

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, PLANNING AND ZONING**
2 **BOARD MEETING HELD ON JANUARY 22, 2008, 6:00 P.M., CITY HALL, 100 N.**
3 **COUNTRY CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

7 The meeting was called to order at 6:04 p.m.

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11 The following members were present:

12 Dr. Robert Hawkins, Chairman
13 Vice Chairman Brian Loe
14 Member Sidney Miller
15 Member Colleen Taylor
16 Alternate J.B. Cartmill, II

17
18 Member Lee Rogers was absent.

19
20 City staff present were Juan (John) A. Omana, Jr., Community Development
21 Director; Gary Schindler, City Planner; Tom Connelly, P.E., Planning Engineer;
22 and Diana T. Adams, Administrative Secretary.

23
24 Also present were Robert Gillespie, Justin Polk and Terrence Ash.

25
26 V. New P & Z Alternate J.B. Cartmill, II, Welcomed Aboard

27
28 Chairman Hawkins welcomed the new Alternate, J.B. Cartmill, II, to the Planning
29 and Zoning Board and requested that he tell the Board a little bit about himself.

30
31 Alternate Cartmill said that he has been living in Lake Mary for the past two and-a-
32 half years, works as a bookkeeper for several restaurants in Volusia County, and
33 lives on the same street as former board member JoAnn Lucarelli.

34
35 It is noted that Chairman Hawkins, later in the meeting, reviewed the responsibilities
36 of the Alternate with Alternate Cartmill.

1 VI. Approval of Planning and Zoning Board Minutes - November 27, 2007
2 December 11, 2007
3

4 **MOTION:**
5

6 **Member Miller moved to approve the Minutes of the Planning and Zoning**
7 **Board meeting of November 27, 2007, as presented. Member Taylor**
8 **seconded the motion. Member Rogers was absent. The motion carried**
9 **unanimously 5-0.**
10

11 **MOTION:**
12

13 **Member Miller moved to approve the Minutes of the Planning and Zoning**
14 **Board meeting of December 11, 2007, as presented. Vice Chairman Loe**
15 **seconded the motion. Member Rogers was absent. The motion carried**
16 **unanimously 5-0.**
17

18 VII. Old Business
19

20 None
21

22 VIII. New Business
23

24 A. 2007-VA-05: Recommendation to the Mayor and City Commission regarding
25 two variances from § 160.07(A) (B) & 2(b), City of Lake Mary Code of
26 Ordinances, for the single-family residential property located at 167 Linda Lane,
27 Lake Mary, Florida; Applicant: Robert Gillespie
28

29 Juan (John) A. Omana, Jr., Community Development Director, announced that
30 this item is quasi-judicial in nature and there was a Quasi-Judicial Sign-In Sheet
31 located at the back of the chambers for any interested party to sign and be kept
32 abreast of this matter.
33

34 Mr. Omana presented Item A. and the related Staff Report. The Location Map
35 attached to the Staff Report was on the overhead projector. He stated that the
36 Applicant wishes to construct a 30' x 17' swimming pool with 740 square feet of
37 decking area and an addition to the home located on the subject property. He
38 said that what triggers the variances is the proposal calls for encroachment into
39 the Environmental Buffer Zone, 25', as well as the 75-foot setback, under
40 Chapter 160, City Code of Ordinances.
41

42 Mr. Omana put a document entitled Boundary Survey on the overhead projector
43 in order to clearly spell out the situation.

1 Vice Chairman Loe commented that the yellow highlighted portion helped him.
2

3 Mr. Omana explained that the existing house on the subject property was built in
4 approximately 1984 and the subdivision was recorded in the 1950's. He pointed
5 out that the existing house is already within the 75-foot setback and encroaches
6 into the 25-foot environmental buffer. He stated that, obviously, the subdivision
7 and the permitting predated the enactment of the Resource Protection Standards
8 ordinance, which went into effect in 1991. He said that upon staff's review of this
9 issue and after looking at prior cases that the City Commission has considered
10 with respect to variances from Chapter 160, staff has found that there have been
11 13 variances related to the requirements of Chapter 160, one being located at
12 151 Linda Lane where there was actual construction of a home within that
13 wetland protection zone, buffer and setback scenario. He stated that from a
14 precedent standpoint, there is precedence for this type of scenario. He said that
15 in the past it has been the City Commission's position, when approached with
16 variances under Chapter 160, that they would not look favorably upon these
17 variances when it involved an increase in density with respect to the residential
18 nature of the project, i.e., are you increasing the subject project by a unit or more.
19 He proceeded to give an example of where this happened at The Oaks at
20 Timacuan where the Applicant there had requested variance(s) and staff
21 subsequently recommended denial and was also subsequently denied by the
22 City Commission as well.
23

24 Mr. Omana stated that in this particular case there is no increase in density.
25 There is just one unit that has been there since 1984, and essentially what you
26 have is the addition of what one could term as an accessory use to a single-
27 family dwelling, which is a swimming pool and deck area. He did emphasize
28 however that city staff's engineers did point out that there is an encroachment
29 into the 100-year floodplain that, per city code, requires compensating storm
30 water storage be provided out of the confines of the 100-year flood line. That is
31 basically the elevation 45' contour line.
32

33 Mr. Omana concluded, saying that it is staff's opinion that the six variance criteria
34 weighed against both variances have been met; that there are cases that support
35 the approval of the variances, and staff would recommend that both variances be
36 recommended for approval to the Mayor and City Commission subject to the
37 Applicant providing compensating storm water storage for any construction that
38 extends into the 100-year floor line, elevation 45' contour line.
39

40 Vice Chairman Loe asked Mr. Omana if the Applicant is aware that there is a
41 substantial possibility that in the event of a major storm event that he is going to
42 have his swimming pool filled with lake water. He commented that this definitely
43 exists as a possibility when you build in this location.

1 Mr. Omana answered, anytime you go into that floodplain area and the wetland
2 area -- those levels do change. That possibility does exist. He said, I believe
3 that the percentages are -- it is a storm event having a one percent chance of
4 being equaled in a 365-day period. Nonetheless, the percentage does exist that
5 they could get hit with that. But they are aware of that.

6
7 Vice Chairman Loe commented that a lot of these regulations like we have are
8 there to protect the citizens, not to encroach on their rights; however, this house
9 did pre-exist our statute.

10
11 Chairman Hawkins requested the Applicant to come forward and address the
12 Board.

13
14 Robert Gillespie, 167 Linda Lane, Lake Mary, Florida 32746, came forward in
15 favor of the two requested variances.

16
17 Chairman Hawkins questioned Mr. Gillespie if he had anything further to add to
18 Mr. Omana's presentation.

19
20 Mr. Gillespie responded, no, not unless you ask me direct questions.

21
22 Vice Chairman Loe asked Mr. Gillespie if that was his wooden dock that is listed
23 on the survey down on the lake or is it somebody else's dock.

24
25 Mr. Gillespie replied, it is just a floating dock of ours.

26
27 Vice Chairman Loe questioned Mr. Gillespie if he and his family actually get to
28 use the lake.

29
30 Mr. Gillespie answered, not the last two years, but after it storms, it is up pretty
31 good and you can get use out of it.

32
33 Vice Chairman Loe commented, that Crystal Lake can fill up almost all the way
34 up to your house.

35
36 Mr. Gillespie stated, actually, we have been there since '94 when there were the
37 heavy rains and it didn't even come close and neither did it after the hurricanes.
38 Our house is actually at 48'.

39
40 Chairman Hawkins opened the hearing to public comment. Hearing none, he
41 closed that portion and entertained board discussion and/or a motion.

