

**MINUTES
LAKE COUNTY ZONING BOARD
APRIL 7, 2010**

The Lake County Zoning Board met on Wednesday, April 7, 2010 in the Commission Chambers on the second floor of the County Administration Building to consider petitions for rezoning, conditional use permits, and revocation of conditional use permits.

The recommendations of the Lake County Zoning Board will be transmitted to the Board of County Commissioners for their public hearing to be held on Tuesday, April 27, 2010 at 9 a.m. in the Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

Timothy Morris, Vice Chairman	District 1
Scott Blankenship	District 2
James Gardner, Secretary	District 3
Egor Emery	District 4
Paul Bryan, Chairman	District 5
Larry Metz	School Board Representative

Members Not Present:

Mark Wells	At-Large Representative
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Staff Present:

Brian Sheahan, AICP, Planning Director, Planning and Community Design Division
Steve Greene, AICP, Chief Planner, Planning and Community Design Division
Rick Hartenstein, AICP, Senior Planner, Planning and Community Design Division
Melving Isaac, Planner, Planning and Community Design Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Ann Corson, Office Associate IV, Planning and Community Design Division
Jim Stivender, Public Works Director
Ross Pluta, Engineer III, Engineering Division
Scott Catusus, Code Enforcement
Erin Hartigan, Assistant County Attorney
Sarah Taitt, Assistant County Attorney

Chairman Bryan called the meeting to order at 9:02 a.m. He led in the Pledge of Allegiance, and James Gardner gave the invocation. Chairman Bryan noted that a quorum was present. He confirmed the Proof of Publication for each case as shown on the monitor and that this meeting had been noticed pursuant to the Sunshine Statute.

Chairman Bryan explained the procedure for hearing cases on the consent and regular agendas. He stated that Agenda No. 4, PH#6-10-5, has been removed from the consent agenda. He said that all exhibits presented at this meeting by staff, owners, applicants, and those in support or opposition must be submitted to the Public Hearing Coordinator prior to proceeding to the next case. Anyone wishing to speak should complete a speaker card that can be found on the table at the rear of this room. He added that this Board is a recommending board only, and the Board of County Commissioners (BCC) will be hearing these cases later this month when a final determination will be made.

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Minutes

MOTION by Timothy Morris, SECONDED by Scott Blankenship to approve the March 3, 2010 and March 15, 2010 Lake County Zoning Board Public Hearing minutes, as submitted.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

Discussion of Agenda

Brian Sheahan, AICP, Planning Director, stated that Agenda No. 3, PH#2-10-3/Jim Hall, VHB, Inc./Floribra USA, Inc./Windmill 27, has been pulled from the agenda and will be heard in May. He reiterated that Agenda No. 4, Harbor Hills Development LP, will be moved from the consent agenda to the regular agenda.

Based on several inquiries regarding CUP#985-5, Agenda No. 6C, Mr. Sheahan stated that he had made an announcement to the audience before the public hearing began that this is a revocation that will revert the property back to the Agriculture zoning.

Consent Agenda

CUP Revocations:

CUP#89/10/5-5	Franklin Kauffman/Brian Wall-DB&B of Brevard, LLC	6A
CUP#972/972-3A	Dwain Zagrocki	6B
CUP#985-5	R. J. Eichelberger/W. Glenn Tyre Trustee	6C
CUP#86/12/5-3	Sunshine Peat Co.	6D
CUP#960-2	W. Spicer/K. Boykin	6E

MOTION by James Gardner, **SECONDED** by Egor Emery to recommend approval of the above consent agenda.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

CASE NO.: PH#7-10-3 **AGENDA NO.:** 1
OWNER/APPLICANT: Lucille S. Allegre
PROJECT NAME: La Finca Stables

CASE NO.: CUP#10/4/1-3 **AGENDA NO.:** 2
OWNER/APPLICANT: Lucille S. Allegre
PROJECT NAME: La Finca Stables

In response to Chairman Bryan, Brian Sheahan, AICP, Planning Director, stated that these cases will be heard together, but two separate motions will be required at the close of the discussion.

