

PASCO COUNTY PLANNING COMMISSION  
PUBLIC HEARING

JULY 15, 2009

MINUTES

THE MINUTES WERE PREPARED  
IN AGENDA ORDER AS  
PUBLISHED AND NOT IN THE  
ORDER IN WHICH THE ITEMS WERE HEARD

HISTORIC PASCO COUNTY COURTHOUSE, BOARD ROOM 2<sup>ND</sup> FLOOR  
37918 MERIDIAN AVENUE, DADE CITY, FL 33525

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Members:

Mr. Charles Grey, Chairman - **Absent**

Ms. Allison Fogarty

Mr. Ed Weiss

Mr. Calvin Branche

Mr. Art Woodworth

Mr. Richard Tonello

District School Board of Pasco County

Mr. Kevin Ryman

Mr. Dennis Smith

Mr. Jon Moody

Ms. Sandra Werner - **Absent**

Staff:

Mr. David Goldstein, County Attorney

Ms. Debra Zampetti, Zoning/Code Compliance Administrator

Mr. Lee Millard, Assistant Zoning/Code Compliance Administrator

Mr. Robert LaLiberte, Planner I – **Absent**

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1. **CALL TO ORDER**

Vice-Chairman Branche called the meeting to order at 1:30 p.m.

A. **Invocation**

A moment of silence was held in lieu of a prayer.

**B. Pledge of Allegiance**

Vice-Chairman Branche led the Pledge of Allegiance to the Flag.

**C. New Business**

Vice-Chairman Branche explained the procedures that would be followed during the meeting.

Ms. Katie McCormick, Deputy Clerk, swore in those who planned to present testimony.

Mr. Smith reminded the Commission that Staff was to discuss the issue of animal waste with them because it had been an issue in previous petitions.

Mr. Goldstein said he spoke to the Solid Waste Attorney who consulted with the Utilities Department regarding this matter. There was no legal prohibition on disposal of animal waste into a dumpster, a trash receptacle, or any other form of disposal under the County's Solid Waste System.

**a. Rezoning Petitions/Conditional Use Petitions/Special Exception Petitions**

**CONSENT**

Ms. Debra Zampetti, Zoning/Code Compliance Administrator, listed the Consent Agenda Items.

The following petitions were pulled from the Consent Agenda:

**ZN09-6865 – Jo Ann McCulligh-Fortner-Special Exception  
for a breeding kennel**

**ZN09-6869 – Billie Jo and Kevin Ray Curran-For a breeding kennel  
in an A-R**

**MR. MOODY MOVED** approval of the Consent Agenda with the exception of the items that were pulled, **MR. TONELLO SECONDED.**

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

- C1 Zoning Petition-District School Board of Pasco County-From an MPUD & A-C to an A-R  
Memorandum ZN09-6868  
Recommendation: Approve  
Comm. Dist. 2

The item was approved on the Consent Agenda.

- C2 Zoning Petition-MSW, LLC/Whitney's Fresh Market-For the sale of alcoholic beverages (2-APS) in an C-2.  
Memorandum ZN09-CU21  
Recommendation: Approval with conditions  
Comm. Dist. 5

The item was approved as part of the Consent Agenda.

- C3 Zoning Petition-VGA Realty, LLC/Bonefish -To expand an existing conditional use for the sale of alcoholic beverages (4COP/SRX)  
Memorandum ZN09-CU23  
Recommendation: Approval with conditions  
Comm. Dist. 2

The item was approved as part of the Consent Agenda.

- C4 Zoning Petition-Jo Ann McCulligh-Fortner-Special Exception for a breeding kennel in an A-R Dist  
Memorandum ZN09-6865  
Recommendation: Approval with conditions  
Comm. Dist. 2

Mr. Weiss requested the item be pulled from the Consent Agenda.

Ms. Zampetti explained the request and gave the location of the property. Staff recommended approval with conditions.

Ms. Teresa Lumunyon stated she was the daughter of Ms. Jo Ann McCulligh; they were both present.

Ms. McCormick swore in both speakers.

Mr. Weiss asked about an animal control violation in May. He mentioned the recommendations Animal Services had made but had not been completed.

Ms. Lumunyon said Animal Services had been back and all the repairs were completed.

Discussion followed regarding the facilities for the dogs.