42
43 **MOTION:**

**JANUARY 22, 2008-4
PLANNING AND ZONING BOARD**

1 **Member Taylor moved to recommend approval to the Mayor and City**
2 **Commission the request by Robert Gillespie regarding two variances from §**
3 **160.07(A) (B) & 2(b), City of Lake Mary Code of Ordinances, for the single-**
4 **family residential property located at 167 Linda Lane, Lake Mary, Florida,**
5 **consistent with staff's seven Findings of Fact listed in the Staff Report and**
6 **subject to the following one condition. Member Miller seconded the motion.**
7 **Member Rogers was absent. The motion carried unanimously 5-0.**

8
9 **CONDITION:**

- 10
11 **1. The Applicant must provide compensating storm water storage for any**
12 **construction that extends into the 100-year floor line, elevation 45'**
13 **contour line.**

14
15 Mr. Omana announced that this item will tentatively move forward to the
16 February City Commission cycle; that staff will coordinate with the Applicant as to
17 the exact date.

- 18
19 B. 2007-SP-08: Request for a Site Plan for United Financial Bank, 875 Currency
20 Circle, Lake Mary, Florida; Applicant: Florida Concepts, Inc./Tom Corbett

21
22 Gary Schindler, City Planner, presented the request and the related Staff Report.
23 The Location Map attached to the Staff Report was on the overhead projector.
24 He said, the loss of a defunct Mexican restaurant is going to be our gain of a new
25 bank (indicating to the old Chevy's restaurant site), and they are going in and
26 they are rehabbing that building/site and the City will have another bank. He
27 stated, this is primarily a commercial bank, and we have talked about commercial
28 banks previously.

29
30 While Mr. Schindler proceeded to put a layout of the proposed development that
31 is attached to the Staff Report on the overhead projector, Juan (John) A. Omana,
32 Jr., Community Development Director, announced that this is a quasi-judicial
33 proceeding and that anybody who wished to be kept abreast of this matter can
34 sign a Quasi-Judicial Sign-In Sheet (see attached) located at the rear of the
35 chambers.

36
37 Mr. Schindler acclimated the Board to the location of where the bank is
38 proposed. He indicated that the Staff Report needs to be corrected to reflect that
39 the site plan is actually 5,600 square feet because the removal of a very large
40 outdoor, freestanding cooler/refrigerator was not anticipated.

41
42 Mr. Schindler said, we have reviewed this. They have worked with us. They are
43 adding landscaping. They have taken out pervious area. We believe that the

1 site, the bank and the resultant site plan currently before the Board meets and
2 exceeds all applicable codes, both those of the Code of Ordinances and those in
3 Primera.

4
5 Mr. Schindler concluded, saying, unless the Board has a specific issue it would
6 like more information about, let me say that staff finds the site plan for the
7 property located at 875 Currency Circle is consistent with the Comprehensive
8 Plan, Code of Ordinances and the Primera PUD, and staff recommends approval
9 subject to staff recommending to delete the stop bar and stop sign at the entrance
10 and add the word, stop, at the driveway shared with Uno's (explains on overhead
11 projector).

12
13 Discussion ensued regarding a landlocked C-1 piece of property in the vicinity of
14 the subject property that landowner(s) refused to sell when they were putting
15 together Primera. Member Miller commented that he knows who owns this piece of
16 property.

17
18 Vice Chairman Loe questioned as to the storm water system currently in place why
19 everything is not being recharged here and the Middle Street project was.

20
21 Mr. Schindler answered, the City did not require the Middle Street project to
22 recharge, St. Johns did. He explained that Middle Street is located within the
23 Soldiers Creek drainage shed, and because of Soldiers Creek and Lake Jessup, all
24 properties now must plan for and construct for the 100-year flood event because
25 there is some special notation regarding that area. So, it was St. Johns that made
26 them plan/design for the 100-year storm event, which required them to come back
27 and modify their storm water system.

28
29 Member Miller asked if it was okay to put a drive-thru bank in this zoning.

30
31 Mr. Schindler answered affirmatively.

32
33 Member Miller questioned, has the developer submitted for that property that is in
34 the circled area, the drive-thru?

35
36 Mr. Schindler responded, no, that has not come back to us in the form of a site
37 construction permit yet.

38
39 Chairman Hawkins requested the Applicant to come forward and address the
40 Board.

41
42 Justin Polk with CPH Engineers (gave no address) appeared on behalf of Florida
43 Concepts and addressed the Board in favor of the proposed site plan. He

1 elaborated on why recharge is not being required here. He said, what St. Johns
2 takes into account is on sites that were permitted without a St. Johns permit under
3 the old guidelines; however, this site was permitted with water quality treatment, it is
4 a part of a master system, and we are actually reducing the amount of runoff on this
5 property.

6
7 Chairman Hawkins asked if the drive-thrus are going to be covered.

8
9 Mr. Polk answered affirmatively.

10
11 Member Miller commented that this bank will probably be happy to know that what
12 is planned for that center area is five 6,000 square-foot buildings for Professional
13 Office, and the developer is already going around talking to people in the medical
14 industry trying to pre-sell before he ever develops.

15
16 Vice Chairman Loe added, he's very fortunate on the landscaping requirements for
17 this, too.

18
19 Mr. Polk said that they are actually above the Primera and City landscaping
20 requirements.

21
22 Member Miller questioned Mr. Polk if he has got any use for that small piece of land
23 out there.

24
25 Mr. Polk replied, I doubt it. It is a pretty big parcel for a bank as it is.

26
27 Chairman Hawkins opened the hearing to public comment. Hearing none, he
28 closed that portion and entertained board discussion and/or a motion.

29
30 Mr. Schindler requested to incorporate a two-page colored rendering of the
31 proposed bank into the Minutes (see attached).

32
33 **MOTION:**

34
35 **Member Miller moved to approve the request by Florida Concepts, Inc./Tom**
36 **Corbett for a Site Plan for United Financial Bank, 875 Currency Circle, Lake**
37 **Mary, Florida, consistent with staff's Findings listed in the Staff Report and**
38 **subject to the following one condition. Member Taylor seconded the motion.**
39 **Member Rogers was absent. The motion carried unanimously 5-0.**

40
41 **CONDITION:**

1 **1. Staff recommends to delete the stop bar and stop sign at the entrance and**
2 **add the word, stop, at the driveway shared with Uno's.**

3
4 C. 2006-SP-07: Request for a Site Plan for HIBC Mass Grading Plans, Colonial
5 Center at Heathrow, 1062 Business Center Drive, Lake Mary, Florida; Applicant:
6 Colonial Properties Trust Owners Association

7
8 Tom Connelly, P.E., Planning Engineer, presented the request and the related
9 Staff Report. The aerial attached to the Staff Report was on the overhead
10 projector. He stated that this site plan is basically a completion of the St. Johns
11 Water Management District's approval of the master storm water plan for HIBC.
12 He said that the ponds were partially constructed to meet the needs of HIBC over
13 the last 20 years. He stated that they have now gotten to the point to where they
14 need to fully develop these ponds to allow for future development; that the entire
15 intent of this is to just bring these ponds up to what was approved by St. Johns.

16
17 Mr. Connelly concluded, reviewing the one and only condition attached to the site
18 plan approval which states that prior to the issuance of a site construction permit,
19 the Applicant shall document that they have obtained a permit to relocate the
20 tortoises.

21
22 Member Miller asked, they don't have to test the gopher tortoises anymore to find
23 out if they have any contagious disease? They just move them?

24
25 Gary Schindler, City Planner, answered, not anymore. Now they are to be
26 relocated irrespective of whether contagious or not.

27
28 Member Miller questioned, this is a new development, obviously?

29
30 Mr. Schindler responded, within the last year; yes.

31
32 Chairman Hawkins requested the Applicant to come forward and address the
33 Board.

34
35 While the Applicant was coming forward, Juan (John) A. Omana, Jr., Community
36 Development Director, announced that this matter is quasi-judicial in nature; that
37 there was a Quasi-Judicial Sign-In Sheet located at the rear of the chambers for
38 any interested party to sign and be kept informed of this item.

39
40 Nicole Stalder, P.E., with Bowyer-Singleton & Associates, 520 S. Magnolia
41 Avenue, Orlando, Florida, appeared on behalf of Colonial Properties Trust and
42 addressed the Board in favor of the proposed site plan. She stated that this is

1 basically a maintenance action. They are just trying to make the system a little
2 better.

