

AGENDA
ESCAMBIA COUNTY PLANNING BOARD
QUASI-JUDICIAL HEARING
January 9, 2012–8:30 a.m.
Escambia County Central Office Complex
3363 West Park Place, Room 104

1. Call to Order.
2. Invocation/Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.
4. Quasi-judicial Process Explanation.
5. Public Hearings.
 - A. Z- 2011-17
Address: 9991 Guidy Lane
From: R-2, Single Family District (cumulative)
Low-Medium Density
To: R-6, Neighborhood Commercial and
Residential District (cumulative) High Density
 - B. Z-2012-01
Address: 9869 N Loop Rd
From: RR, Rural Residential District
(cumulative) Low Density
To: AMU-2, Airfield Mixed Use-2 District
(cumulative to AMU-1 only)
6. Adjournment.

Planning Board-Rezoning

Item #: 5. A.

Meeting Date: 01/09/2012
CASE : Z- 2011-17
APPLICANT: Wiley C. Buddy Page, Agent for Charles and Linda Welk, Owner
ADDRESS: 9991 Guidy Lane
PROPERTY REFERENCE NO.: 07-1S-30-1018-000-000
FUTURE LAND USE: MU-U, Mixed Use Urban
COMMISSIONER DISTRICT: 5
OVERLAY AREA: NA
BCC MEETING DATE: 02/02/2012

Information

SUBMISSION DATA:

REQUESTED REZONING:

FROM: R-2, Single Family District (cumulative), Low-Medium Density (7 du/acre).

**TO: R-6 Neighborhood Commercial and Residential District, (cumulative)
High Density (25 du/acre).**

RELEVANT AUTHORITY:

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

CRITERION (1)

Consistent with the Comprehensive Plan.

Whether the proposed amendment is consistent with the Comprehensive Plan.

Comprehensive Plan Policy (CPP) FLU 1.1.1 Development Consistency. New development and redevelopment in unincorporated Escambia County shall be consistent with the Escambia County Comprehensive Plan and the Future Land Use Map (FLUM).

CPP FLU 1.3.1 Future Land Use Categories. The Mixed-Use Urban (MU-U) Future Land Use (FLU) category is intended for an intense mix of residential and nonresidential uses while promoting compatible infill development and the separation of urban and suburban land uses within the category as a whole. Range of allowable uses include: Residential, Retail and Services, Professional Office, Light Industrial, Recreational Facilities, Public and Civic. The minimum residential density is 3.5 dwelling units per acre and the maximum residential density is 25 dwelling units per acre.

CPP FLU 1.5.3 New Development and Redevelopment in Built Areas. To promote the efficient use of existing public roads, utilities and service infrastructure, the County will encourage redevelopment in underutilized properties to maximize development densities and intensities located in the Mixed-Use Suburban, Mixed-Use Urban, Commercial and Industrial Future Land Use district categories (with the exception of residential development).

FINDINGS

The proposed amendment to **R-6 is not consistent** with the intent and purpose of Future Land Use category MU-U as stated in **CPP FLU 1.3.1** The proposed amendment does promote the efficient use of existing public roads, utilities and service infrastructure. However, staff determined that the proposed use does not promote compatible infill development, since the property is currently not underutilized and the proposed use is also incompatible with the residential nature of the surrounding properties. Therefore, staff finds that the proposed amendment is not consistent with the intent and purpose as stated in **CPP FLU 1.3.1** and **FLU 1.5.3**.

CRITERION (2)

Consistent with The Land Development Code.

Whether the proposed amendment is in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

Land Development Code (LDC) 2.08.02. D. 7. b Quasi-judicial Rezoning. An applicant for a proposed rezoning has the burden of proving by substantial, competent evidence that the proposed rezoning: is consistent with the Comprehensive Plan; furthers the goals, objectives and policies of the Comprehensive Plan and is not in conflict with any portion of the county's Land Development Code. b. The proposed rezoning will constitute "spot zoning," that is an isolated zoning district that may be incompatible with the adjacent and nearby zoning districts and uses, or as spot zoning is otherwise defined by Florida law.

(LDC) 6.05.07. R-2 single-family district (cumulative), low-medium density. This district is intended to be a single-family residential area with large lots and low population density. The maximum density is seven dwelling units per acre. Refer to article 11 for uses and densities allowed in R-2, single-family areas located in the Airport/Airfield Environs. Structures within Airport/Airfield Environs, Zones, and Surfaces remain subject to the height definitions, height restrictions, and methods of height calculation set forth in article 11. Refer to the overlay districts within section 6.07.00 for additional regulations imposed on individual parcels with R-2 zoning located in the Scenic Highway Overlay District and RA-1(OL) Barrancas Redevelopment Area Overlay District.