Mr. Goldstein asked for clarification of the size of the structure.

The Planning Commission took a brief recess at 2:24 p.m. due to technical difficulties. The meeting reconvened at 2:36 p.m.

Ms. Zampetti said issues with the kennel such as ventilation and size, were actually issues between Animal Control and the kennel owner. The Special Exception did not deal with the kennel itself. She reminded the Commission of the criteria of approval or denial; the Commission needed to look at the conditions such as adequate ingress and egress into the property, were there adequate provisions for off-street parking and loading area, and so on. She said the issues with the kennel itself would be ongoing between Animal Control and the owner. If the petition was denied, the Commission would need to have one or more reasons based on the list of reasons for denial.

Mr. Woodworth noted there was not a site plan in the packet and he was unsure how the questions and issues Ms. Zampetti enumerated could be answered without a site plan.

There was further discussion regarding the site, the location, and the relationship of the animals to the surrounding properties.

There was no public comment.

**MS. FOGARTY MOVED** approval of Staff's recommendation; **MR. MOODY SECONDED.**

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

C5 Zoning Petition-Carlos K. & Faye G. Sutton-For a bed and breakfast tourist home in an A-R  
Memorandum ZN09-6870  
Recommendation: Approval with conditions  
Comm. Dist. 1

The item was withdrawn.

C6 Zoning Petition-Billie Jo and Kevin Ray Curran-For a breeding kennel in an A-R  
Memorandum ZN09-6869  
Recommendation: Approval with conditions  
Comm. Dist. 1

An audience member requested the item be pulled from the Consent Agenda.

Ms. Zampetti explained the request and gave the location of the property. Staff recommended approval with conditions.

Ms. Billie Jo Curran and Mr. Kevin Curran identified themselves for the record and indicated they had been sworn.

Ms. Curran said she was unaware she needed a rezoning of any kind. She had an Occupational License from Pasco County. She asked them if she needed anything else and they did not inform her of this requirement.

Mr. Leonard Cimador, adjacent property owner, objected to the petition for the following reasons: interference with peaceful enjoyment of the property, barking, odors, attack dogs, safety, lower value of property, and dogs running loose. He felt this was not an appropriate place for a kennel.

After discussion it was determined that the dogs being bred were small dogs, not attack dogs; the dog running loose was not the petitioner's dog, only one being kept for a friend; and there was a 6' chain link fence around the property with a dog run.

Ms. McCormick swore in the next speaker.

A neighbor who did not identify herself said she saw a Husky running loose in the yard or neighborhood.

Discussion followed regarding the layout and size of the yard; how long the kennel had been in operation; how the animals would be sold; limitations in the County regulations; veterinarian care; and measures to take to avoid dogs digging out of the yard.

Ms. Zampetti said she could add a limitation on the number of dogs, and the type and weight of the dogs.

Mr. Weiss suggested the only type of dog allowed in the kennel would be Poms and Chihuahuas. He also confirmed the size of the property and the size of the building.

Ms. McCormick swore in the next speakers.

Ms. Wilcox and Ms. DeJesus spoke in favor of the petition.

Mr. Woodworth suggested an area in the backyard to keep the animals. He drew it on his copy of the petition and gave it to the Clerk.

Mr. Goldstein suggested clarifying whether the maximum number of dogs allowed in condition number one included puppies.

**MS. FOGARTY MOVED** approval of Staff's recommendation with a supplemental condition which would amend condition number one to limit the kennel operation to a total of 30 dogs to be only Pomeranians or Chihuahuas, no more than 20 to be adult animals, and a second supplemental condition specifying an area where dogs would be permitted, a copy of the specified area drawn on the survey and given to the recorder, said area to be fenced with at least a 6' fence and measures should be taken to mitigate the ability of the dogs to dig under the fence; **MR. MOODY SECONDED.**

Mr. Woodworth confirmed the location Ms. Fogarty specified to house the dogs.

Ms. Zampetti asked the motion to include the wording "...the rear of the home as depicted on..."

**MS. FOGARTY AMENDED** her motion to include the wording "...on the rear of the home as depicted on Exhibit A which shall be provided to the Staff recorder which appears to be in the southeast corner of the lot."

Mr. Goldstein confirmed that the dogs could go inside of the house.