3
4 Vice Chairman Loe asked, this is going to be shared drainage for the entire
5 system, this pond?

6
7 Ms. Stalder replied, it already is a master system. It is a cascading system that
8 starts at Pond 3, which is the big rectangular pond, and goes down. The system
9 is going to function exactly how it functions now. Basically, some of the ponds
10 weren't built as large as they should have been, and there is clay underneath that
11 is not meeting the infiltration rates that were once anticipated, and we are going
12 to bring them up to that, and St. Johns is okay with this.

13
14 Vice Chairman Loe questioned, because of clay, they aren't meeting the
15 infiltration rates that were predicted?

16
17 Ms. Stalder answered, right. So, we're going back and making the system
18 function properly.

19
20 Vice Chairman Loe asked, will you remove the clay?

21
22 Ms. Stalder, replied, yes, we are. We haven't shown -- it is Ponds 5 and 6 with
23 clay underneath that is going to be filled with clean sand.

24
25 Chairman Hawkins questioned, are you joining the two ponds to the south?

26
27 Ms. Stalder responded, there are actually three ponds. The pond to the north is
28 wet.

29
30 Chairman Hawkins said, no, I mean this one down here. At the bottom, there is a
31 pond across from Triple-A. He asked, are they going to be joined?

32
33 Ms. Stalder answered, they are. They already outfall together.

34
35 Vice Chairman Loe questioned what are the dots.

36
37 Chairman Hawkins replied, those used to be orange trees. Those are stumps.

38
39 Chairman Hawkins opened the hearing to public comment. Hearing none, he
40 closed that portion and entertained board discussion and/or a motion.

41
42 **MOTION:**

43
JANUARY 22, 2008-9
PLANNING AND ZONING BOARD

1 **Member Taylor moved to approve the request by Colonial Properties Trust**
2 **Owners Association for a Site Plan for HIBC Mass Grading Plans, Colonial**
3 **Center at Heathrow, 1062 Business Center Drive, Lake Mary, Florida,**
4 **consistent with staff's Finding of Fact listed in the Staff Report and subject to**
5 **the following one condition. Member Miller seconded the motion. Member**
6 **Rogers was absent. The motion carried unanimously 5-0.**

7
8 **CONDITION:**
9

- 10 **1. Prior to the issuance of a site construction permit, the Applicant shall**
11 **document that they have obtained a permit to relocate the tortoises.**
12
13 D. Recommendation to the Mayor and City Commission regarding extending the
14 moratorium for land use amendments, rezonings and subdivisions within the Big
15 Lake Mary Study Area from March 15, 2008 to April 18, 2008, a total of 34 days;
16 Applicant: City of Lake Mary/Community Development Department
17

18 Juan (John) A. Omana, Jr., Community Development Director, presented Item D.
19 and the related Staff Report. He said that the purpose of the extension is to give
20 the Department of Community Affairs (DCA) in Tallahassee the 45 days required
21 to review and the 21-day appeal period to make the determination on the City of
22 Lake Mary Comprehensive Plan Amendments as outlined in the Big Lake Mary
23 Study Area. He stated that this is a procedural matter in terms of asking for the
24 extension.
25

26 Mr. Omana concluded, saying that staff has reviewed this as well as the City
27 Attorney and staff recommends the option of the ordinance that would extend the
28 moratorium.
29

30 Chairman Hawkins asked Mr. Omana if he anticipates any more delays.
31

32 Mr. Omana answered negatively.
33

34 Member Miller questioned if staff notified residents of this extension since there
35 was some previous citizen reaction to this moratorium.
36

37 Gary Schindler, City Planner, responded, we have notified them. We sent out
38 our notices and it went through the entire period of this, the Comp. Plan
39 amendments and the proposed code amendments.
40

41 Mr. Omana added that earlier this month this same item went before the Local
42 Planning Agency and was recommended for approval to the City Commission for
43 the extension.

1 Chairman Hawkins commented, I got my notice. They sent them to all the
2 lakefront people.

3
4 Mr. Schindler added, yes, we sent it to everyone within the Big Lake Mary Study
5 Area and then every property around the lake that was lakefront.

6
7 Vice Chairman Loe commented, all the "literal" property owners were notified.

8
9 Mr. Schindler said, that's correct. We sent out over 100 notices.

10
11 Chairman Hawkins opened the hearing to public comment.

12
13 Terrence Ash, 1795 W. Lake Mary Boulevard, Lake Mary, Florida 32746, came
14 forward and asked, is this just for the moratorium extension and does not have
15 anything to do with the revisions to the Code of Ordinances?

16
17 Chairman Hawkins explained to Mr. Ash that this item is just for the moratorium
18 extension.

19
20 There being no further public comment, Chairman Hawkins opened the hearing
21 to board discussion and/or a motion.

22
23 Vice Chairman Loe commented that there has been no opposition to this that he
24 could see and he saw no reason to oppose it.

25
26 Chairman Hawkins concurred.

27
28 **MOTION:**

29
30 **Member Miller moved to recommend approval to the Mayor and City**
31 **Commission the request by City of Lake Mary/Community Development**
32 **Department regarding extending the moratorium for land use amendments,**
33 **rezonings and subdivisions within the Big Lake Mary Study Area from March**
34 **15, 2008 to April 18, 2008, a total of 34 days, consistent with staff's**
35 **Recommendation listed in the Staff Report. Alternate Cartmill seconded the**
36 **motion. Member Rogers was absent. The motion carried unanimously 5-0.**

37
38 Mr. Omana announced that this item will move forward to the February 7, 2008,
39 City Commission meeting.

40
41 E. 2008-ZTA-01: Recommendation to the Mayor and City Commission regarding
42 proposed amendments to the City of Lake Mary Code of Ordinances related to
43 the Big Lake Mary Small Area Study and subsequent amendments to the City of

1 Lake Mary Comprehensive Plan; Applicant: City of Lake Mary/Community
2 Development Department
3

4 Gary Schindler, City Planner, presented Item E. and the related Staff Report. An
5 exhibit entitled Seminole County Watershed Atlas was on the overhead projector.
6 He stated that this is the end of process that began this time last year where the
7 moratorium was put forward, staff got direction from the City Commission to go
8 forward with the Small Area Study, staff presented the findings of the Small Area
9 Study, then it went to the City Commission and they gave staff direction to
10 amend the Comprehensive Plan. He said that staff has done that, and the
11 process now is that the Code of Ordinances must be revised to be compatible
12 with the City's Comprehensive Plan, which is what this is.
13

14 Mr. Schindler stated, this affects the proposed Big Lake Mary – well, on the 7th of
15 February, the City Commission will take action on the second reading of the
16 Comprehensive Plan for the Big Lake Mary Overlay District and the other
17 revisions to the Future Land Use Element, the Infrastructure Element and the
18 Conservation Element. He said, the revisions that are in here implement those
19 Comp. Plan amendments.
20

21 Mr. Schindler informed the Board that earlier today when staff was conducting its
22 practice session, it was realized that staff needed to recommend some additional
23 language/two revisions be added (see attached two highlighted portions on page
24 5 of 9 and page 8 of 8) because right now along Lake Mary Boulevard, part of the
25 Gateway Corridor Overlay, there are standards that say that the front yard
26 setback shall be either 60' or 40' depending upon the depth of the property from
27 Lake Mary Boulevard...
28

29 Vice Chairman Loe interjected, is that §158.05(A)?
30

31 Mr. Schindler answered affirmatively.
32

33 Mr. Schindler continued, ...and whereas what the Board received in their agenda
34 packets for the proposed Big Lake Mary Zoning Overlay District proposed at
35 §154.100(F)(1) says "Lots of record within the Big Lake Mary overlay land use
36 designation as of the date of the adoption of this amendment are exempt from
37 the requirements of this section." He pointed out that the front yard setbacks
38 aren't contained in here, so we are defeating the purpose of §158.05, meaning
39 those that are lots of record, and, likewise, §158.05 has the same language.
40

41 Mr. Schindler concluded, saying that if you are an existing lot of record, you do
42 not have to comply with the provisions of §154.100(F). That is for new
43 development. If you are new development, then it is all applicable.

