that it is a quiet neighborhood. The children need to be in a safe quiet environment where they than can grow up in as much as a normal family situation as possible.

**Member Cornett** asked what is the average length of stay for a child.

**Mr. Cox** stated it is about 16 months. They like the children to be able to stay at least 6 months and they do have children that stay as long as 4 to 5 years and some graduate from high school. One of the children in Lakeland was the salutatorian this year and another resident in Ft. Myers has been accepted to West Point.

**Member Russell** asked are the children school age.

**Mr. Cox** stated yes school age, kindergarten to age 18.

# DRAFT

**Chair Lipke** asked if this campus will be similar to another facility.

**Mr. Cox** stated this campus will be almost identical to the one in Pensacola which was opened in 2001. Pensacola has twenty acres and the plan was for three homes and it will be several years before they open the second home. That is why they have asked to do it in phases because they realize the first residence is likely to be a couple years before they will be able to start construction, and the second and third phases may be years from now. It is determined by need as well as finances.

**Chair Lipke** asked about the reception from the community's point of view to the facilities. She inquired do they usually get support and are the neighborhoods similar.

**Mr. Cox** stated he assumes there is mixed support. They have talked to several neighbors including the adjacent property owner on the same side of the street and that neighbor is in agreement with what they are doing. The property owner across the street raised concerns as to the traffic and she told him the high school causes a tremendous amount of traffic with school teachers and school buses. He stated he assured her that they were looking for a quiet place where there wouldn't be a lot of traffic and that it will be a family environment, these are children not related to behavior issues.

**Member Huttman** stated he use to be a group home parent of 3 different homes. He stated it is tough job. He asked if the homes will be co-ed.

**Mr. Cox** answerer yes, the way the homes are designed the bedrooms are on one side for the girls and on the opposite side for the boys and it works extremely well. He stated all the locations have coed homes.

**Mr. Huttman** asked if there are week end house parents or just one set of parents.

**Mr. Cox** answered that one set of house parents are assigned permanently and then they work 16 days and are off duty several days and relief house parents come in to take their place while they are off duty.

**Member Severino** asked Mr. Johns, the engineer, if he had looked at the Development Agreement and revisions proposed by Staff.

**Mr. Johns** stated they had no problems, they appear to be good.

**Mr. Huttman** asked in comparing the Staff Report with the Development Agreement, there is a reference to 3 phases and one to 4 phases that needs to be clarified. On page 5 of 11 in the Development Agreement, it's not clear that it is ten children per home, it could be concluded that it is three houses with a total of ten children. It is clear in the Staff Report.

**Mr. Zechnowitz** stated that needs to be clarified.

**Chair Lipke** asked if the standard is ten children per home.

**Mr. Cox** answered that when they approach licensing they request at least ten, but their actual standard per home is for eight children. The reason for asking for ten, it allows for sibling groups so they can serve more if needed.

**Member Severino** asked Staff what considerations were made for the surrounding property owners, other than traffic, to make the recommendation for approval.

**Mr. Zechnowitz** answered in the analysis it was determined the use was residential. Staff thought the density was appropriate for the area. It is a large site that has adequate setbacks and natural vegetation buffers. The applicant plans to leave as much vegetation as possible. The building will be used for the residence on site and it is not a destination for commercial business.

**Member Severino** asked how much traffic flow would be generated, as high school students with cars coming and going.

**Mr. Cox** answered the flow would be normal for a large family. A cottage with young children probably would not be leaving much as compared to another group with older children that would be going to things as football practice or ROTC training. Rarely do any of the clients have their own cars or drivers license. If they are age appropriate and they work and save their money they may have a vehicle. Otherwise, it is the house parents with their vehicle and a 12 passenger van that each house has.

**Mr. Zechnowitz** stated that the land use designation is urban low intensity and the existing zoning is for residential quarter acre lots. The 12.7 acres could have been divided into up to 36 lots. This is a more appropriate use and is more compatible with the neighborhood.