Ms. Fogarty clarified that the area specified for the dogs would be the rear quadrant of the yard and inside the house.

Mr. Moody suggested the County Attorney or the Zoning Administrator inform the petitioner of the County's Noise Ordinance as it pertains to barking dogs. He explained further and reminded the petitioner if they were found to be in continuous violation of the Noise Ordinance, they could be subject to revocation of the Special Exception.

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

C7 Zoning Petition-Interstate Homes, LLC-For a flea market in an C-2  
Memorandum ZN09-CU22  
Recommendation: Approval with conditions  
Comm. Dist. 2

The item was approved as part of the Consent Agenda.

Ms. Zampetti explained a minor change to condition number one. The owner wanted to be open on Tuesday as well as Thursday through Sunday, as was originally requested. This revised schedule was in the handout provided to the members.

## REGULAR

R1 Zoning Petition-Uradco Inc. Et Al/Citrus Ridge MPUD-For an MPUD in an A-R & R-3  
Memorandum ZN09-6737  
Recommendation: Approval with conditions  
Comm. Dist. 1

Ms. Zampetti explained the petition and gave the location of the property. The petition was for a change in zoning from an agricultural residential in an R-3 medium density residential district to an MPUD. The property contained 112 acres. This matter was before the Development Review Committee (DRC) a year and a half ago. It had been continued several times and undergone several full public hearings. At the time, the petitioner requested 450 residential units in the form of a Traditional Neighborhood Design. They requested Alternative Standards regarding street pattern and street access to adjoining property which would have allowed deviation from the requirement to provide interconnections from Skyline Drive and an emergency access at Mitchell Street. At the time, DRC denied the Alternative Standards request and wanted full secondary access to Mitchell Street. There was also discussion at one point of an access road that would go east through Withlacoochee property to 21<sup>st</sup> Street but those negotiations fell through.

She gave other information regarding the history and timeline of the petition. There were comp plan issues because this was in the Dade City Transition Area, the Rural Area. In November of 2007 the DRC recommended the applicant create a conceptual plan at a density of 3.2 units per acre or approximately 358 units with access to Blanton Road via Mitchell Street. The DRC also stated they wanted to eliminate the 40' lots from the plan and they voted to continue to January 24, 2008. At that time, the DRC recommended approval of 358 units but the decision for the proposed TND was deferred. The design concept was not part of the hearing today but later the applicant may submit a concept design under this approval.

Ms. Zampetti corrected Finding of Fact number 18 to reflect it was the applicant who requested the item be withdrawn. Staff recommended approval of the petition as modified by the DRC.

Mr. Joel Tew, representing the applicant, Bayshore Broadway Incorporated, said he was also present with the permission of the property owners which were Uradco Incorporated and Mr. and Mrs. Rhinesmith. He was aware of the City of Dade City's position and the residents' position and would address the issues briefly. He reminded them that DRC had recommended approval.

Mr. Tew described the project as 112 gross acres. Final DRC approval was down to 358 units and the applicant accepted that reduction, but they could not agree to any further reduction in density. Moreover, the reduction in density would not be warranted for several reasons. This property already had a land use designation of Res-6 and Res-3. Nearly two-thirds was Res-6, one-third was Res-3. Under the Comp Plan, they were entitled up to 550 units, not the 358 they were agreeing to accept. A substantial part of the property was already zoned R-3 which allowed 330 units without an MPUD. For the 28 more units the County would:

- Get MPUD site plan control
- Could tell the developer what to build, where to build it, and what to make it look like
- Where to have setbacks
- Where to have large lots
- Where to have open areas
- Where to have and not to have connections
- How much money to pay to improve the road network.

Mr. Tew pointed out without an MPUD, most of those items would not be necessary. The developer wanted a “smart growth traditional neighborhood development.” It would be community focused with a wide variety of housing products. He felt this was the form of development Pasco County, the Planning Commission, the Comprehensive Plan, and all associated Ordinances wanted or needed. It was not in any rural protection area nor was there any regulatory restriction on transition for this property under the adopted Comp Plan. The County Attorney’s office had agreed in writing. He asked if this density or form of development was not acceptable, why the County did not change the land use designations for this area. He spoke further regarding the land use in surrounding areas.