1 Vice Chairman Loe suggested that on page 6 of the Staff Report under Chapter
2 155, Appendix D Subsection 5 (A)(3) that the word, must, be stricken in the
3 second sentence.
4

5 Mr. Schindler agreed that the word, must, should be stricken as Vice Chairman
6 Loe requested and thanked him for bringing that to his attention.
7

8 Chairman Hawkins pointed out that there was also a reference to noncommercial
9 properties, but none of this is going to be anything but residential
10

11 Mr. Schindler said, well, that's correct; however, that is there – now, in which
12 section?
13

14 While Chairman Hawkins was looking up the section Mr. Schindler stated,
15 because we do have that language in §154.12, because, remember, the A-1
16 Zoning District will allow for churches, which is nonresidential.
17

18 Chairman Hawkins said that he was referring to page 6 of 9 under (5)(d).
19

20 Mr. Schindler explained that no nonresidential development is proposed in the
21 Big Lake Mary zoning overlay area; however, if it should ever be proposed and
22 the Code amended, then this is there to take care of that. He stated, just like we
23 do not anticipate that there will ever be multi-family, but we went ahead and
24 proposed the same revisions in the R-3 Zoning District as we did in the A-1,
25 RCE, R-1AA, so forth, simply because if there ever should, then the language is
26 already there.
27

28 Chairman Hawkins commented, well, that is the only mention that I see of it. He
29 asked, I mean, were you comprehensive in your thinking about this for other
30 portions of this being...
31

32 Mr. Schindler interjected, well, it is already existing in §154.12, the lakes' section,
33 so this was the main issue because this is the overlay. We will not be changing
34 zoning. This will be the overlay. This just lays over like a blanket in its impacts
35 because the language is proposed for A-1, RCE, R-1A; that this takes
36 precedence when it is in the Big Lake Mary Overlay Area.
37

38 Chairman Hawkins questioned if this lays [sic] over the Lake Mary Boulevard
39 Overlay, or under it, or supercedes.
40

41 Mr. Schindler responded, it takes precedence except for the front yard setbacks.
42

43 Chairman Hawkins commented, right, which is what you just added. So, it
overlays the Lake Mary Corridor Overlay.

1 Mr. Schindler said, the Gateway Corridor Overlay is no longer...

2
3 Chairman Hawkins interjected, this is more strict than the Gateway Overlay
4 Corridor?

5
6 Mr. Schindler replied, yes. When there is language that is in conflict with the
7 Gateway Corridor Overlay, then §154.100 takes precedence. When there is not,
8 then the other takes precedence. For instance, it will allow walls up to seven feet
9 high with Commission approval. That does not change.

10
11 Chairman Hawkins commented, signs don't change. Signs aren't included in
12 this.

13
14 Mr. Schindler said, signs are the same. I mean, you don't have them in
15 residential except for these six square feet.

16
17 Chairman Hawkins questioned, define mechanical removal of wetland plants.

18
19 Mr. Schindler answered, well, hand tools are not mechanical. They are hand
20 tools. It would be by whatever would be a powered machine. It could be a
21 backhoe. You could mow them down. Unless you have a permit, you may not
22 mow down wetland plants per St. Johns. Wetlands are to remain, and right now
23 we are simply implementing what St. Johns requires of us and has required of us
24 for years.

25
26 Chairman Hawkins asked, but St. Johns allows you to remove 20 percent of the
27 linear footage of lakefront...

28
29 Mr. Schindler interposed, if you have a St. Johns permit, we don't supercede it.
30 We honor St. Johns permits.

31
32 Chairman Hawkins questioned, and the rest of the 80 percent you can hand
33 remove because it is not mechanical?

34
35 Vice Chairman Loe interposed, he didn't say that.

36
37 Mr. Schindler responded, no, no, you may not remove wetlands that are – if you
38 don't have a permit to remove wetlands, those wetlands are to remain.

39
40 Vice Chairman Loe asked, under our regulations, you object to mechanical
41 removal of wetlands' materials? Under this overlay that you are talking about
42 right here, what you are producing today; right?

1 Mr. Schindler replied, yes.

2
3 Vice Chairman Loe commented, as this was written, there are a lot of people that
4 live on Big Lake Mary and they go down and they mow.

5
6 Mr. Schindler concurred.

7
8 Vice Chairman Loe further commented, and they use a sythe (phonetic) or they
9 use the classic hand mower, which is nothing more than a bar on the end of a
10 stick that you swing back and forth, and a lot of people use weed-wackers to cut
11 stuff down and it makes a nice yard.

12
13 Mr. Schindler agreed.

14
15 Vice Chairman Loe questioned, do we have regulations to enforce by police
16 power and authority and a policeman to give a ticket?

17
18 Mr. Schindler replied, we have a Code Enforcement Board and we always have
19 the option of calling St. Johns. He suggested, if the Board wished, to add either
20 the words mechanical or non-mechanical means if it believes that it needs to be
21 clarified.

22
23 Chairman Hawkins declined the suggestion. He just wanted to know staff's
24 frame of mind.

25
26 Mr. Schindler stated, there is always the V-8 moment when you think you have
27 done something and then you realize, uh-oh. Sometimes you get too close to it
28 and it takes an objective third person to give you feedback.

29
30 Chairman Hawkins commented, well, so far I like the way you have done this.
31 He asked, is there going to be any additional work on this?

32
33 Mr. Schindler answered negatively.

34
35 Member Miller commented, I'd like to know how precedence affects the
36 implementation of it because we frequently, when someone comes in and asks to
37 have something done that doesn't fit the current zoning or ordinances, we look
38 for a precedence of where we have done something different than what our
39 ordinances say. Now, we have been doing things differently. We have changed
40 the ordinances. He questioned, so is there some rule in here that says for
41 anything happening in this area now precedence doesn't matter anymore?

42
43 Mr. Schindler answered, no, there is not.

1 Member Miller further asked, so we can still look at precedence whenever...
2 Mr. Schindler interjected, oh, no. Wait a minute. I'm sorry. I misunderstood.
3 Except for Section (F) of §154.100, which applies only to newly subdivided
4 property, everything else is applicable to all properties in the Big Lake Mary area,
5 and per §154.12, all other lakes, and 155, Appendix D, to wetlands. He said,
6 unless someone complains, we are not going to know that someone has
7 removed wetlands. We don't go out looking for removal of wetlands. I mean, 99
8 percent of all Code Enforcement Board actions, excluding signs, are by
9 complaint. So, if someone called and said, they are removing wetlands at such
10 and such a location, we would go out and investigate, and if we find evidence
11 that that has occurred, then we would take appropriate action. And, once again,
12 let me state for the record, that this, in no way, supercedes St. Johns. This
13 compliments them, and where they have given permission for wetlands to be
14 removed, we fully support that.

15
16 Chairman Hawkins questioned, so it's wetlands, and then this, and then Lake
17 Mary Boulevard, and then the City ordinances, and where neither of them speaks
18 on a subject, then it goes down to the next level, down to the next level; right?

19
20 Mr. Schindler responded, that's correct.

21
22 Chairman Hawkins commented, okay. Got it.

23
24 Member Taylor asked, if, hypothetically speaking, Tallahassee was to have a
25 problem with the City's Comprehensive Plan, you know, with what we just, you
26 know, their ruling on something up there – just – I'm not exactly sure what it is
27 they are doing, but say they had a problem with it and it didn't go through as
28 planned, would that have any affect on – or how would it affect, if any, the
29 ordinance that the Board is making a recommendation on today?