Melving Isaac, Planner, presented the cases and staff recommendation of approval for both the rezoning and conditional use permit. He showed the aerial and concept plan from the Zoning booklet on the monitor. He noted that the applicant has indicated that a potable water dispenser will be provided.

Chairman Bryan stated that no speaker cards had been submitted.

The applicant was present but did not speak.

When Egor Emery inquired about the number of horses permitted on the property, Mr. Isaac said the applicant has indicated that there will be two horse barns on the property, each with a capacity of ten horses. That will be the maximum number of horses planned for this property.

Mr. Emery felt it would be advisable to set a limit on the number of horses so there are not too many for the size of the property. That may not be an issue on this particular parcel but could be in the future. Scott Blankenship noted that no hours of operation were set in the ordinance.

Mr. Emery questioned why the well will not be tested until after approval of these rezonings. He felt that should be step one. Mr. Isaac said time did not allow it to be done before the public hearing. However, because the chemical Ethylene Dibromide (EDB) is likely to have occurred in this area, the well must be tested before being used for human consumption.

MOTION by Timothy Morris, SECONDED by Egor Emery to recommend approval of Agriculture zoning to allow a riding stable/academy facility in PH#7-10-3.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

MOTION by Timothy Morris, SECONDED by Scott Blankenship to recommend approval of a Conditional Use Permit (CUP) in Agriculture zoning to allow a riding stable/academy facility in CUP#10/4/1-3.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

CASE NO.: PH#6-10-5 AGENDA NO.: 4

OWNER: Harbor Hills Development LP
APPLICANT: Lake County Board of County Commissioners
Planning & Community Design

Rick Hartenstein, Senior Planner, presented the case and staff recommendation of approval subject to the conditions contained in the proposed ordinance. If this amendment is approved, Mr. Hartenstein said this will not change the zoning of the Planned Unit Development (PUD). He showed the aerial from the Zoning booklet on the monitor and submitted two pictures of the posted signs as County Exhibit A. He also submitted a layout of the property (County Exhibit B), a letter and resolution of support from the Harbor Hills Homeowners Association (County Exhibit C), and a packet of opposition from the Property Owners of Harbor Hills, Inc. (County Exhibit D). He said the Harbor Hills Homeowners Association represents 486 homes and 160 lots within the development; the Property Owners of Harbor Hills, Inc. represents 236 households within the Harbor Hills community.

Jim Stivender, Public Works Director, spoke of external road improvements that are requested to be removed from the ordinance. The language in the PUD is still the original requirements, which have changed over time. That is what the County is asking to adjust accordingly. Mr. Stivender submitted a 1986 map of the area as County Exhibit E and noted some changes that have taken place; he said there were no traffic lights in Lady Lake at that time. He submitted a second map as County Exhibit F and an aerial as County Exhibit G. The original request when this PUD was first submitted was to require the developer to make improvements from U.S. 27 to the south entrance of Harbor Hills and make turn lane improvements at that location. There were four critical safety issues in the area. One was a blind hill just west of Gray's Airport Road. Second was an extreme blind hill at the crest just east of the entrance to Harbor Hills. He also spoke of two 90-degree turns in the north end and many curves on the north road, which were a concern. The original request was to make it 24 feet with turn lanes. When the PUD was approved by the Board of County Commissioners (BCC), the BCC said that from Gray's Airport Road, the road splits so they were only required to do that and a turn lane into the site. Through voluntary right-of-way acquisition, the County started to attempt to acquire right-of-way. However, people were not willing to donate right-of-way. It was not until the late 1990's that the County used eminent domain. After 1986, the original developer had some issues, and a new developer came in and started evaluating the whole development. There were changes as The Villages grew, and the north road became the priority access. The turn lane that was supposed to go in at Harbor Hills as mentioned in the PUD ordinance was actually put in at Gray's Airport Road and Griffin View Drive. The County was able to acquire right-of-way to cut the hill down to the west. There have been questions as to why the hill at Thrill Hill was not cut down more. The County was not able to acquire or have donated any right-of-way for driveways so the County had to maximize the slope of the driveways and cut down the hill accordingly. It does meet safety requirements and site distances. He spoke of the road improvements made as a result of the 1994 Developer's Agreement that focused principally on the north road as the main entrance. Mr. Stivender said he looked at this as Harbor Hills fulfilling their requirements by the other improvements that were made. Anything that needed to be done out there would be a Public Works/Board issue, which would be reviewed by them.