Mr. Tew clarified that there was no retail component in this project. Originally Pasco County Staff and Dade City Staff asked the developer to consider a small neighborhood retail element in the plan, but residents objected and the retail element was deleted.

Mr. Tew discussed the issue of cross access. The property owner and the developer were not involved in that issue; it was an issue with the County Land Development Code. The LDC required interconnection of neighborhoods which made new projects interconnect with the properties around it. Only the County Commission could eliminate that requirement. He would address that issue when this project went before the Board of County Commissioners. Whatever the Board wanted was what the developer would be forced to do. He discussed other interconnection options and requirements by the Development Review Committee. From a traffic engineering standpoint, it was determined that traffic on St. Joe Road would function at an acceptable Level Of Service, even at the higher level of density.

Mr. Tew mentioned the development would have a central park area and a civic area. They planned a grid pattern with alleyways and terraces which fit with the topography of the area. He said there would be no mass grading, excavating, or exporting fill dirt.



Mr. Tew reminded the Commission the developer had met with Dade City Staff before starting the approval process because there was interest on the part of Dade City to annex. Dade City was supportive of the application. He described the adjacent and nearby annexed areas and the nearby approved projects, from a density standpoint. City wide the average density was 3.2 dwelling units per acre, according to the Dade City Planning Director. He believed that was why the DRC reduced the density to 3.2 units per acre. He discussed in great detail the density issue. He said when the City thought the project was a good idea, their Community Development Director wrote a memo encouraging the City Commission to approve this project for a Comp Plan Amendment and for annexation at a density of 4.6 units per gross acre. That memo was part of the record. He understood that recommendation had changed to 3.2 units applied to net acres not gross acres.

Mr. Tew noted that Dade City originally recommended approval and had indicated there were no traffic problems, no conservation problems, no density problems, no Comp Plan issues, no Interlocal agreement problem and there was sufficient capacity to service this development. He asked the Commission to approve Staff's recommendation of approval.

Mr. Tew showed a map on the overhead projector with adjacent approved projects and when they were approved.

Discussion followed regarding:

- further density in the area
- what improvements the other developments in that area were required to make
- transportation mitigation requirement
- this development's proportionate share which was over three-quarters of a million dollars
- how soon this project would start and put people to work
- possible open spaces, stub-outs, and interconnect locations
- affordable housing issues
- the traffic at the nearby intersection

Mr. Woodworth asked if the client was willing to commit to the TND because in the conditions it appeared the client could change that if he chose.

Mr. Tew said they wanted to commit and work out alternative standards as needed. DRC wanted to get through the density and approval issue first before preliminary concepts.

Extensive discussion followed between Staff members, Mr. Tew, and the Commission regarding the specifics of the traffic issues; proportionate share; and access in the area. Not everyone agreed on the interpretation of the traffic studies.

Ms. McCormick, Deputy Clerk, swore in Mr. Ahsan Khalil with Pasco County Growth Management.

Mayor Scott Black, Mayor of Dade City, pointed out when this development application came to the Dade City Commission, it was an “outgoing commission” and they originally voted against the project. He said there was a Resolution opposing the development passed by the City Commission two months ago. He spoke about density, traffic, undeveloped annexed property, location, and surrounding properties. He spoke about the difference in gross and net acreage. He felt the energy against this development was citizen-driven, not city-driven. He wanted the development to be done in a manner consistent with the remainder of the Dade City area.

Ms. Karla Owens, Dade City Development Director, spoke about the other approved developments in the area, density in the area, traffic study, and concurrency. Some developments were approved before the Comp Plan. She spoke about transition in the area, utilities in the area, and access issues.

Discussion followed regarding traffic studies; future regulations; future concurrency management system; and the exemption for Senate Bill 360.

Mr. Ali Atefi, Pasco County Metropolitan Planning Organization, was unaware of any improvements in the CIP for this area. A long-term improvement would likely require a realignment of St. Joe Road which would require the purchase of right-of-way and it may become very expensive. He clarified the TIS for this project was done in 2006 and the conditions as that time were greatly different from conditions in 2009, the original buildout date. He mentioned operational improvements at that intersection.

Mr. Goldstein summarized by saying the County’s traffic study showed an impact at these intersections and a proportionate share was calculated that this particular developer would pay. The issue was how the City or the County would get the remaining funds to fix those intersections.