30
31 Mr. Schindler replied, no, it wouldn't, because in that 45 days Tallahassee is
32 going to do one of two things; they are either going to say they find this in
33 compliance or they will say they find this to be not in compliance. They will make
34 a ruling in the 45 days one way or the other.

35
36 Member Taylor questioned, well, if they found it out of compliance, would that
37 have any affect on the proposed ordinance?

38
39 Mr. Schindler answered, in the long run, it could, yes, depending upon what they
40 found, but when staff got the Objections, Recommendations and Comments
41 (ORC) Report back at the end of December, they had only one minor comment
42 for clarification purposes specifically relating to how we treat wetlands in
43 relationship to St. Johns and DEP, and we said that we enforce St. Johns – or we

1 – our rules and regulations are not intended to contradict what DEP and St.
2 Johns – their permits, and they said we're glad to hear that and, therefore, we
3 are going to recommend that you change the wording slightly, and we have done
4 that.

5
6 Member Taylor commented/asked, because my concern was if there is
7 something still on hold and we just gave an extension for Tallahassee, would it
8 be premature to address the ordinance today, but you are saying that you don't
9 feel that it would be premature?

10
11 Mr. Schindler responded, no, I don't because we believe that what we are doing
12 will be found to be in compliance and we need to move on with the ordinance so
13 that it too will be adopted within the period of the moratorium.

14
15 Chairman Hawkins opened the hearing to public comment.

16
17 Terrence Ash, 1795 W. Lake Mary Boulevard, Lake Mary, Florida 32746, came
18 forward and set up his laptop in order to follow his personal notes. It is noted that
19 he did not do a PowerPoint presentation. He stated that he is right in the middle
20 of the study area. He questioned, is there a proper time that the City gives a
21 person notification of these meetings? He said, what I mean is that the letter that
22 I got notifying me of this meeting, that letter had the postmark of the 11th of
23 January and only gave me a few days to prepare for this meeting.

24
25 Juan (John) A. Omana, Jr., Community Development Director, requested that Dr.
26 Ash put that notification into the record since there was a court reporter present.
27 He replied, the notification that staff did was an all-inclusive board notification. It
28 included the Local Planning Agency (LPA), the Planning and Zoning Board (P &
29 Z) and the City Commission on First and Second Readings. So, we included all
30 of the boards, and as far as the LPA and the P & Z, we went above the minimum
31 requirements of code and included you, as the P & Z Board, and the LPA as an
32 inclusionary courtesy notice. So, we felt it was important, across the board, to let
33 everybody know, and as far as the P & Z is concerned, there is no specific,
34 technical requirement of the notification.

35
36 Chairman Hawkins stated, I think his question though is how far in advance do
37 you have to notify him.

38
39 Mr. Omana answered, for the P & Z there is no requirement.

40
41 Mr. Ash asked, is that true of the state laws?
42

1 Mr. Omana responded, we are governed by 154 and our City Charter and there
2 is no requirement for P & Z.
3

4 Mr. Ash commented that he has been wanting to, for over a year now, take his lot
5 that is 330' wide and approximately 550 feet deep and divide it into three 110-
6 foot sections. He questioned if these new ordinances would allow him to do that.
7

8 Mr. Omana replied, technically, what is before the Board this evening are the
9 standards that have been mandated by the Comprehensive Plan direction and
10 the City Commission direction. Mr. Schindler and staff have formulated that into
11 Land Development Regulations, which then shall apply under the overlay
12 standards that have been presented to the Board this evening. As a matter of
13 record, Dr. Ash last year provided his intentions and actually submitted a letter
14 and documentation stating concerns about what he could and could not do with
15 his property. We advised him in writing that he would have the ability, like any
16 other applicant, to submit an application for vesting determination at which point
17 upon submittal of such a determination, the City Commission would have the
18 ability to rule on whether this particular set of regulations would or would not
19 apply to his particular case. I would respectfully not like to turn this hearing this
20 evening into a technical review with respect to a rezoning application he has
21 already filed with the City, his intentions on filing a vesting determination. So, for
22 us to sit here and comment on a specific application that is already on file and
23 turn this into a technical review on compatibility or otherwise, in my opinion,
24 would not be appropriate for the Board or for city staff.
25

26 Chairman Hawkins concurred. He asked Mr. Ash if he had anything else.
27

28 Mr. Ash questioned, does that mean that you are going to sensor my questions?
29

30 Chairman Hawkins answered, no, but your question isn't in order and pertaining
31 to what is before the Board. So, Mr. Omana has already made his comment and
32 I agree with him. You are entitled to ask all the questions you would like as long
33 as it pertains to what is before the Board. We'll be glad to help you out as best
34 we can.
35

36 Mr. Ash said, I respectfully ask that the Board give me due process. The
37 question that I asked was that I want to divide my property into three lots. The
38 three lots will be 110' wide by approximately 550' deep. So, the question that I
39 have is, if this new ordinance passes, will I be able to divide my property into
40 three lots?
41

42 Mr. Omana responded, Mr. Chairman, if I may address that again. In light of the
43 fact that Dr. Ash has submitted a rezoning application for the subject property

1 and in light of his commentary and intent on submitting a vesting determination to
2 the City, it would be advisable not to comment or turn this matter or this hearing
3 into a technical review. That item is technically not before you this evening.
4 What is before you this evening are the standards by which the Big Lake Mary
5 Overlay is going to function.

6
7 Chairman Hawkins asked Mr. Ash, do you have another question?

8
9 Mr. Ash replied questioning, is it appropriate for me to ask questions on how this
10 new ordinance will affect me?

11
12 Chairman Hawkins answered, I believe it is not based on what Mr. Omana has
13 said because you already have a rezoning application. I'm not going to – he's
14 already stated it twice. So, no, we're not going to comment on a specific case
15 that you have before the City nor specifics that are not before us. So, we have
16 no idea – your case hasn't been brought before us. That is not the item before
17 us tonight. Strictly if you have questions about this Zoning Text Amendment,
18 then we'll talk about that. We'll be glad to answer your questions, but not
19 pertaining to your specific case before the City.

20
21 Mr. Ash asked, what is the minimum requirement that the City has for lot width
22 with the new ordinance?

23
24 Mr. Schindler responded, under proposed regulations §154.100 (F),
25 Development Standards, (3), minimum lot width at front yard setback line shall be
26 125'. This would be applicable to subdivision of property.

27
28 Mr. Ash questioned, and how would that affect me?

29
30 Chairman Hawkins asked Mr. Ash, how wide is your property?

31
32 Mr. Ash replied, 330'.

33
34 Chairman Hawkins stated, divide that by 125 and that will give you your answer.
35 He questioned; isn't that correct, Gary?

36
37 Mr. Schindler answered, all I can say is that the minimum width is proposed to be
38 125'. This is what was approved by the City Commission to go into the
39 Comprehensive Plan for the Big Lake Mary Overlay District and the Code of
40 Ordinances must be compatible with the Comprehensive Plan. Dr. Ash's
41 property – he has filed a zoning application and request for vesting
42 determination. I cannot address his specific property.