**Member Sixma** stated it would be less traffic.

**Mr. J.L.Yambor, 617 Ingham Road, New Smyrna Beach.** He stated he has lived on Ingham Road since 1978 and has lived in New Smyrna Beach since 1951. He stated he is the landscape and irrigation contractor. He owns a nursery on Ingham road about 800 to 1000 feet north of this project. He stated that he has no objection to what Mr. Johns is trying to establish, but the objection is to the change of zoning. He stated his and others from the neighborhood concern is the impact. He used the high school as an example, stating that plans look good then when completed it looks new, but 3 years down the road where corporate memory has faded, what happens then. Concerns stem from seeing that the high school is suffering. He stated it should have never been placed there because it has severely impacted the residences that it backs up to. He stated that dead-end Ingham road was originally for teacher and bus access but is used for student drop off allowing students to walk to the school's back entrance causing

# DRAFT

various problems for the neighbors. He stated landscape buffers for the new development should be increased and questions what will occur years down the road. He stated that other churches will be using the property causing more traffic. He contended that Ingham Road represents the last bastion of a country environment located in an urban area. He explained that he is not opposed as long as issues are addressed and things are maintained for the future.

**Mr. Johns**, Engineer, stated they are decreasing the amount of trips by 350 per day as compared to the future land use of this property.

**Mr. Cox** stated that the landscaping is vital to them and it will be maintained. All of the six sites in the state now are well maintain as it is part of having the clients feel good about where they live. He stated the clients do help with the landscaping as mowing and weed pulling. He continued they have a large chapel at the Lakeland campus that has been there since 1948 and has been used by churches in the past. However, it is no longer done due to the consideration of the safety of the children. He stated church groups do visit and do volunteer work at times.

**Member Corbett** asked if there would be any problem with adding the language relating to continuous maintenance and irrigation of the landscape buffer.

**Mr. Cox** replied no problem.

**Mr. Zechnowitz** stated that 808.06 of the zoning ordinance requires maintenance of all the landscape buffers.

**Member Cornett** asked if the 808.06 could be referenced regarding the landscape buffers.

**Mr. Zechnowitz** replied yes.

Member Russell **MOVED** to **FORWARD** case **PUD-08-034** to the County Council with a recommendation of **APPROVAL** as presented by Staff and added reference of 808.06, landscape buffer maintenance. Member Sixma **SECONDED** the motion. The motion **CARRIED** unanimously.

## D. OLD BUSINESS

NONE

## V. PUBLIC HEARING ON VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

### A. ITEMS TO BE CONTINUED

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**S-08-025 – Application of Glenn Storch, Storch Morris & Harris, LLC, Attorney for Owner, K1J6, LLC, Owners,** requesting a Special Exception for a Fixed-wing aircraft landing fields and helipads on the proposed A-2 (Rural Agriculture) zoned property. The property is located at the terminus of Airport Road, approximately ¼ mile north of CR 15-A, the property is the Bob Lee Airport; ± 33.23 acres (Zechnowitz) 6017-00-00-0050 30-day continuance requested

Member Severino **MOVED** to continue case **S-08-025** for 30 days. Member Cornett **SECONDED** the motion. The motion **CARRIED** unanimously.

## **B. NEW BUSINESS**

**S-08-017 – Application of Edmond Wallace Pridgen, Jr, Owner,** requesting a **Special Exception** for a Kennel on FR (Forestry Resource) zoned property. The property is located on the south side of State Road 44, approximately 3,000 feet east from its intersection with Pioneer Trail; ± 20 acres (Stockham) 7217-00-00-0083 Tentatively schedule for the **July 19, 2008 County Council at 2:00 p.m.**