6.05.13. R-6 neighborhood commercial and residential district, (cumulative) high density. This district is intended to provide for a mixed use area of residential, office and professional, and certain types of neighborhood convenience shopping, retail sales and services which permit a reasonable use of property while preventing the development of blight or slum conditions. This district shall be established in areas where the intermixing of such uses has been the custom, where the future uses are uncertain and some redevelopment is probable. The maximum density is 25 dwelling units per acre, except in the low density residential (LDR) future land use category where the maximum density is 18 dwelling units per acre. All neighborhood commercial (R-6) development, redevelopment, or expansion must be consistent with the locational criteria in the Comprehensive Plan (Policies FLU 1.1.0) and in article 7.

B. Permitted uses.

1. Any use permitted in the R-5 district.
2. Retail sales and services (gross floor area of building not to exceed 6,000 square feet). No permanent outside storage allowed.
 - a. Food and drugstore, including convenience stores without gasoline sales.
 - b. Personal service shop.
 - c. Clothing and dry goods store.
 - d. Hardware, home furnishings and appliances.
 - e. Specialty shops.
 - f. Banks and financial institutions.
 - g. Bakeries, whose products are made and sold at retail on the premises.
 - h. Florists shops provided that products are displayed and sold wholly within an enclosed building.
 - i. Health clubs, spa and exercise centers.
 - j. Studio for the arts.
 - k. Martial arts studios.
 - l. Bicycle sales and mechanical services.
 - m. Other retail/service uses of similar type and character of those listed herein above.
3. Laundromats and dry cleaners (gross floor area not to exceed 4,000 square feet).
4. Restaurants.
5. Automobile service stations (no outside storage, minor repair only).
6. Appliance repair shops (no outside storage or work permitted).
7. Places of worship and educational facilities/institutions.
8. Fortune tellers, palm readers, psychics, etc.
9. Other uses which are similar or compatible to the uses permitted herein that would promote the intent and purposes of this district. Determination on other permitted uses shall be made by the planning board (LPA).
10. Mobile home subdivision or park.

C. Conditional uses.

1. Any conditional use allowed in the R-5 district.
2. Drive-through restaurants (fast food or drive-in, by whatever name known).
3. Any building exceeding 120 feet height.
4. Neighborhood commercial uses that do not exceed 35,000 square feet of floor area.
5. Automobile service operations, including indoor repair and restoration (not including painting), and sale of gasoline (and related service station products), gross floor area not to exceed 6,000 square feet. Outside repair and/or storage and automotive painting is prohibited.
6. Mini-warehouses meeting the following standards:
 - a. One acre or less in size (building and accessory paved area);
 - b. Three-foot hedge along any right-of-way line;
 - c. Dead storage use only (outside storage of operable vehicles including cars, light trucks, RVs, boats, and similar items).
 - d. No truck, utility trailer, and RV rental service or facility allowed, see C-2.
7. Radio broadcasting and telecasting stations, studios, and offices with satellite dishes and antennas. On-site towers are prohibited. (See section 6.08.02.L.)
8. Temporary structures. (See section 6.04.16)
9. Arcade amusement centers and bingo facilities.

LDC 7.20.04. Neighborhood commercial locational criteria (AMU-1, R-6, VM-1).

- A. Neighborhood commercial uses shall be located along a collector or arterial roadway and near a collector/collector, collector/arterial, or arterial/arterial intersection and must provide a smooth transition between commercial and residential intensity.

B. They may be located at the intersection of an arterial/local street without providing a smooth transition when the local street serves as a connection between two arterial roadways and meets all the following criteria:

1. Shares access and stormwater with adjoining commercial uses or properties;
2. Includes a six-foot privacy fence as part of any required buffer and develops the required landscaping and buffering to ensure long-term compatibility with adjoining uses as described in Policy 7.A.3.8 and article 7;
3. Negative impacts of these land uses on surrounding residential areas shall be minimized by placing the lower intensity uses on the site (such as stormwater ponds and parking) next to abutting residential dwelling units and placing the higher intensity uses (such as truck loading zones and dumpsters) next to the roadway or adjacent commercial properties;
4. Intrusions into recorded subdivisions shall be limited to 300 feet along the collector or arterial roadway and only the corner lots in the subdivision.