1 Mr. Ash asked, is it appropriate for me to explore whether or not the provisions of
2 this ordinance is bad law?

3
4 Mr. Omana responded, Mr. Chairman, any member of the public, anybody who
5 has received this notification from the City of Lake Mary can explore what they
6 believe may be correct or not correct. That is something that anybody can do.
7

8 Mr. Ash questioned, is there any portion of this ordinance that is bad law?
9

10 Mr. Omana replied, in light of the language that was brought forward through the
11 Comprehensive Plan process and the input received from members of the public
12 through the workshops that were held for this process and given review by the
13 City Attorney during the Comprehensive Plan process and also review by city
14 staff with a combined experience of over 50 years, we believe that the language
15 that is provided for in the Comprehensive Plan and the proposed LDRs are in
16 keeping with Growth Management directives and generally-accepted planning
17 principles.
18

19 Mr. Ask asked, did you discriminate in any way?
20

21 Mr. Omana answered, we, as the planning staff, write up regulations keeping in
22 mind the equal protection standards of the constitution as well as Florida Law,
23 Growth Management law, and the fact that this item was reviewed by the City
24 Attorney. We feel it has been done in an acceptable, legal manner.
25

26 Mr. Ash questioned, has my property been discriminated in any way?
27

28 Mr. Omana responded, sir, your application for rezoning was submitted and
29 accepted by...
30

31 Mr. Ash interposed, I'm not talking about that. I'm talking about the – as the
32 ordinances are written now, because those ordinances are going to affect me...
33

34 Mr. Omana interjected, Mr. Chairman, may I finish the response without being
35 interrupted?
36

37 Chairman Hawkins replied, sure. Yeah. Hold on a second, Dr. Ash.
38

39 Mr. Omana continued, saying, again, the City has developed these regulations
40 that we feel are appropriate given the feedback and, you know, we are not
41 getting into a technical review on a specific property. That is not what is before
42 us this evening.
43

1 Mr. Ash said, but the technical review of specific properties in this area might
2 elicit a discriminatory pattern within this study area. He asked, can I ask
3 questions that would elicit where you have discriminated?
4

5 Mr. Omana answered, first of all -- if I may, Mr. Chairman, it is our opinion that
6 we have not discriminated. Again, for the record...
7

8 Chairman Hawkins interjected, then that answers it, John. You haven't
9 discriminated. So, that answers the question. And, so, the answer to the rest of
10 your question is, no, we are not going to discuss that tonight, but if you have
11 another question, we'll try and help you.
12

13 Mr. Omana questioned, Mr. Chairman, if I may add a footnote to his comments?
14

15 Chairman Hawkins responded, sure.
16

17 Mr. Omana stated, again, for the record, Dr. Ash has submitted a rezoning
18 application to the City. The City has advised him in writing as to the procedure
19 involved in the vesting determination that would allow him to pursue, through the
20 process, a determination on whether these rules and regulations apply to his
21 property or they do not apply to his property...
22

23 Chairman Hawkins interjected, Dr. Ash, if you want to proceed, then let's keep it,
24 for the fourth time, based on what is before us, not anything pertaining to your
25 specifics or your case with the City, or the rest of your questions I'll rule out of
26 order. So, this is your final warning from me. I'm not discriminating against you,
27 sir, but I've asked you time and time again to keep it to what is before us, with all
28 due respect. I realize you have property rights, just as I do, because I'm a
29 lakefront owner also, but let's stick to what is before us, not pertaining to your
30 case. Nobody has discriminated. We have answered those questions. Mr.
31 Omana has made the same statement three times, so let's move on.
32

33 Mr. Ash said, but what you are doing is you are taking away my due process.
34 And I have due process. I have the right to ask questions that are directly related
35 to the study and directly related to...
36

37 Chairman Hawkins interjected, I'm going to interrupt you, sir. You are not asking
38 questions related to this specific item. You are asking questions related to your
39 specific case. So, therefore, as Chairman of this body, you are out of order, sir.
40 So, if you want to ask questions, let it pertain to this, please.
41

42 Mr. Ash asked, why weren't these same restrictions applied to all areas of the
43 lake?

1 Mr. Omana replied, the regulations apply to the properties on the north side of
2 the lake (referring to the map on the overhead projector). The rationale in
3 applying the regulations to the north side of the lake and for purposes of
4 discussion, why not the south side of the lake or other lakes, was the observation
5 from the planning staff that, number one, there was the potential for the
6 aggregation model to occur more along the lines of south of Lake Mary
7 Boulevard given the development pressures and some of the items that we had
8 seen come in through the Development Review Process (DRC). In addition, the
9 properties north of the lake as compared to the properties along the southern
10 portion of the lake, Cardinal Oaks and those areas down there, Evansdale, the
11 properties on the south side of the lake were already platted or included as part
12 of a recorded plat in the County, whereas the properties on the north side of the
13 lake were either metes and bounds or not part of a more formal recent plat
14 approval. So, the bottom line there being that the properties on the south side of
15 the lake were already organized in a form of platting, more organized platting,
16 whereas the north side wasn't and thus more susceptible, if you will, to the
17 aggregation model that you have heard me mention numerous times before.

18
19 Mr. Ash questioned, what you point out in the Small Study Area, which specific
20 properties were an aggregation problem?

21
22 Mr. Omana answered, we felt that the aggregation model had that potential for
23 the entire area bounded by the dark, black line (referring to map of the Big Lake
24 Mary Overlay and land use area). We felt that somebody could come in, start
25 buying property, tear down houses and start accumulating, if you will, and seek
26 the density of increases within that black lined area.

27
28 Mr. Ash asked, what was the evil that was inherent in the aggregation?

29
30 Vice Chairman Loe interjected, commenting, there is no appropriate use of the
31 word, evil, in that sentence. I'm not even sure what the word, evil, means there.

32
33 Mr. Omana stated, staff takes objection to this line of questioning, Mr. Chairman.

34
35 Chairman Hawkins said, let's move on.

36
37 Mr. Ash questioned, what was the problem with aggregation?

38
39 Mr. Omana responded, the City Commission had raised concerns about the
40 potential for septic tank expansion, if you will, and its environmental impacts to
41 the lake and the wetland areas. Also, the increase in density along Lake Mary
42 Boulevard with respect to traffic circulation and the movement of traffic flow along
43 Lake Mary Boulevard.

1 Mr. Ash asked, did, at any time, the City promote aggregation in this area?
2
3 Mr. Omana replied, if you're asking if we are in the development business, the
4 answer is no.
5
6 Mr. Ash questioned, did the City, at any time, give property to another landowner
7 in this study area?
8
9 Mr. Omana answered, I'm not aware of any.
10
11 Mr. Ash asked, at the end of the streets in the study area, were there properties
12 that you deeded over to the adjacent homeowners?
13
14 Vice Chairman Loe interjected, stating, he is probably talking about Mr. Nieves.
15
16 Mr. Omana responded, oh, there was a vacate done during last year.
17
18 Mr. Ash questioned, did you pave the streets in this study area?
19
20 Mr. Omana replied, I believe there was some cold mixing undertaken by the
21 Public Works Department.
22
23 Mr. Ash asked, did that allow for drainage?
24
25 Mr. Omana answered, the fact is that cold mixing allows for the pervious
26 component to exist, so there is some built-in flushing, if you will, within that type
27 of system.
28
29 Mr. Ash said, the reason why I asked that is because in the new regulations you
30 have got where new building is going to have to have retention area. He
31 questioned, is that correct?
32
33 Mr. Omana asked Mr. Ash what specific section he was citing.
34
35 Mr. Ash responded, well, I'd have to read through it, but it's my understanding
36 that new building has to have a retention area. He questioned; is that correct?
37
38 Mr. Omana replied, I'll await your answer. You brought it up, sir.
39
40 Mr. Ash asked, well, the reason I ask is, is there any other homes in Lake Mary
41 that have to have that?
42

1 Mr. Omana answered, I think what we look at in terms of lakefront properties is
2 for proper implementation of swale areas and small depressional areas to act as
3 a filtering mechanism so it will take care of the silts and any of the pollutants, if
4 you will, from going into the lake areas.
5

6 Mr. Ash questioned, did you have any evidence of aggregation in this Small
7 Study Area?
8

9 Vice Chairman Loe interjected, asking, what does he mean by aggregation and
10 what do you mean by aggregation? Because I think you two may be talking
11 about two entirely different things.
12

13 Mr. Omana responded, I see aggregation as being the buying up of properties for
14 purposes of coming it into a large tract and going in to subdivide creating a
15 higher density.
16

17 Mr. Ash questioned if the purpose of the 125-foot width minimum was if these
18 properties were not suitable for aggregation and these new 125-foot width
19 restrictions are placed there to prevent or hinder aggregation.
20

21 Mr. Omana replied, the purpose of the widths, the lot sizes of 40,000 square feet
22 and the other performance standards are to address the concern of aggregation
23 and would be to prevent the condition of aggregation.
24

25 Mr. Ash stated, around the lake and also in the Small Study Area there is a
26 significant portion of that that is zoned R-1AA. He asked, what is the minimum
27 width of R-1AA?
28

29 Mr. Schindler answered, 95 feet.
30

31 Mr. Ash questioned, was there any evidence that those homes that had the 95-
32 foot width minimum were a problem?
33

34 Mr. Omana responded, sir, let me respond to your line of questioning on the
35 technical standards by saying this: The United States Supreme Court has ruled
36 that any jurisdiction can undertake an overlay study such as the City of Lake
37 Mary did last year. This is a legislative action by the City of Lake Mary. We have
38 the ability and the right to do this and that is backed up by case law at the
39 Supreme Court level. That is something that we received from the City Attorney,
40 and that is why we pursued this as a matter of legal right. So, your comments
41 about, was there any evidence or – if we could, Mr. Chairman, cut to the chase
42 here, you know, what are the issues and we'll attempt to address them without

1 getting into a specific, technical review. I would like to cut to the chase here, if at
2 all possible.