Mr. Lenny Nayert, Dade City Engineer and Public Works Director, used a sketch of the intersection of SR 52 and St. Joe Road and indicated who owned the roads and who maintained them. He spoke about the original planned connections. The City did not have the opportunity to examine the traffic or the mitigation plan, and the buildout date was incorrect; a more current traffic study would be needed. He showed traffic at peak times and noted the LOS at this intersection was failing. He explained the problem and said the only real solution was realignment. The minimum recommendation would be to require a new traffic study. He spoke about the issue of some sections of the intersection being owned by different entities and the funding issues there.

There was further discussion regarding the traffic issue; the layout of the intersection; possible solutions to the alignment problem; water pressure and water requirements needed for the new development; utility service agreements; and future development plans for the area.

Mayor Black summarized the City's recommendation by saying the City would want to see road improvements and the density be brought down consistent to what was to the west and to the east.

Mr. Goldstein asked Mr. Tew about the alternative secondary access.

Mr. Tew said the developer would build wherever the County wanted access but was not buying the entire Withlacoochee property; if a right-of-way or easement was provided, his client would provide stub-outs, access, or connections. He noted that no roads could be designed or built without DOT approval. He also noted that if the intersection was rated LOS "F", the developer could not be required to pay for it.

Mr. Goldstein stated that the taking of prop share was at the County's option. He asked what the client's position would be if the County required the developer to do the improvements instead of paying prop share.

Mr. Tew answered that his client would not build the intersection for only 358 units; it was not financially feasible. His client would only pay their share. He also noted there was no provision to calculate density other than units per gross acre; he had never seen a calculation on net acres.

Discussion between the Commission and Mr. Tew followed regarding:

- stormwater retention areas
- open spaces
- FDOT cost sheet for calculations of intersection improvements

Vice-Chairman Branche asked for public comment.

**MR. MOODY MOVED** to receive and file documents from Ms. Carver; **MR. WEISS SECONDED.**

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

Ms. McCormick swore in the remaining speakers.

Ms. Pat Carver, Ms. Barbara Jones, Ms. Peggy Woods, Mr. Paul Boetcher, Ms. Gail Greenfelder; Mr. Otto Whitesencorn, Mr. Wendell Greenhalgh, Ms. Sally Redden, Mr. Noah Kaaa, Ms. Susan Dowling, Mr. Terry Clements, Ms. Nancy Hazelwood, and Ms. Diane Riggleman spoke in opposition of the petition. They mentioned density; compatibility; topography of the area; impact on the area; access; stormwater runoff; rural character; transition area land use; pattern of development in the area; rural protection; gross versus net acreage; sizes of parcels or lots; traffic; mitigation problems; the Withlacoochee property; flooding issues; aquifer recharge; the ULI report regarding recharge and water preservation; contamination of the aquifer; possible moratorium on building in the area until the infrastructure was corrected; traffic; out-of-

town builders; comp plan amendment process; planned growth; smart growth; safety issues; and the empty houses already available.

Mr. Tew was not available for rebuttal.

Mr. Moody asked Staff about the development standards for Citrus Ridge. Condition number 34 mentioned sidewalks and on-street parking. He asked about right-of-way issues.

Ms. Zampetti explained that Staff had not received certain documents from the applicant so some of the conditions were based on a lack of information and would be clarified at a later public hearing.

Discussion followed regarding parking, setbacks, and sidewalks.

Mr. Goldstein read a paragraph from a letter from Ms. Karla Owens which quoted the previous Pasco County Attorney, Mr. Robert Sumner. Mr. Goldstein clarified that any statements by Mr. Sumner were not to be considered a binding interpretation, but an opinion. The only entities in the County who could provide a binding interpretation of the Comp Plan were the Growth Management Administrator and the Board of County Commissioners. He asked if Growth Management would comment on the issue of to what extent Staff could apply the transition area requirements to this project.