C. They may be located along an arterial or collector roadway without meeting the above additional requirements when one of the following conditions exists:

1. The property is located within one-quarter mile of a traffic generator or collector, such as commercial airports, medium to high density apartments, military installations, colleges and universities, hospitals/clinics, or other similar uses generating more than 600 daily trips; or
2. The property is located in areas where existing commercial or other intensive development is established and the proposed development would constitute infill development. The intensity of the use must be of a comparable intensity of the zoning and development on the surrounding parcels and must promote compact development and not promote ribbon or strip commercial development.

LDC 7.01.06. Buffering between zoning districts and uses.

A. Zoning districts. The following spatial relationships between zoning districts require a buffer:
2. AMU-1, AMU-2, R-4, R-5, R-6, V-4, VM-1, or VM-2 districts, where they are adjacent to single-family or two-family districts (RR, SDD, R-1, R-1PK, R-2, R-2PK, R-3, V-1, V-2, V-2A, V-3, V-5, VR-1, VR-2).

LDC 7.20.02B Waivers, The planning board (PB) may waive the roadway requirements when determining consistency with the Comprehensive Plan and Land Development Code for a rezoning request when unique circumstances exist. In order to determine if unique circumstances exist, a compatibility analysis shall be submitted that provides competent and substantial evidence that the proposed use will be able to achieve long-term compatibility with surrounding uses as described in Comprehensive Plan Policy 7.A.3.8. Infill development would be an example of when a waiver could be recommended. Although a waiver to the roadway requirement is granted, the property will still be required to meet all of the other performance standards for the zoning district as indicated below. The additional landscaping, buffering, and site development standards cannot be waived without obtaining a variance from the board of adjustment.

FINDINGS

The proposed amendment **is not consistent** with the intent and purpose of the Land Development Code. The applicant has failed to provide competent evidence that the proposed rezoning will not constitute "spot zoning." From a site visit, staff observed that the nature of the surrounding zoning and existing uses is predominantly residential, thus the proposed amendment **is not consistent** with the intent of Land Development Code (LDC) 2.08.02. D. 7. B and C, Quasi-judicial Rezoning.

The proposed amendment **does not meet** the general commercial and light manufacturing uses

locational criteria requirements; the parcel is on a local road, it is not located at or in proximity to intersections of arterial/arterial roadways or along an arterial roadway within one-quarter mile of the intersection and does not provide for a smooth transition between commercial and residential intensity, as stated in the Escambia County Land Development Code (LDC 7.20.04). In addition a Development Order #PSP090600059, located at 9796 Guidy Lane was denied due to the locational criteria requirements being located on a local road. See exhibit A.

The proposed amendment **does not meet** the requirements for infill development as stated in (LDC 7.20.03.B). Infill development is defined as an area where over 50 percent of a block is either zoned or used for commercial development. This article also defines a block as the road frontage on one side of a street between two public rights-of-way. In this case the block is identified as the road frontage from Candlestick Dr, along the south side of Guidy Lane, to Signal Hill Lane along the North. There are eleven (11) properties within this block: three (4) single family residences, and seven (7) multifamily properties, the intensity of the proposed use is not comparable with the existing zoning and development on the surrounding parcels and does not promote compact development.

Buffering requirement will apply, as stated in (LDC 7.01.06); further review from the Development Review Committee (DRC) will be needed to ensure the buffering requirements and other performance standards have been met, should this amendment to R-6 be granted.

CRITERION (3)

Compatible with surrounding uses.

Whether and the extent to which the proposed amendment is compatible with existing and proposed uses in the area of the subject property(s).

FINDINGS

The proposed amendment **is not compatible** with surrounding existing uses in the area.

Within the 500' radius impact area, staff observed properties with zoning districts R-2, R-3, R-5, and C-2. 38 single family residential, 26 multi-family, one church, and one vacant lot.

CRITERION (4)

Changed conditions.

Whether and the extent to which there are any changed conditions that impact the amendment or property(s).

FINDINGS

Staff found one parcel case number Z-2001-42 at 9918 Guidy Lane that was rezoned from R-2 to R-3 on 12-06-2001 by the BCC. Staff sees **no changed** conditions that would impact the amendment or property(s).

CRITERION (5)

Effect on natural environment.

Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment.

FINDINGS

According to the National Wetland Inventory, wetlands and hydric soils **were not** indicated on the subject property. When applicable, further review during the Development Review Committee (DRC) process will be necessary to determine if there would be any significant adverse impact on the natural environment.

CRITERION (6)

Development patterns.

Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

FINDINGS

The proposed amendment **would not result** in a logical and orderly development pattern. The property is located along Guidy Lane, a local road in a mixed-use area. The permitted uses of the R-6 zoning district are not of comparable intensity with the surrounding predominantly residential uses.

Attachments

Z-2011-17

Z-2011-17

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1 he can contact to make sure that he is kept abreast
 2 of all the activity that's going with that site.
 3 Don't hesitate to call us. We want to help you, as
 4 well.
 5 MR. BRISKE: I think we're going to take about
 6 a five-minute break right now so we'll stand in
 7 recess for about five minutes. We'll come back at
 8 935.
 9 (Break taken, after which the proceedings
 10 continued. The transcript continues on Page 50.)
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1 * * *
 2 CASE NO: Z-2011-17
 Location: 9991 Guidy Lane
 3 Parcel: 07-1S-30-1018-000-000
 From: R-2, Single-Family District (cumulative),
 4 Low-Medium Density (7 du/acre).
 To: R-6, Neighborhood Commercial and Residential
 5 District, (cumulative) High Density
 (25 du/acre).
 6 FLU Category: MU-U
 BCC District: 5
 7 Requested by: Wiley C. "Buddy" Page, Agent for
 Charles and Linda Welk
 8
 9 MR. BRISKE: I would like to call our meeting
 10 back to order, please. Please take your seats. All
 11 right we are now back in session for the Planning
 12 Board Rezoning Hearings for October 10th, 2011.
 13 (Mr. Wingate not present.)
 14 MR. BRISKE: Our next case for consideration,
 15 Z-2011-17, will be presented by Buddy Page, the
 16 agent for Charles and Linda Welk. This project
 17 address is on Guidy Lane and it is a request to
 18 rezone from an R-2 to an R-6.
 19 Members of the Board, I will ask if there's
 20 been any ex parte communication between you, the
 21 applicant, the agent, attorneys or witnesses or with
 22 any other fellow Planning Board members or anyone
 23 from the general public prior to this hearing. I
 24 will also ask you if you have visited the subject
 25 site. And if you would please disclose if you are a

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1 relative or business associate of the applicant or
 2 the applicant's agent. We'll start down at the end
 3 again with Bruce.
 4 MR. STITT: No, Mr. Chairman. We're missing
 5 Mr. Wingate.
 6 MR. BRISKE: We'll note on the record that
 7 Mr. Wingate has not come back from the break yet.
 8 Ms. Hightower.
 9 MS. HIGHTOWER: I have none. I have no
 10 official capacity but I do know the property owners.
 11 MR. GOODLOE: No communication, but I have
 12 visited the site.
 13 MR. BARRY: No communication. I'm familiar
 14 with the site.
 15 MR. BRISKE: The Chairman has had no
 16 communication, but I do know Mr. Welk from years
 17 ago, as well. I haven't spoken to him in quite a
 18 few years, but nothing that would influence my
 19 decision.
 20 Mr. Tate.
 21 MR. TATE: No, but I am familiar with the site
 22 having traversed the road frequently.
 23 MS. DAVIS: No to all of the above.
 24 MS. SINDEL: No to all of the above.
 25 MR. BRISKE: And when Mr. Wingate returns, we

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1 will get him to answer the questions, as well, if
 2 you will help me keep an eye out for him.
 3 Staff, was notice of the hearing sent to all
 4 the interested parties?
 5 MS. SPITSBERGEN: Yes, sir, it was.
 6 MR. BRISKE: Was it also posted on the subject
 7 property?
 8 MS. SPITSBERGEN: Yes, sir, it was.
 9 MR. BRISKE: If there's no objection by
 10 Mr. Page, we'll ask the staff to present the maps
 11 and the photographs for Case Z-2011-17.
 12 MR. FISHER: John Fisher, Planning and Zoning.
 13 This is for Case Number Z-2011-17, 9991 Guidy Lane.
 14 MR. BRISKE: John, would you stop for a second.
 15 Did we get John sworn in at the beginning?
 16 MS. CAIN: No.
 17 MR. BRISKE: Let's go ahead and do that just
 18 because this is a quasi-judicial hearing.
 19 (John Fisher sworn.)
 20 MR. BRISKE: Thank you, John. Go ahead.
 21 MR. FISHER: This is our location and wetlands
 22 map. This is the aerial photo. This is the Future
 23 Land Use of MU-U. The existing land use.
 24 (Mr. Wingate enters.)
 25 MR. FISHER: The 500-foot zoning radius map,