**John Stockham, Planner III,** presented the Staff Report. The subject property is located in a rural area, adjacent to three parcels, two with single family residences. The closest residence is 381 feet to the west. This is the Luxton Unrecorded Subdivision, which is an exempt development with a private access easement named Genesis Way off from State Road 44. The proposed kennel facility would be open to the public, but would not be used for animal breeding or as a veterinary clinic. The boarded dogs would be allowed outside for short periods of time during the day with proposed operating hours of 7:30 am to 6:30 pm. The property contains wetlands and some seasonal standing-water areas. The property is within a Natural Resource Management Area and the property survey shows the entire property lying within the 100-year flood plain, Zone A, with the base flood-plain elevation undetermined. The proposed structural improvements are designed to avoid impacts to wetlands and wetland buffers, with the exception of the 40 ft-wide, 800 ft. shell paved entrance drive. Site security, noise control and odor waste control are a primary concern in relation to impacts to adjacent properties. The applicant proposes to bag and dispose of animal waste in a dumpster container and the kennel building will be completely enclosed to reduce sound impacts. He stated the 40 ft. entrance drive could impact the wetlands as it creates an earthen barrier within the wetland area. He showed the site plan indicating the entrance drive. The proposed kennel facility will be set back a significant distance from the nearest residence and could be structural screened from the neighbors. The applicant's site plan is designed to protect the wetlands and provides the 50 foot upland buffer around the developed portion with the exception of the entrance driveway. The earlier plan showed kennels for sixty dogs, however, the applicant has scaled down the plan to forty dogs. The kennel areas will be on the first floor and the owner would have a residence on the second floor. The site plan indicates where a retention area will be located, the location of the on-site septic system and a potable well. Environmental management's comments indicated concern about the impact to the on-site wetlands and the proposed access driveway and asked to look at the use of Genesis Drive.

# DRAFT

However, Genesis Drive is an unpaved 30 ft. wide privately maintained easement which is currently not stabilized with ditches on both sides making two way traffic difficult. He stated that the Land Development code requires that developments must front on a paved road, and that would mean that Genesis Drive would have to be paved to county standards if it were to become the primary access to the proposed facility. He stated there is a proposed ordinance amendment for animal care facilities and Staff asks that the future amendment apply to the site. He stated the request is inconsistent with the Comprehensive Plan policies that deal with protecting wetlands and not developing in the flood plane. It may be problematic for the applicant to obtain a wetland alteration permit for the entrance drive. The Land Development code limits access of non residential uses from using unimproved private roadways and the applicant is not proposing to pave Genesis Way but is proposing to use access from State Road 44 which impacts the wetland system. Staff recommends **DENIAL** of this Special Exception Request.

**Chair Lipke** asked if there is only one adjacent property owner and where is Ranchette Drive located.

**Mr. Stockham** answered there is a home 380 feet from the property line and indicated its location on a map along with another building that is closer. An additional home is being built to the south of the property. He indicated where Ranchette Drive is located.

**Member Russell** asked if Misty Morgan is a county maintained road.

**Chair Lipke** stated it is a dirt road.

**Mr. Stockham** stated he did not know if it is county maintained.

**Member Huttman** asked if the proposed animal care facility amendment would address access and wetlands.

**Mr. Dyer** answered that it does not address environmental or wetland impacts. He continued that the status of the proposed animal ordinance that Council reviewed in February is uncertain and he suggests that it not be used as a condition. He asked Staff on page 5, if it is the position of Staff that the application is not consistent with the Comprehensive Plan.

**Mr. Stockham** replied that it is true and it is Item 2 of the 9 items.

**Mr. Dyer** asked Staff if the recommendation is based solely on the second criteria, the Comprehensive Plan or is there other basis for denial.

**Mr. Stockham** replied the second basis is Item 5 with regard to meeting the requirements of the wetlands alteration permit.

# DRAFT

**Member Cornett** asked if there was consideration about moving the access road to the easterly property line and coming across the two sections of uplands.

**Mr. Stockham** replied that they had considered using the unopened right a way and placing the kennel facility on the smaller upland portion and the residence on the larger upland portion. The problem was the setback from the roadway and there would not be enough room to fit the kennel facility on the smaller uplands.

**Member Cornett** stated you could use the right a way, use the smaller uplands, then impact wetlands between the two upland portions minimizing the impact.