3
4 Chairman Hawkins asked Mr. Ash if we could do that.

5
6 (There was no response from Mr. Ash.)
7

8 Member Taylor commented to Mr. Ash, sir, I'm going to be asked in a few
9 minutes to vote whether I agree with this ordinance or not, and I believe – and I
10 don't speak for the entire planning board, but I believe that the City has acted
11 with good motives legally and all of those things. You know, I have examined
12 their motives and I have got no problem with any of that. So, what I'm interested
13 in, and I think what most of the board is interested in is can you summarize for us
14 just very briefly why you are against this and why you think we should be against
15 it in, like, two minutes or less? Can you just summarize your position for us?
16

17 Chairman Hawkins added, as Chairman, Mr. Ash, I do have the right to limit
18 public hearing and I too would like for you to cut to the chase, and if you want to
19 summarize what you want to say and let's not get into a technical review of this,
20 then please do so and tell us why you are against it rather than this being an
21 investigation of why we did this, because other than that, I'm going to limit your
22 time, and I have the right to do that.
23

24 Mr. Ash said, what the City has done is they have taken away my constitutional
25 rights. The City has put a moratorium on me subdividing my property. You
26 know, anybody else in Lake Mary can go and ask, with the size lot that I have, to
27 subdivide it. The City of Lake Mary has chosen not to, and the reason they did
28 that is because of all the public outcry of the Waterside Development. When the
29 Waterside Development went in, there was so much turmoil that the City
30 Commission directed Planning and Zoning right away. I have nothing but respect
31 for Gary and John. I'm sorry that they got squeezed in the politics of this, but I
32 have every right as a citizen and as a small investor...
33

34 **TAPE 2, SIDE A**
35

36 ...people that did not want to share the lake with anybody else. So, now we have
37 an ordinance that is bad law and it discriminates, and what it says is, well, these
38 people on this side of the lake, for whatever reason, they have to have 125-foot
39 width minimum, but the other side of the lake doesn't, and these people that are
40 on this side of the lake are going to have to have a retention area, if I'm reading it
41 correctly and the other people don't, and you know why, these people on this
42 side of the lake have to have 125-foot minimum on the lake and the other people
43 don't. And, where was the evidence to come up with 125 feet? Well, the

1 evidence was that, you know, if we make these lots big enough, well, that will
2 limit the development, but it also hurts me as a small investor, and it wasn't done
3 for good reason. You see, my application was for R-1AA, a 95-foot minimum lot
4 width. It is the same thing that everybody else has on that lake. I am not asking
5 for anything more than what anybody else has, but now we have an ordinance
6 that is going to affect me badly, and I asked questions, where was your evidence
7 and how is that not discriminatory, where did you get your 125 feet. It is just
8 arbitrary and capricious. What they did is they took a chart, they stuck the 125
9 feet above the chart and said that is what we are going to do. Does that make
10 sense to you?

11
12 Chairman Hawkins replied, to answer your question, sir, yes, it does, since you
13 are asking me a question. You forget that there are multiple factors, one of
14 which is that these properties all have lake frontage in common. The people on
15 the other side of the lake don't have a four-lane or soon to be six-laned highway
16 in their front yard that is more amenable to commercial and multi-density
17 development than the other side of the lake. So, the lake is just one determining
18 factor. There are multitudes of others, and that is what the city staff has
19 determined, whether it is 95, 125 or 155-foot lakefront. He told you that it was to
20 prevent aggregation and that was one of the determining factors of why it was set
21 at 125.

22
23 Mr. Ash questioned, and the problem with aggregation was because of what?

24
25 Chairman Hawkins answered, the problem with aggregation was people buying
26 up multiple properties which would encourage higher density use as in apartment
27 complexes, condominiums, things like that. That was the directive that the City
28 staff was commissioned to take from the City Commission. He asked, am I not
29 correct, Mr. Omana?

30
31 Mr. Omana responded, that is correct, sir, and if I may just add to Dr. Ash's
32 comments. I, again, for the record, state that a rezoning application has been
33 filed with the City by Dr. Ash for his property. Dr. Ash has been notified in writing
34 that he has the ability to submit a vesting determination. That vesting
35 determination goes in front of the City Commission and the City Commission
36 makes the decision as to whether these regulations apply or do not apply to him.
37 That information was sent out to Dr. Ash last year. As of this date, we have not
38 received any action from Dr. Ash. So, if we are sitting here talking about due
39 process and procedural matters, I believe the ball is in the court of Dr. Ash.
40 Vice Chairman Loe questioned Mr. Ash if he has purchased any properties in the
41 last three years on Lake Mary Boulevard.

42
43 Mr. Ash answered negatively.

1 Vice Chairman Loe asked Mr. Ash, you have not aggregated any properties
2 yourself?
3

4 Mr. Ash replied, no, what I want to do is just subdivide, and that is why I was
5 upset when the moratorium was passed -- is because I wasn't asking for
6 anything that anybody else didn't have. What had happened is -- and I think that
7 we have somebody on the Board that is an example of this -- they are afraid that
8 this is going to get out of hand and it is going to ruin the effects of the lake. What
9 you have done is you have made restrictions to the point now that it is affecting
10 me financially. You aren't allowing me to subdivide the property, and now with
11 these new restrictions you are saying to me, well, yeah, you can, but instead of
12 having three lots, you are going to have two now, and that's going to cut -- I have
13 had to finance the thing for over a year and now I'm going to take a loss.
14

15 Mr. Omana questioned, sir, why haven't you filed your vesting determination after
16 the City advised you after you asked us questions on that matter? Why haven't
17 you filed a vesting determination letter?
18

19 Mr. Ash answered, there was an attorney that represented Waterside and he and
20 I had a conversation and he could not represent me in this matter because of a
21 conflict of interest, so he gave me the name of an attorney over at Gray, Harris &
22 Robinson. Now, Gray, Harris & Robinson is a big attorney firm in Orlando. I
23 went to see the Gray, Harris & Robinson attorney about this matter and they
24 said, look, it wouldn't be worth your money for us to take this type of case. The
25 type of cases that we handle are larger type of cases. We have people on staff
26 that have the political connections to make big developments happen; however, I
27 am going to give you the name of a lady attorney in Lake Mary. So, then I called
28 the lady attorney in Lake Mary and said, would you help me with this matter?
29 Now, this is the third attorney. And the lady attorney says, you know what, she
30 says, I don't want to take the case. Now, I don't have the expertise to take this
31 case through in a proper way and in a winning way. So, when I filed the
32 application -- I filed it -- and this all happened kind of all at the same time -- when I
33 filed the application, I filed it before any of these laws passed. But I did have
34 another attorney that I saw for another matter and I asked her, I said, would you
35 consider taking this case? And she said, well, I'll look into it. And that is Susan
36 Stacy, and I think she has already been to your office. But that is why I haven't
37 followed up on the vested rights interest. Number one, I don't have the expertise
38 to write a proper vested rights. I did not know what vested rights meant when I
39 was told by you and Gary, hey, you better get a vested rights letter in. I did the
40 best I could. I wrote the vested rights letter and I put it in and I submitted it to you
41 in a timely manner. I had one day. So, that is where it sat. Well, when the
42 moratorium came along, I thought, you know what, this moratorium -- if I sit here
43 and fight the City and the moratorium comes down and says, look, you know,