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1 zoned R-2.
 2 This is the public notice sign. This is the
 3 subject parcel. This is the subject parcel again.
 4 This is looking south from the subject parcel on
 5 Guidy Lane. This is looking north from the subject
 6 parcel. Looking southeast from the subject parcel.
 7 This is looking east from the subject parcel. This
 8 is looking southeast from the subject parcel. This
 9 is the 500-foot radius map from the Property
 09:42 10 Appraiser. This is the mailing list.
 11 MR. BRISKE: Thank you.
 12 Mr. Wingate has rejoined the meeting.
 13 Mr. Wingate, have you had any ex parte communication
 14 between you, the applicant, the applicant's agents,
 15 attorneys, witnesses or with any other fellow
 16 Planning Board members or anyone from the public
 17 prior to this hearing.
 18 MR. WINGATE: No I just drove up the street.
 19 MR. BRISKE: You did visit the subject
 09:42 20 property?
 21 MR. WINGATE: Yes.
 22 MR. BRISKE: And you're not a relative or
 23 business associate of the applicant or the
 24 applicant's agent?
 25 MR. WINGATE: No, sir.
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1 MR. BRISKE: Thank you, sir.
 2 Mr. Page. Good morning, sir. If you will be
 3 sworn in, please.
 4 (Wiley C. "Buddy" Page sworn.)
 5 MR. BRISKE: Mr. Page, please state your full
 6 name and address for the record.
 7 MR. PAGE: Good morning, Mr. Chairman. Buddy
 8 Page, 5337 Hamilton Lane in Pace, representing Mr.
 9 Charles Welk this morning on the application before
 09:43 10 you.
 11 MR. BRISKE: Have you received a copy of the
 12 rezoning hearing package with the staff's findings?
 13 MR. PAGE: Yes, sir.
 14 MR. BRISKE: Do you understand that you have
 15 the burden of proving substantial and competent
 16 evidence that the proposed rezoning is consistent
 17 with the Comprehensive Plan, furthers the goals,
 18 objectives and policies of that Comprehensive Plan
 19 and is not in conflict with any portion of the Land
 09:43 20 Development Code?
 21 MR. PAGE: Yes, sir.
 22 MR. BRISKE: Mr. Page has previously been
 23 brought in as an expert in the area of land use in
 24 this area. Do you wish to be qualified as an expert
 25 in that area for today's hearing?
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1 MR. PAGE: Yes, sir.
 2 MR. BRISKE: Members of the Board, you've been
 3 previously provided information on Mr. Page. Are
 4 there any questions? The Chair will entertain a
 5 motion.
 6 MR. BARRY: So moved.
 7 MS. SINDEL: Second.
 8 MR. BRISKE: A motion and a second to accept as
 9 an expert witness. All those in favor, say, aye.
 09:43 10 (Board members vote.)
 11 MR. BRISKE: Opposed.
 12 (None.)
 13 MR. BRISKE: The motion carries.
 14 (The motion passed unanimously.)
 15 MR. BRISKE: Mr. Page.
 16 MR. PAGE: Thank you, Mr. Chairman. This
 17 application that you have this morning is requesting
 18 a change not a whole lot different from the one in
 19 many aspects that you just reviewed. Mr. Chairman
 09:44 20 we're asking for an R-6 in an area that has a
 21 considerable amount of differing land use
 22 characteristics in terms of the zoning categories
 23 that include C-1, R-1, R-2, R-3 and so forth as you
 24 saw in the overhead.
 25 The purpose of the request is to allow Mr. Welk
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1 to move his business, which has been flooded out
 2 several times recently down on Fairfield Drive
 3 because of a new county holding pond out to this
 4 location, which he has owned for over 25 years. You
 5 saw the overhead with a small piece of property. He
 6 actually owns the larger piece to the north and to
 7 the west of the site itself.
 8 Mr. Welk is in the snack food business. I'm
 9 sure many of you have seen his product in break
 09:45 10 rooms, government offices, especially real estate
 11 offices and banks around town. There is a cardboard
 12 box that has a lot of things, snacks of different
 13 types, potato chips and what have you, and you pay
 14 for it on the honor system. That's the business
 15 that Mr. Welk is in. He has two employees and they
 16 fill these boxes and go around and change them out
 17 weekly and periodically at these commercial type
 18 establishments. He has no retail sales on site. He
 19 has no foot traffic on site. They simply have two
 09:46 20 trucks and vehicles that leave out in the morning to
 21 go around and make these types of deliveries.
 22 That's nature of his business.
 23 In searching through where would that fit in a
 24 category that would allow him to continue that type
 25 of operation, we came up with the R-6, especially
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1 when the list of uses has a number nine that says
 2 other uses which are similar and compatible. We