Ms. Carol Clark, Executive Planner with the Growth Management Department, said this was somewhat of a gray area, as the issue of compatibility usually was. She clarified that the Citrus Ridge property was not within the Northeast Pasco Rural Area, but it was within the Dade City Transition Area, as was shown in a 2005 Gladding-Jackson report. There was specific reference to the Dade City Transition Area in the adopted Comp Plan. She read several passages from the Comp Plan for the Commission and suggested the Commission take the policy, as a whole, and the broad intention of the Plan into consideration when making their decision. She felt it was a fair statement that it was clearly part of the policy of the Comp Plan to look at this particular area with regard to those transition questions and issues. It was also a fair statement that was alluded to by Mr. Tew that the regulations to fully implement the transition area had not been adopted but clearly the Plan called for consideration of compatibility and transition in this area.

Mr. Woodworth asked about closed basins, compatibility, and the fact that Staff recommended a different number of units on different occasions.

Ms. Zampetti responded with information about the number of units.

Discussion followed regarding the number of units and Staff recommendations. Growth Management did not have a recommendation on the number of units.

Ms. Fogarty noted the Commission had the option to approve Staff's recommendation of 358 units or deny approval of the project. If denied, the property would maintain its existing zoning which would allow 328 units.

Mr. Goldstein reminded the Commission that this was an MPUD so the choices would also include a recommendation for modification of conditions or a lower density or other changes.

Mr. Woodworth pointed out there were still "a lot of loose ends" such as Mitchell Street connection; Condition 25 stated to provide either improvements to St. Joe Road or a bond option; access; off-site improvements; a second traffic study which may lower prop share; impact fees; open space; retention pond; master plan; and water/sewer agreements. He felt there were too many unresolved issues to move forward.

Mr. Tonello felt that middle and high schools would be okay, but elementary schools would be overcrowded. He discussed portables and capacity.

**MS. FOGARTY MOVED** to deny the petition based on items b, c, g, and p; **MR. MOODY SECONDED.**

**MR. SMITH AMENDED** the motion to add items f, l, and r; **MR. MOODY SECONDED** the amendment.

Vice-Chairman Branche called on the amendment; the vote was unanimous and the motion carried.

Vice-Chairman Branche called on the main motion as amended; the vote was unanimous and the motion carried.

R2 ZONING PETITION (Regular)-K.T., Mary F., and Robert A. John-From A-C Agricultural and C-2 General Commercial Districts to a C-2 General Commercial District  
Memorandum ZN09-6816A  
Recommendation: Withdraw  
Comm. Dist. 1

Ms. Zampetti said this item was withdrawn and no action was necessary.

R3 ZONING PETITION (Regular)-RIZK Florida JV, et al./Suncoast Lakes MPUD Master Planned Unit Development Amendment  
Memorandum ZN09-6860  
Recommendation: Approval with conditions  
Comm. Dist. 4

Ms. Zampetti explained the request and gave the location of the property. The applicant requested permission to combine parcels two and four to create one large commercial parcel along with parcel one which would increase commercial development from 80,000 square feet to 210,000 thousand square feet. They also wanted to reduce the acreage for flex space while increasing intensity, relocate office uses, eliminate the warehouse as an improved use, and reduce acreage for church/quasi-public. Staff recommended approval of some of these requests. She explained the recommended uses, acreages, and square footage ratios in detail.

Mr. Ben Harrill, representing the applicant, agreed with Staff's recommendations and conditions.

There was no public comment.

**MR. WOODWORTH MOVED** to approve Staff's recommendation; **MR. RYMAN SECONDED.**

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

R4 ZONING PETITION (Regular)-Charles and Rosemary Redding-For a Yard-Trash Disposal Facility and an Air Curtain Incinerator in an I-2 General Industrial Park District  
Memorandum ZN08-CU13A  
Recommendation: Denial  
Comm. Dist. 3

Ms. Zampetti explained the request and gave the location of the property. This matter had been continued several times in 2008 while the County biologist, Mr. Bob Tietz, inspected the site. He looked at where the debris was and whether the applicant could comply with the proposed conditions. The applicant needed to move some of the debris from the wetlands. The item had been temporarily put on hold to allow Staff to work with the applicant on various issues. Mr. Tietz confirmed the issues were resolved from an environmental point of view. The application came up for hearing in 2009 but was continued again because there was a question regarding a site plan. There were several other issues which created delays. In the meantime, there had been two fires on the property; the second one utilized over 300,000 gallons of water and a lot of other resources. The Fire Marshal inspected and reported that the access roads were in serious condition, debris piles were extremely large, the incinerator was small and any future fires would be difficult and expensive to respond to effectively. Because Staff believed the applicant could not comply with the conditions of approval as written and because Staff believed the facility, as it was now, constituted a public health and safety risk, Staff recommended denial.