Discussion continued of alternate entrances, crossing over the small uplands and over a smaller section of wetlands to the residence.

**Mr. Stockham** stated the engineer had brought in several concepts, but may not have considered this entrance and keeping the facility combined into one building.

**Edmond Pridgen, Jr. 1093 Horizon View Blvd, Port Orange, Owner.** He stated he would have to pave the road they are indicating to use, to county standards and he can not afford to do that. He had proposed building the road parallel to the paper road on their property using the little piece of uplands at the top connecting into the 1 ½ acre then coming over to the resident site, which would mitigate some of the wetland impact. He stated they are willing to do what needs to be done. The kennel was to be an indoor facility with an indoor play area as there were concerns as to noise.

**Mr. Stockham** stated there was concern about a private drive next to the unopened right a way, that if the right of way were to be opened at a later date, the two curb cuts would be too close to each other. That was probably why the engineer located the shell drive further over to the west.

**Member Cornett** asked if they would have to pave the entire drive the length of the property or just to the access point.

**Mr. Stockham** stated he thought it was to the access point.

**Ms. Robinson** stated that it is a state road so the applicant would have to get the drive way permit from FDOT and because it is a commercial site the access would have to be paved.

**Member Huttman** asked if it has to be to county standards.

**Ms. Robinson** stated yes, to county standards.

**Member Severino** stated that in the proposal it is a 40 foot shell drive, is there a difference between the drive way or the easement. Why is one allowed to be shell and the other one has to be paved.

# DRAFT

**Mr. Stockham** clarified that it would be 24 feet wide of shell but 40 feet wide of actual grading on the entrance drive. Shell is considered paving in regard to parking isles and parking but it is not county standard for a roadway. He clarified that the current proposal shows State Road 44 is the access via a paved public road with the access to the parking lot coming in being paved with shell.

**Ms. Robinson** stated the paving is what is problematic and it is cutting through the wetlands.

Discussion continued as to what needs to be paved.

**Mr. Stockham** stated when an unopened county right of way is used it has to be paved to county standards.

**Ms. Robinson** stated the bigger issue is the wetland impact which is avoidance and minimization.

**Member Severino** asked what is the legal difference between a private driveway and a private easement, which is Genesis Way.

**Mr. Pridgen** stated he talked with St. Johns Water Management and the original owner who put in the road, went through some wetlands without proper permits. According to them, they will be returning that area to pre-violation conditions. He stated he understood the very end of the road will disappear for him. If he gets denied for the Special Exception, he will be talking to the title company or a lawyer.

**Mr. Severino** stated that then Genesis Way is not an option now.

**Mr. Pridgen** answered that is correct.

**Ms. Robinson** stated she spoke with environmental and Genesis Way has gone through some wetlands illegally. If it is a private easement it is not a county maintained right of way so it is the owner's responsibility to maintain it.

**Member Severino** stated from his perspective the applicant is losing the easement to the property and he is surrounded on three sides by wetlands. There is a hardship here and avoidance and minimization doesn't allow him any relief to have access to his property.

**Ms. Robinson** stated he has to go through the permitting process. She said it would be a challenge. He has not been denied a wetland permit.

**Mr. Pridgen** stated he has applied to DOT to get the access from the highway and has not applied for the wetland alteration permit.

**Chair Lipke** asked if there was more history about this property.

**Mr. Pridgen** stated no, the worst is the no access.

**Chair Lipke** asked how long the applicant has owned the property.

**Mr. Pridgen** answered stated he bought it last July (2007).

**Mr. Stockham** showed a photograph of Genesis Way as an unimproved dirt road.

**Mr. Jay Arnold, P.O. Box 1697, New Smyrna Beach,.** He stated he is an adjacent land owner. He stated there are two markers in the photograph where his driveway is located. From the farthest one back headed west, about 120 feet is where the wetlands are impacted by the road. John, who was the developer, is working with the county about the road. If Misty Morgan Road is completed past lot 2 or another road is put down the other side, the county is requiring them to be paved. He stated the applicant would have to pave to his property then shell it the rest of the way. He stated his concern is only the traffic down Genesis Way, the kennel is no problem.