 3 think the type of thing that he is doing is similar
 4 and compatible with a number of those listed, so
 5 thus the R-6 came into favor as far as our request,
 6 Mr. Chairman.
 7 So that basically shows you how we got to where
 8 we are and a little bit of background as to why the
 9 request was made. Mr. Welk needs an office with a
 09:46 10 room probably the size of the area where you folks
 11 are situated back to the window that would allow
 12 them to fill those boxes in the morning. He has an
 13 existing building on site, as you saw in the
 14 photographs earlier. The only addition to that
 15 building would be a small assembly area in the back
 16 to stuff the boxes and have them ready for delivery.
 17 So, Mr. Chairman, with that as a backdrop in
 18 taking a look at our criteria, Criterion (1),
 19 consistency with the Comprehensive Plan, the
 09:47 20 findings of the staff is that R-6 is just simply not
 21 compatible out in that particular area. And if we
 22 take a look at the reasoning behind that, it states
 23 that it's not consistent with the intent and purpose
 24 of Future Land Use 1.3.1. As I read above, what
 25 does constitute a 1.3.1, says that this Future Land
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1 Use area allows for an intense mixture of
 2 residential and nonresidential uses. We think that
 3 that combination of residential, an intense mixture
 4 of residential and nonresidential certainly would
 5 fit us. The area is mostly residential, but if you
 6 noticed, almost everything surrounding his site is
 7 multifamily. And I'll talk a little bit more about
 8 that a little bit later. So we think that 1.3.1 --
 9 we certainly think that we meet that intense mixture
 09:48 10 threshold.
 11 And then under 1.5.3, new development and
 12 redevelopment in built-up areas, again, it says that
 13 the County will promote or encourage redevelopment
 14 in underutilized properties to the maximum
 15 development intensities and intensities located in
 16 and gives a listing which includes our Mixed Use
 17 Urban. We think that we're doing that exact thing.
 18 We think we comply with 1.5.3 and 1.3.1. As a
 19 result of both of the those, we think, Mr. Chairman,
 09:48 20 that we're very consistent with Criterion (1),
 21 consistency with the Comprehensive Plan.
 22 Under Criterion (2), consistency with the Land
 23 Development Code, the finding for that is that it's
 24 not consistent with the intent and purpose of the
 25 Land Development Code. The applicant has failed to
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1 provide competent and substantial evidence that the
 2 proposed zoning will not constitute spot zoning.
 3 We had some discussion about that a little
 4 earlier. The County has adopted a definition of
 5 spot zoning and it is somewhat compatible with the
 6 State's definition under Chapter 120 and that
 7 basically paraphrasing says that it has to be a use
 8 that is not comparable with those types of uses that
 9 are around it. A neighborhood commercial activity
 09:49 10 is supposed to be compatible with part of that
 11 title, I think, and that is the neighborhood in
 12 which it's constituted. We think that we are
 13 consistent with that in that particular view.
 14 I also would point out, Mr. Chairman, that a
 15 lot of the locational criterion for R-6 and C-1 and
 16 C-2 has a lot of threshold information in it that if
 17 you pass that particular thing, then you move
 18 forward closer to being able to convince that you do
 19 meet some of the criteria. I point out to you on
 09:50 20 page five under C-1 it talks about the location of
 21 the particular site in relation to things that
 22 generate a lot of traffic. And most all of these
 23 are things that generate traffic beyond a threshold
 24 of 600 trips per day. 600 trips per day could be
 25 generated under the -- and I think we have a traffic
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1 engineer here that could verify this. A 60-unit
 2 apartment project generates 9.9 trips per unit per
 3 day, peak hour, nonpeak direction. Using that,
 4 almost any of these would generate over 600 trips
 5 per day. These types of housing units are all
 6 around Mr. Welk as they face in this particular area
 7 of Guidy Lane. So we have an area that is very,
 8 very busy and the Board, I'm sure, has seen the
 9 County's future linkage transportation map that
 09:51 10 shows that one day the University of West Florida
 11 will connect into Greenbriar which is the road just
 12 to the north where Guidy Lane dead ends at the
 13 present time. If you are a student going to or from
 14 the University of West Florida and you're headed to
 15 Nine Mile Road, you're going to come out of the
 16 university on Greenbriar and turn south on Guidy