Mr. King Helie, representing the applicant, agreed with Ms. Zampetti's summary. He felt something could be worked out to make the facility acceptable to the Fire Marshal. He noted Staff had recommended approval several months ago prior to the fires. He asked the Committee to overrule Staff's recommendation of denial and to approve the application with the exception of the following conditions: number one, right-of-way preservation; number two, further right-of-way issues; number four, preliminary site plan; number five, wildlife study; number six, benchmark requirements; number seven, operating hours; number 20, all weather road; number 21, fence; number 27, fair share of roads; and number 30, entrance/turn outs.

Ms. Zampetti handed out the part of the application stating the conditions as it was not part of the original packet.

Ms. Fogarty asked about road access for fire apparatus.

Mr. Helie said they could build a wider road for access.

Mr. Woodworth noted that the Planning Commission was being asked to make a decision or a recommendation to the Board of County Commissioners when the issues were not yet settled. The client and Staff did not agree on many of the conditions and there was a question of whether or not this could be worked out with the Fire Marshal. He felt it should be continued until the issues were worked out and a more informed decision could be made.

Ms. Zampetti clarified there had been ten continuances on the matter.

There was no public comment.

**MS. FOGARTY MOVED** to accept Staff's recommendation of denial; **MR. SMITH SECONDED.**

Mr. Weiss asked if the representative from the Fire Marshal's office would speak to the Committee about the site.

Mr. Donald Campbell, Pasco County Fire Rescue, was a fire investigator representing Mr. Larry Whitten, the Fire Marshal. He said he had not been sworn.

Ms. McCormick swore in the speaker.

Mr. Campbell said it was the Fire Marshal's position that with the current situation on site, the project should not be approved. Prior to the fires, the Fire Marshal's office had been in negotiation with the petitioner to have hard contact roads built on the site to allow fire apparatus if needed. The piles were now considerably larger and higher than when the negotiations started. The two fires had used approx  $\frac{3}{4}$  of a million gallons of water during a severe drought. Both fires were originated by the open air incinerator on the site. He believed the applicant did not have a large enough incinerator to burn what

debris was currently on site. He said even if they stopped accepting debris right now, they would continue to burn for an indefinite length of time. His recommendation of denial was backed by the Florida Fire Prevention Code. He restated the Fire Marshal's position and recommendation of denial of the application.

Vice Chairman Branche asked what happened to the debris on site now if this application was denied.

Mr. Campbell replied that it would need to be addressed by Code Enforcement.

Ms. Zampetti noted that the County Attorney's office and a representative from L & M Mulch were working together to wind down the affairs of the operation.

Vice-Chairman Branche called on the motion; the motion carried with Mr. Moody abstaining.

R5 Zoning Petition-Amy L. Donohue fka Amy D. Delk – Boarding kennel in an A-R  
Memorandum ZN09-6861  
Recommendation: Continuance Requested  
Comm. Dist. 2

The item was withdrawn; no action was taken.

#### **D. Minutes**

**MR. WEISS MOVED** approval of the May 13, 2009 minutes; **MR. WOODWORTH SECONDED.**

Ms. Fogarty pointed out a typographical error in Mr. Goldstein's name on the May minutes.

Vice-Chairman Branche called on the motion, the vote was unanimous and the motion carried.

**THE COMMISSION RECESSED AT 2:25 P.M. DUE TO TECHNICAL DIFFICULTIES AND RECONVENED AT 2:36 P.M. ALL MEMBERS WERE PRESENT.**

**THE COMMISSION RECESSED AT 4:30 P.M. AND RECONVENED AT 4:36 P.M. ALL MEMBERS WERE PRESENT.**



**ADJOURN**

**MR. MOODY MOVED** to adjourn; **MR. WOODWORTH SECONDED.**

Vice-Chairman Branche called on the motion; the vote was unanimous and the motion carried.

The meeting adjourned at 5:56 p.m.

PLANNING COMMISSION  
REGULAR MEETING  
JULY 15, 2009

(SEAL)

Prepared by: \_\_\_\_\_  
Katie McCormick, Deputy Clerk