When Egor Emery asked about the increase in traffic at the south entrance, Mr. Stivender said all their traffic counters out there show normal increases in traffic. Although they are researching roads, there is no road program to make improvements to any roads in this area, and there hasn't been in some time.

Roy Gravesen was concerned about automobile accidents at the entrance to Harbor Hills as it is difficult to see traffic coming from the other side due to the crest of the hill. The suggested stop sign is not enough. Cutting down the hill to an accepted tolerance is not enough. Safety is what is needed.

Robert Nicholson stated that the information received representing 486 homeowners does not represent him. He said this is a development that is controlled by the developer, a board that is appointed by the developer, and a developer who only represents himself, not 486 homeowners. He said there is room for an entry lane immediately to the west of the south gate, which would allow traffic to merge when making a

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right turn onto Griffin View Drive. There is at least 1000 feet that could be utilized as an entry lane. It would not be a big expense to the County to do that.

John Bircher was concerned about the safety of the children. When leaving from the south gate, it is not possible to see cars coming up the hill from the left. There have been several major changes to Harbor Hills in the last few years. The whole area in the back part of Harbor Hills, which is adjacent to Griffin View Drive, has now been developed. There is one school bus stop for the entire community, and it is located at the south gate.

Edward Winterberg, president of Harbor Hills, said the Homeowners Association is an entity that does their assessments and governs their community; it is not a politically representative body; it represents the developer's interest. He had a concern about public safety as well as the safety of the County's finances.

Peder Hong submitted a letter from the Transportation Consulting Group as Opposition Exhibit A. He said they are here to defend the three requirements on this road that have been in place since 1987. Those were originated by the Springstead Engineering Company, a consultant to the County. They were to lower the hill, widen the road out to Gray's Airport, and create a left turn. None of those have been done. What is on the ground now is what was there in 1987. Those requirements were reaffirmed in the PUD Ordinance in 1987. They were reaffirmed in successive amendments related to other matters, the latest being in 2005.

Regarding the traffic count from east of Gray's Airport Road to the Harbor Hills gate and down the hill, Mr. Hong said he was informed by Noble Olasimbo in Public Works that the 2009 traffic count for Station 9, which is to the east of the intersection with Gray's Airport Road, is 1,440 vehicle trips per day. Mr. Olasimbo did not have a traffic count for this area in 1987 or 1994. He referred to a 1987 traffic study he had obtained from the County Attorney's office. These requirements were put in place in 1987. Most of the information was based on a traffic study done by a group in Winter Park that was hired by Springstead Engineering and then given to the County. That study projected that in 1993, the daily vehicle trips on this stretch of road would be 658. The requirements were based on that traffic count number. The 2009 traffic count is 2.2 times what it was projected to be in 1993. This is a big safety problem.

Robert Best said he echoes the remarks that the developer who gave the resolution supporting the request does not represent the community; he represents a developer-controlled board of directors. There is a safety problem that results in a dangerous situation.