**Chair Lipke** asked what he means about the traffic problem.

**Mr. Arnold** stated it is because the road is dirt. There is no two-way.

**Member Huttman** stated that the Special Exception is for the use of the property, then the applicant will have to deal with the access to use the property.

**Ms. Robinson** stated the applicant will have to go through final site plan and also it has been deemed not consistent with the Comprehensive Plan. He does have use of the property to build a single family residence and he would not have to pave a road. It is the commercial element that trips the Land Development Code requirement for the paving.

**Member Young** asked if the applicant could put a road from State Road 44 without paving it, to a single family residence back to where the house/kennel would be.

**Ms. Robinson** stated the applicant would have to pave the apron at the connection to the road and still has to get the wetland permit.

**Member Young** asked if Staff is recommending denial due to the impact to wetlands or some other reason.

**Mr. Stockham** stated that the reasons are impact to the wetlands and development in the flood-plain.

**Ms. Robinson** stated you can not deny the right to build, but would encourage building somewhere on the property out of the flood-plain. If the home can not build out of the

# DRAFT

flood-plain the home has to be of a certain elevation. She stated that on page 3 of 6, there are 5 comprehensive polices sited that this request is not consistent with.

**Member Sixma** stated that it appears that thousands of acres are in the flood-plain.

**Chair Lipke** stated the general area of the property is suited for the use. There is not much out there.

**Mr. Stockham** explained that if only a single-family residence was built on the property, the access is the 30 ft. easement known as Genesis Way. He stated he did not know if a wetland alteration permit would be granted for a single-family residence drive from State Road 44 to the larger upland portion. He continued that environmental staff indicated that any impacts for access drives would be considered for avoidance and minimization.

**Mr. Pridgen** stated he is only seeking the Special Exception for the kennel and will fight the road battle down the road. He stated there are other businesses on the 100-year flood-plain area.

**Member Severino** stated it is the job of the Commission to bridge the gap in the gray areas where the Comprehensive Plan causes a hardship instead of remedies the possibilities for the property owner. He stated the applicant seems to understand what he has to accomplish.

**Mr. Dyer** stated there is no hardship standard. However, there are the 9 criteria to work from but the Commission does not have to agree with them. Staff has sited some of the Comprehensive Plan policies and has indicated that the applicant has an uphill battle with the environmental issues and the Land Development Code.

**Member Young** stated to approval the Special Exception wouldn't it have to include egress and entrance.

**Mr. Dyer** replied that Staff is saying the application is inconsistent with the Comprehensive Plan because the applicant will not be able to meet all the requirements imposed. He stated if an applicant can not meet those requirements, it is a basis for denial.

**Ms. Robinson** stated if the applicant's Special Exception for commercial use is granted, it is creating an expectation of being able to succeed. There are problems of doing a commercial development on the property and the applicant needs to be aware of the time and expense.

**Member Huttman** asked about the consistency on number 3 of 6 on the Staff Report, where it is consistent with the exception of the entrance drive.

# DRAFT

**Mr. Stockham** stated that there must be upland buffers, and the 40 ft. wide grading area does not show the required 50 ft, buffers on both sides to have the 24 ft. wide shell drive. The policy also talks about structures shall be discouraged from the 100-year flood-plain. It is one thing to have a single family residence but another to develop a kennel with about 40 animals in an area that is prone to flooding.

**Member Huttman** stated that the consistency issue is more than the granting of the access.

**Member Young** asked the applicant if he was aware of the issues when he bought the property.

**Mr. Pridgen** replied he was not. He did not think it was going to be a problem. He was aware of the zoning and thought at the least he would be able to live there. He understands this will be an uphill battle, but he is not going to spend a lot of money. He stated he never intended to use Genesis Way, even as his private drive when he bought the land.

**Ms. Robinson** asked the applicant if he would like to continue the case for a month so he can come back to meet with Staff concerning the access issue. She stated one of the reasons for recommendation for denial is the request to develop a commercial use in a flood-plain. She stated he can build a single family residence on the lot.