1 there may be some minor changes, well, then all I did was create friction
2 between myself and the City. So, it was prudent for me to hold on and say, you
3 know what, I'll wait and see what some of these ordinances come out to be, and
4 in the meantime, because I don't have an attorney, I already have had three of
5 them, it made sense, and now Susan Stacy is taking a look at the case for me. If
6 that answers your question, John?
7

8 Mr. Omana stated, and, Mr. Chairman, my reason for the comments is that – the
9 point I am wanting to make is that the City has acted appropriately in providing
10 the necessary mechanism by where he can challenge or have the City make a
11 ruling on whether it applies to him or not, period. That is all I am trying to say.
12

13 Member Taylor said, and, Dr. Ash, you do understand that we are not making
14 any comment on your specific case tonight. None of us. It is not before us. We
15 don't know anything. It wouldn't be proper. We are simply talking about the
16 ordinance itself tonight. So, nothing we say specifically pertains to you or
17 addresses your case, prejudices you or assists you in any way.
18

19 Mr. Ash stated, my concern is that once you pass this ordinance, that is a huge
20 hurdle that I will have to attempt if I go before the City Commission because it is
21 already law.
22

23 Vice Chairman Loe said, yes, sir, and that is the reason that they suggested you
24 file the vested rights application so that it wouldn't apply in quite that way to you,
25 so that you could preserve your rights. Just talking to a couple of attorneys?
26 You need to hire one is what you need to do.
27

28 Mr. Ash stated, no, you understand that the first lady attorney had turned me
29 down. I had the check. I wrote the check. She gave the check back to me.
30

31 Vice Chairman Loe said, I understand that. There are literally 90-100,000
32 lawyers licensed in Florida. There are so many out there. You pick up the
33 phonebook and you will find that there are more in there than there are plumbers
34 and just about any other profession. There are many people out there. Simply
35 because one lawyer didn't want to take your case does not necessarily mean
36 another won't.
37

38 Mr. Ash stated, three lawyers.
39

40 Vice Chairman Loe said, I understand. Development is a difficult thing for
41 lawyers to do, but I would urge you to not give up on trying to find an attorney to
42 represent/assist you.
43

1 Mr. Ash asked, well, you know I have one; right?

2
3 Vice Chairman Loe responded, yeah. Yeah.

4
5 There being no further public comment, Chairman Hawkins closed that portion
6 and entertained board discussion and/or a motion.

7
8 Vice Chairman Loe commented, I do not see where this ordinance or
9 regulations/standards were intended to hurt any individual. I think they were
10 written with regard to the area that borders/touches Lake Mary Boulevard, but the
11 unfortunate aspect of law is that it applies to everybody equally and some people
12 may suffer from it more than others when a law is passed – or an ordinance is
13 discussed. I have got to ask Mr. Omana, in order to ease my mind in this
14 determination, whether or not he had Dr. Ash specifically in mind, or Mr. Ash's
15 property – or Mr. Schindler or any other staff member had Dr. Ash specifically in
16 mind when they drafted this ordinance?

17
18 Mr. Omana replied, Mr. Loe, we did not have Dr. Ash's property specifically in
19 mind. We were not targeting any specific property in mind. We looked at this
20 project globally, comprehensively. We had no specific target in mind.

21
22 Mr. Schindler concurred.

23
24 Member Miller commented that he would like to see the 125-foot requirement
25 changed to 110 because he did not think it affects aggregation.

26
27 **MOTION:**

28
29 **Member Taylor moved to recommend approval to the Mayor and City**
30 **Commission the request by City of Lake Mary/Community Development**
31 **Department regarding proposed amendments to the City of Lake Mary**
32 **Code of Ordinances related to the Big Lake Mary Small Area Study and**
33 **subsequent amendments to the City of Lake Mary Comprehensive Plan,**
34 **consistent with staff's Recommendations listed in the Staff Report**
35 **including the additional language/two revisions submitted by Mr. Schindler**
36 **(see attached two highlighted portions on page 5 of 9 and page 8 of 8) and**
37 **Planning and Zoning Board recommends that on page 6 of the Staff Report**
38 **under Chapter 155, Appendix D Subsection 5 (A)(3) that the word, must, be**
39 **stricken in the second sentence. Vice Chairman Loe seconded the motion.**

40
41 Vice Chairman Loe clarified that the Board is recommending these two ordinances
42 tonight to the Mayor and City Commission and is not in fact adopting them. He
43 recommended that something be done with the Big Lake Mary Overlay land use

1 area that addresses the concerns of the citizens who own land in that area where
2 most of the people in there see that as a residential location, and I have no doubt
3 that Dr. Ash probably, many years ago when he bought this property, was thinking
4 potentially that this may have some commercial application, and this is the kind of
5 decision that we are making here to basically lock this in as a residential area.
6

7 Mr. Ash clarified that his rezoning application is for residential.
8

9 Vice Chairman Loe commented that he remembered talking to Dr. Ash previously
10 where he said he wanted commercial land use at one time and that's what he
11 thought he was buying, but stated that he thought that residential is appropriate for
12 this and, to my mind, residential is preserved by these ZTAs. He further
13 commented that he wished Dr. Ash had filed his application for vested rights
14 determination.
15

16 **Member Rogers was absent. The motion carried unanimously 5-0.**
17

18 Mr. Omana announced that this item will move forward to the February 21, 2008,
19 City Commission meeting.
20

21 IX. Community Development Director's Report

22 Juan (John) A. Omana, Jr., Community Development Director, reported on actions
23 taken by the City Commission at their January 17, 2008, meeting.

24 X. Other Business

25 Election of Chairman and Vice Chairman to the Planning and Zoning Board for
26 Year 2008

27 **MOTION:**

28 **Member Miller moved to elect Dr. Robert Hawkins as Chairman to the**
29 **Planning and Zoning Board for Year 2008. Vice Chairman Loe seconded the**
30 **motion. Member Rogers was absent. The motion carried unanimously 5-0.**

31 **MOTION:**

32 **Member Taylor moved to elect Brian Loe as Vice Chairman to the Planning**
33 **and Zoning Board for Year 2008. Member Miller seconded the motion.**
34 **Member Rogers was absent. The motion carried unanimously 5-0.**

35 Planning and Zoning Board 2007 Attendance

1 Chairman Hawkins said that he asked Ms. Adams to create a Planning and Zoning
2 Board attendance report (see attached). He stated, I believe that the report pretty
3 much speaks for itself, and I would just encourage all the Board members to attend
4 as often as they can. There were many meetings where there were just three
5 board members and I don't think that provides for a smooth and well-represented
6 board meeting. So, I would just like to encourage everybody to attend as many
7 meetings as they can this coming year.

8 XI. Reports of Other Members

9 Member Miller reported that the Lake Mary Events Center will have their grand
10 opening Thursday, January 24, 2008, at 9:00 a.m., and also that evening at 5:30
11 p.m., the Chamber After Hours will be at the Events Center.

12
13 Juan (John) A. Omana, Jr., Community Development Director, added that also on
14 January 18, 2008, the City had its opening ceremony for the Splash Park.

15
16 Member Miller commended Vice Chairman Loe for his work on the Lake Mary
17 Events Center (there was applause).

18
19 Vice Chairman Loe said he hoped that people who live here will get to use it.

20
21 XII. Adjournment

22
23 The meeting was adjourned at 8:08 p.m.

24
25
26
27
28 _____
29 Dr. Robert Hawkins, Chairman

Diana T. Adams, Administrative
Secretary