Ellen Wilcox presented a large map on a board (reduced in size for file) prepared by Springstead Engineering as Opposition Exhibit B. She reiterated that the developer is the controlling force at Harbor Hills. She explained that the Property Owners Association of Harbor Hills was formed for the purpose of giving voice to those who have no voice on the developer's board. She submitted an e-mail exchange (Opposition Exhibit C) between Jim Stivender and Melanie Marsh in October of 2009. She felt there is no visibility on that road that allows the cars to proceed in a safe manner. She questioned the number of feet the hill was cut down. She reiterated the three points that were included in the petition submitted as County Exhibit D: lowering Thrill Hill to provide visibility, creating a left-turn lane for the eastbound traffic, and widening Griffin View Drive from Harbor Hills Boulevard to Gray's Airport Road. She submitted a small traffic study done by William Ovens as Opposition Exhibit D. She submitted a number of e-mails from residents regarding dangerous situations they have encountered as Opposition Exhibit E. She said that they believe the burden of proof rests with the County staff who prepared this amendment. The staff needs to provide clear and convincing evidence of substantial changes since the PUD ordinance in 1987, which would indicate that the currently proposed amendment makes the original PUD ordinance no longer appropriate.

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Steve Richey explained that this property currently known as Harbor Hills was owned by him as trustee. He sold the property in 1986. Prior to the sale, there was a cattle and citrus operation on the property. He was not involved in the original PUD, but he has been involved the past few years by representing Harbor Hills property owners in complying with the requirements imposed by the County. Harbor Hills does not have a position on revoking or changing the PUD ordinances. They have complied with all requirements through all phases and will continue to do that. They have made improvements beyond what was required in the original PUD. They feel they have developed a significantly beautiful asset to Lake County. In response to Mr. Emery, Mr. Richey said he represents Harbor Hills Development LP and was present on behalf of the Board of the Homeowners Association that passed the resolution submitted as County Exhibit C.

In response to Chairman Bryan, Mr. Stivender said the 1,400 cars per day is considered a very minor number on an 18-foot wide road in Lake County. The road capacity on an 18-foot wide rural road is in the 6,000 to 7,000 cars-a-day range. The level of service on this road is A/B, which is very acceptable for this type of road. When Chairman Bryn asked if the unique character of the road with the hill and blind spots was taken into consideration as far as being a possible safety hazard. Mr. Stivender said the principal safety hazard was addressed legally with the lower 25 mile per hour advisory speed. In addition, Springstead Engineering provided a maximum design to cut off the top of the hill; 3.5 to 4 feet was cut off the top. The linear length is several hundred feet. Originally, the hill came to a crest. There are not nearly as many accidents on the road as there were prior to the improvements.

When Chairman Bryan asked if the area would warrant further study by Public Works, Mr. Stivender said Public Works will perform traffic counts prior to the April 27, 2010 BCC public hearing on this case. This department will also review the design of the curve and make a recommendation.

James Gardner asked about the speed bump suggestion made in one of the e-mails. Mr. Stivender said speed tables are recommended in the Green Book in the State of Florida for speeds of 25 miles an hour or less in suburban and urban areas, not on rural roads at speeds of greater than 25 miles per hour.

When Timothy Morris asked about an estimate of the cost to fix the intersection with a turn lane and an entrance lane as well as cut the hill further, Mr. Stivender said there may not be adequate right-of-way available to do that. He would recommend against an acceleration lane because it could be a traffic hazard unless it is an interstate. Mr. Stivender said this would not be a location where eminent domain could be used. The south entrance was considered the back entrance; there were no homes down there. For a while, that entrance was closed because people were cutting through the subdivision. The traffic counts are not showing that there are any problems.

Larry Metz noted that the past two ordinances did have the external improvement requirements listed specifically in the ordinances. With the removal of that language, it would look like it is okay not to do those things. He questioned whether the BCC agreed that the additional external improvements that were made on the north and west sides replaced the obligation for the external improvements that were listed. Mr. Stivender said that was the way he understood it. He did not know why it was not changed earlier. What should have happened was that the agreement in 1994 should have been part of an amended PUD ordinance; those requirements were the ones that were accepted as the requirements for the subdivision. In addition, the language that is in the ordinance now should have been deleted. That is the opinion of the Public Works Department. Mr. Metz said he does not feel he has enough information to allow him to feel comfortable deleting the external improvements requirements for the PUD that were passed twice before unless he has a legal opinion that the obligations of the developer were completely fulfilled. Mr. Stivender agreed that if the language is removed, there is nothing in the PUD ordinance to show that anything was done, and that is not true.