**Mr. Pridgen** stated he understands and he wants to build a house at least.

**Chair Lipke** stated that he has two choices, he can continue the case a month or if the Commission denies the request, he can appeal it to the County Council.

**Ms. Robinson** stated the case will go to the County Council.

Discussion continued as to possible appeal processes.

**Member Russell** asked if the applicant is denied at this time can he come back at a later date with an acceptable plan of access.

**Ms. Robinson** stated it would be a new application, at least one year from a determination of County Council.

Member Cornett **MOVED** to **FORWARD** case **S-08-017** to the County Council with a recommendation of **DENIAL** based on the Staff Report. Member Young **SECONDED** the motion. The motion **CARRIED** by a vote of 5 to 2. Member Sixma and Member Severino voted against the motion.

## C. OLD BUSINESS

NONE

## VI. PUBLIC ITEMS

### 1. EAR based amendments

.....Terry James, Planning Manager, Comprehensive Planning

**Terry James** began the staff report with a power point presentation explaining the EAR Process and the EAR Based Amendment process. He explained that this is a state mandated process that is required every 7 years. He then discussed the major amendments of the plan. Following the presentation the Board members asked several questions.

**Commissioner Severino** questioned what the proposed Floor Area Ratios were measured against, gross or net acreage.

**Mr. James** answered that they are based on gross acreage. He also questioned if the building heights allowed per zoning district would be accommodated by the proposed FARs. Mr. James explained that the FARs were formulated using zoning data. They should accommodate permitted building heights.

**Commissioner Severino** questioned the location criteria for commercial structures (Chapter 1, page 54) which prohibits commercial structures to be developed in the flood plain. He felt that it might be too restrictive given the considerable floodplain areas in the County and further asked if the floodplain information was based on LIDAR data.

**Mr. James** explained that the policy was changed because of Council's concern regarding extensive flooding that occurred a few years ago. It was discussed in the EAR and therefore addressed in the EAR Based Amendments accordingly.

**Commissioner Severino** expressed concern over a policy (ref. Chapter 1, page 7) that requires all re-zonings in the LIU land use to proceed as a PUD. Previously it required property over 8 acres in size with the addition that the property must go thru VGMC review. He suggested that the policy be changed back to the original but with the provisions that property less than 8 acres "may" be required to be a PUD.

**Commissioner Young** commented on policy 13.1.2.4 (Chapter 13, page 6) which has been revised to state "people with disabilities" rather than "handicapped persons". The concern is that every disability has to be accommodated subject to this language. There was a brief discussion regarding the use of shall versus must, and may. PLDRC

**Recommendation:** The Board moved to recommend that the EAR Based Amendments be approved by the County Council and transmitted to the Department of Community Affairs, subject to their comments being presented to County Council for consideration. The motion passed with a vote of 7 to 0.

2. **Indian Lakes Small Scale Amendment CMPA-002-08**

.....Terry James, Planning Manager, Comprehensive Planning 1.

**Terry James** presented the staff report. Staff recommended approval of the proposed amendment.

**Rebecca Hammock, with Ivey Planning Group**, represented the applicant. Rebecca introduced herself and stated that she concurred with staff's assessment and was available for any questions

The PLDRC Board questioned the road impacts associated with project as presented in Table 2 of the report. Mr. James explained that the amendment site will be limited in development potential to a reduced Floor Area Ratio (FAR) due to area roadway conditions. A similar amendment was recently approved in the area with the same FAR limitation.

**PLDRC Recommendation:** The Board moved to recommend that the amendment be approved by the County Council. The motion passed with a vote of 7 to 0.

**VII. STAFF ITEMS**

**VIII. COMMISSION COMMENTS**

**IX. PRESS AND CITIZEN COMMENTS**

**X. ADJOURNMENT**

Having no further comments from the public, staff or Commissioners, Chair Lipke thanked everyone and adjourned the meeting at 11:42 a.m.