 17 Road. That is the first connector between
 18 Greenbriar and Nine Mile Road that allows you to
 19 make any directional change. That's why there is a
 09:52 20 traffic light at that location.
 21 So we think given the fact that there's a lot
 22 of mixed use land use categories in that area,
 23 almost five that surround us or within a short
 24 proximity, and the fact that any of the adjacent
 25 major residential units generate over 600 trips per
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1 day, there are probably five of those within this
 2 area, a neighborhood commercial category that would
 3 have a use that Mr. Welk is proposing, we feel,
 4 Mr. Chairman, fits in that category. We think that
 5 we are consistent with number two.
 6 Criterion Number (3), compatible with
 7 surrounding areas. We saw a little earlier where
 8 there was some discussion about an R-6 going in on
 9 West Nine Mile Road backing up to single-family
 09:52 10 residential homes. If there is concern in that
 11 particular area or if there's compatibility in that
 12 particular area, I would suggest to you that we have
 13 compatibility where we are. We don't back up to
 14 single-family homes. We're backing up to a lot of
 15 multifamily homes, which generally the transition of
 16 zoning under the pyramid effect certainly would fit
 17 into a scaling and blending. So we think we are
 18 compatible with the surrounding zoning categories,
 19 especially as they have been articulated by staff,
 09:53 20 being R-2, R-3, R-6, and C-2, plus a church right
 21 across the street.
 22 Mr. Chairman, under changed conditions, we
 23 don't think that there's been a whole lot of
 24 activity out that way, as well. We probably concur
 25 with item number four.
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1 Item number five, we would concur with that, as
 2 well. We have no jurisdictional wetlands or hydric
 3 soils that we're familiar with.
 4 Under Criterion (6), the development patterns,
 5 again, there is a finding that it is not or would
 6 not result in a logical and orderly development
 7 pattern. I would go back again and say that we are
 8 in a category of Mixed Use Urban and for that reason
 9 it provides for an intense mixture. How can we be
 09:54 10 consistent with being a Mixed Use Urban, we're okay
 11 with that, but yet we cannot seem to find an
 12 agreement that we are logical and orderly. We are
 13 logical and orderly with Mixed Use Urban,
 14 Mr. Chairman, the argument being that it provides
 15 for an intense mixture.
 16 And I believe, Mr. Chairman, that that
 17 concludes the six items. I will attempt to stand by
 18 at the appropriate time and respond to any
 19 questions.
 09:54 20 MR. BRISKE: Members of the Board, any
 21 questions at this time for Mr. Page?
 22 MR. TATE: How close is the subject property to
 23 the old bait and tackle shop?
 24 MR. PAGE: That I don't know.
 25 Mr. Welk, are you familiar with the bait and
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1 tackle shop?
 2 MR. BRISKE: Mr. Page, you'll have to wait
 3 until Mr. Welk comes up because we're reporting
 4 everything. We'll let him address that when he
 5 comes up.
 6 Any other question for Mr. Page? Okay.
 7 Staff, questions of Mr. Page? All right.
 8 Do you have any witnesses, so to speak,
 9 Mr. Page? I know Mr. Welk wishes to speak.
 09:55 10 MR. PAGE: No.
 11 MR. BRISKE: At this time we will have the
 12 staff do their part of the presentation. Who will
 13 be presenting?
 14 (Presentation by John Fisher, previously
 15 sworn.)
 16 MR. FISHER: John Fisher, Planning and Zoning.
 17 Zoning Case Z-2011-17, 9991 Guidy Lane. Future Land
 18 Use MU-U. This is a rezoning from R-2,
 19 Single-Family District, to an R-6, Neighborhood
 09:55 20 Commercial Residential District.
 21 Criterion (1), consistent with the
 22 Comprehensive Plan. The proposed amendment to R-6
 23 is not consistent with the intent and purpose of the
 24 Future Land Use category MU-U as stated in Future
 25 Land Use 1.3.1. The proposed amendment does promote
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1 efficient use of existing public roads, utilities
 2 and infrastructure. However, staff determined that
 3 the proposed use does not promote compatible infill
 4 development since the property is currently not
 5 underutilized and the proposed use is also
 6 incompatible with the residential nature of the
 7 surrounding properties. Therefore, staff finds that
 8 the proposed amendment is not consistent with the
 9 intent and purpose as stated in Future Land Use
 09:56 10 1.3.1 and Future Land Use 1.5.3.
 11 Criterion (2), consistent with the Land
 12 Development Code. The proposed amendment is not
 13 consistent with the intent and purpose of the Land