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Chairman Bryan agreed that it needs to be sorted through more thoroughly before a reasonable decision can be made.

In response to Mr. Emery, Mr. Stivender said that generally a developer is able to have roads constructed faster than Public Works, especially if the right-of-way is available.

Chairman Bryan said he did not have a problem with removing the language if he can be assured that the County will be doing a study in that area and making reasonable improvements to enhance the safety. Without that, he would have a difficult time agreeing to remove that language.

When Mr. Emery spoke of the burden on the County budget, Mr. Morris said that at this time, according to the PUD ordinance, it would be the responsibility of the developer. With the traffic count and the improvements on the hill, Mr. Stivender stated that there is nothing engineering-wise from the County standpoint or the developer standpoint to require the developer to make improvements. It is not a safety hazard that must be addressed by construction; a sign would address the issue. In response to Mr. Morris, Mr. Stivender said the south entrance could be closed again. Mr. Stivender added that if the residents feel uncomfortable with the safety of the south entrance, the north entrance can be used.

Mr. Stivender recommended that language be added to the ordinance identifying the improvements that have been made, making that the requirement. He said this Board could also make a recommendation to the BCC that a study be done to determine what other safety issues need to be addressed out there. He did not feel it would be developer-required improvements.

Mr. Emery felt there is a safety problem with visibility at the south entrance, especially if there is a school bus stop. He was uncomfortable with removing the language.

If there is no time sensitivity with this amendment, Mr. Metz said he would like to provide time for Public Works to make an adequate assessment of the situation before this Board makes a decision.

MOTION by Larry Metz to recommend approval of the amendment in PH#6-10-5, subject to the following conditions:

- 1. Before this case is heard by the Board of County Commissioners, the County Attorney shall investigate, determine, and report on whether or not the external improvement obligations in the original Planned Unit Development ordinances were in fact met in some formal manner through other alternative improvements that were accepted by the County.**
- 2. County staff shall provide additional information and recommendations concerning the current situation on the ground at the south entrance to the development with emphasis being on safety considerations and what can be done to improve that situation.**

Erin Hartigan, Assistant County Attorney, requested the motion be amended to read that staff would present evidence as to whether or not the external improvement obligations were met as she could not promise to what extent the County Attorney's office could investigate this.

MOTION by Larry Metz to recommend approval of the amendment in PH#6-10-5, subject to the following conditions, as amended:

- 1. Before this case is heard by the Board of County Commissioners, the County staff shall investigate, determine, and report on whether or not the external improvement obligations in the original Planned Unit Development ordinances were in fact met in some formal manner through other alternative improvements that were accepted by the**

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- County.
2. County staff shall provide additional information and recommendations concerning the current situation on the ground at the south entrance to the development with emphasis being on safety considerations and what can be done to improve that situation.

The motion was seconded by Egor Emery.

When Mr. Morris asked if this motion would remove the language regarding the external improvements, Chairman Bryan said that determination would be made based on evidence provided by County staff. Mr. Metz said his intent for this motion was that if the developer did fulfill his obligation for the external improvements, then the developer cannot be required to do anything further. However, at this time, he does not have verification whether that was done.

Mr. Emery said he did not believe that the citizens are going to decrease the pressure on the County to fix the situation, and that is something that needs to be pursued.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

There was a five-minute recess.

CASE NO.: CUP#09/10/2-2 & CUP#89/10/1-3A **AGENDA NO.** 5

OWNER: John Arnold, Jr., Trustee
APPLICANT: John E. "Ned" Biggs, IV
PROJECT NAME: Showcase of Citrus, Inc.

Rick Hartenstein, Senior Planner, explained that he will be making one presentation for both these Conditional Use Permits, but two separate motions will be needed.

He submitted two pictures of the posted signs as County Exhibit A. He showed the aerial from the Zoning booklet on the monitor. He said the future land use for CUP#09/10/2-2 is Urban Expansion and Rural, and the zoning district is Agriculture and R-4. The future land use for CUP#89/10/1-3A is Rural Conservation, and it is located in the Green Swamp Area of Critical State Concern; the zoning district is Agriculture. The request is to repeal and replace Conditional Use Permit (CUP) #08/10/1-2 to comply with the Settlement Agreement between John Arnold (aka Showcase of Citrus), Tradd's Landing Homeowners Association, and Lake County dated February 19, 2010. This will also be combining all conditional use permits (CUP#89/10/1-3, CUP#95/1/2-2, CUP#00/8/2-2, CUP#03/4/1-2, CUP#06/6/3-2, CUP#08/10/1-2) for Showcase of Citrus under two conditional use permits, one for the east side of US 27 and one for the west side of US 27. At least two of the six CUPs on the 2,100-acre farm area for the land application Class B treated wastewater residuals had those uses combined in them and will be done away with.

Mr. Hartenstein submitted a Master Plan as County Exhibit B and pointed out the conditional uses. He noted that the proposed ordinance for CUP#09/10/2-2 has the Settlement Agreement requirements incorporated into the ordinance. He submitted a parcel map (County Exhibit C) and a location map (County Exhibit D), comparing the two maps as they pertain to the new RMF site. There was a provision in CUP#08/10/2-1 stating that there shall be no odor from the site. That is basically unenforceable so it was left out of the new ordinance. However, Brent Spain, an attorney representing Ms. Forian, a member of Tradd's Landing Homeowners Association, has been doing research on ways to enforce odor complaints. In addition, the State will have certain requirements when operating permits and licenses are issued, which will help to alleviate some problems.

Mr. Hartenstein submitted another aerial showing the land area of CUP#89/10/1-3A as County Exhibit E. This is an existing CUP that has been in place since 1989. They have been doing land application on this site since that time. The only changes in this ordinance are that some definitions have been added for better clarification of the items in the CUP. No uses have been changed; no land area has been expanded. This is not an increase of nonconformity. It is still a permitted nonconforming use. Neither of the CUPs will interfere with the development of neighboring properties.

In response to Egor Emery, Mr. Hartenstein said the Settlement Agreement is included with the Ordinance for CUP#09/10/2-2 as an exhibit.

Steve Richey was present to represent the case.

Paul Ondis, abutting property owner on the west side of US 27, spoke of not having access to his property due to the south gate being closed. He added that they are spreading human waste on the public access. He stated that there is standing water in the middle of the south field and the middle field. There are ten truckloads of solid waste about 100 feet from the standing water. At times, the human waste is within 20 feet of his property boundary. These are all violations of the CUPs already issued. He asked staff to investigate. He spoke of a hearing with a magistrate regarding the gate. Chairman Bryan explained that addressing those complaints is not a responsibility of this Board; Code Enforcement should be contacted. Mr. Ondis asked this Board to hold off making any decision on the CUP on the west side. Mr. Hartenstein stated that the Code violation that Mr. Ondis spoke of are on another piece of property that is owned by Mr. Arnold. Blocking the right-of-way is a separate issue. Code Enforcement will be addressing this at a scheduled hearing. Regarding the setback requirements, they were established in 1989; and they have not changed. Nowhere in the ordinance does it reference setbacks from any public right-of-way. If the Board feels there is an issue with the public right-of-way, it can recommend the establishment of a 50-foot set-

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PROJECT NAME:	Showcase of Citrus, Inc.		

back (or any other number) from the right-of-way; and the applicant would be subject to not being able to spread in that area. When Chairman Bryan asked staff's position on this issue, Mr. Hartenstein said that if the public is going to drive on the road, then they should not be spreading on the road. Mr. Hartenstein stated that CUP#89/10/1-3 was inspected by Code Enforcement on March 30, 2010 regarding any possible discharges of residuals from tankers; they found no violations on the CUP. The CUP is being conducted according to the regulations that are set forth in the ordinance.

Eric Schlüssel, resident of Tradd's Landing, said he is not aware of any negative odors coming from the grove and did not feel it is necessary to have language in the ordinance about odors. Putting in language that is arbitrary and subjective will create a problem for those trying to enforce the regulation.

Mike Meglino, president of the Tradd's Landing Board, said a great injustice has been done to Mr. Arnold. There is no odor; the facility presents no harm to Tradd's Landing. The Tradd's Landing Board is fully in favor of Mr. Arnold. The Tradd's Landing community has no problem with this request.

Patrick Ozim, attorney for Tradd's Landing Homeowners Association, felt there is a concern with the odor. He did not believe either party has requested that the statement regarding the odor be removed. He asked that the word "noxious" be placed before the word "odor."

When Chairman Bryan questioned the differing comments from the past two gentlemen associated with the same organization, Mr. Ozim said he had requested that change in the spirit of compromise.

Brent Spain, attorney, was present on behalf of Nancy Foryan, who was the former Homeowners Association president and is a party to the Settlement Agreement. He gave a brief history of the Arnold property as it pertains to litigation and mediation and its resulting Settlement Agreement. Consistent with that Settlement Agreement, his client is present with no objection to the proposed revisions and would ask that the Board recommend approval of the revised CUP with the condition regarding odor. He was not aware of any discussion about removing that language. He did not have an objection to working with staff on this issue.

Timothy Morris asked Sarah Taitt, Assistant County Attorney, if adding "noxious" would make the odor issue more defensible in court. Ms. Taitt said "odor" falls under nuisance regulations and is very subjective. It would not matter what word is used, it would be subject to an objective standard.

Mr. Richey said they are complying with the Settlement Agreement. They have internalized the facility. He said the approach Mr. Arnold has taken is very environmentally sensitive and proactive. In response to Chairman Bryan, Mr. Richey said he does not have a position on removing or leaving the odor language in the ordinance. If the Board wants this condition included, they will deal with that issue.

Brian Sheahan, AICP, Planning Director, said that in his review of the staff report, it was his professional opinion that the chance of an obnoxious odor becoming a problem was negligible with the facility being moved back on the property. The choice to remove the odor language was his, not his staff's. Since Mr. Richey has no objection on behalf of his client to having the language in the ordinance, it can be put back in the ordinance; but he suggested using "noxious odor."

MOTION by Egor Emery, SECONDED by Scott Blankenship to recommend approval of CUP#09/10/2-2 with the addition of language regarding noxious odors.

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APPLICANT: John E. "Ned" Biggs, IV
PROJECT NAME: Showcase of Citrus, Inc.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz
AGAINST: None
NOT PRESENT: Wells
MOTION CARRIED: 6-0

MOTION by Timothy Morris, SECONDED by James Gardner to recommend approval of CUP#89/10/1-3A.

Mr. Emery said he would like to insert some language about buffering in order to protect that right-of-way. Chairman Bryan suggested language that would not allow any application on the right-of-way.

Timothy Morris and James Gardner amend the motion to include language that would not allow application of sludge on any portion of the property that is County right-of-way.

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz
AGAINST: None
NOT PRESENT: Wells
MOTION CARRIED: 6-0

Election of Officers

After discussion, it was decided that the Board would like the current officers to remain for the following year.

MOTION by Egor Emery, SECONDED by Scott Blankenship to reelect the following officers for the election year 2010/2011.

Paul Bryan	Chairman
Timothy Morris	Vice Chairman
James Gardner	Secretary

FOR: Morris, Blankenship, Gardner, Emery, Bryan, Metz

AGAINST: None

NOT PRESENT: Wells

MOTION CARRIED: 6-0

Adjournment

There being no further business, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Paul Bryan
Chairman