 14 Development Code. The applicant has failed to
 15 provide competent evidence that the proposed
 16 rezoning will not constitute spot zoning. From a
 17 site visit staff observed that the nature of the
 18 surrounding zoning and existing uses is
 19 predominately residential, thus the proposed
 09:57 20 amendment is not consistent with the intent of the
 21 Land Development Code 2.08.02.D.7.B and C,
 22 Quasi-Judicial Rezoning.
 23 The proposed amendment does not meet the
 24 general commercial and light manufacturing uses
 25 locational criteria. The parcel is on a local road.
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1 It is not located at or in proximity to the
 2 intersection of an arterial/arterial roadway or
 3 along an arterial roadway within one-quarter mile of
 4 the intersection and does not provide for a smooth
 5 transition between commercial and residential
 6 intensity, as stated in the Escambia County Land
 7 Development Code 7.20.04. In addition a Development
 8 Order PSD 090600059 located at 9796 Guidy Lane was
 9 denied due to the locational criteria requirements
 09:58 10 being located on a local road. See Exhibit A.
 11 The proposed amendment does not meet the
 12 requirements for infill development as stated in the
 13 Land Development Code 7.20.23.B. Infill development
 14 is defined as an area where over 50 percent of a
 15 block is either zoned or used for commercial
 16 development. This article also defines a block as
 17 road frontage on one side of the street between two
 18 public right-of-ways. In this case the block is
 19 identified as the road frontage from Candlestick
 09:59 20 Drive along the south side of Guidy Lane to Signal
 21 Hill Lane along the north. There are 11 properties
 22 within this block: Four single-family residences
 23 and seven multifamily properties. The intensity of
 24 the proposed use is not comparable with the existing
 25 zoning and development on the surrounding parcels
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1 and does not promote compact development.
 2 Buffering requirements will apply as stated in
 3 Land Development Code 7.01.06. Further review from
 4 the Development Review Committee will be needed to
 5 ensure the buffering requirements and other
 6 performance standards have been met should this
 7 amendment to R-6 be granted.
 8 Criterion (3), compatible with surrounding
 9 uses. The proposed amendment is not compatible with
 09:59 10 the surrounding and existing uses in the area.
 11 Within the 500-foot radius impact area, staff
 12 observed 66 properties with zoning districts R-2,
 13 R-3, R-5 and C-2. Out of the 66 properties, 38 are
 14 single-family residential, 26 are multifamily
 15 residential, one church and one vacant lot.
 16 Criterion (4), changed conditions. Staff found
 17 one parcel, Case Number Z-2001-42, 9918 Guidy Lane,
 18 that was rezoned from R-2 to R-3 on 12/06/2001 by
 19 the BCC. Staff sees no changed conditions that
 10:00 20 would impact the amendment or property.
 21 Criterion (5), effect on the natural
 22 environment. According to the National Wetlands
 23 Inventory, wetlands and hydric soils were not
 24 indicated on the subject property. When applicable,
 25 further review during the development review
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1 committee process will be necessary to determine if
 2 there would be any significant adverse impacts on
 3 the natural environment.
 4 Criterion (6), development patterns. The
 5 proposed amendment would not result in a logical and
 6 orderly development pattern. The property is
 7 located along Guidy Lane, a local road in a mixed
 8 use area. The permitted uses of the R-6 zoning
 9 district is not of comparable intensity with the
 10:01 10 surrounding predominately residential uses.
 11 That includes all staff's findings.
 12 MR. BRISKE: Board members, any questions of
 13 staff? Mr. Page, do you wish to cross-examine staff
 14 members?
 15 MR. PAGE: No.
 16 MR. BRISKE: Any questions of either person?
 17 All right. At this time then we will go into
 18 our public comment section. You did indicate,
 19 Mr. Page, that Mr. Welk is going to be testifying as
 10:01 20 part of the public and not as a witness; is that
 21 correct?
 22 MR. PAGE: No, I'll need him as a witness.
 23 MR. BRISKE: Okay. Then I'll ask you to call
 24 him forward as a witness, then, please.
 25 Good morning, Mr. Welk. If you will be sworn
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1 in, please.
 2 (Charles Welk sworn.)
 3 MR. BRISKE: Sir, if you will state your name
 4 and address for the record, please.
 5 MR. WELK: Charles Welk, 9981 Guidy Lane,
 6 Pensacola.
 7 MR. BRISKE: Mr. Page, are you going to ask
 8 direct questions of the witness?
 9 MR. PAGE: He's going to make a presentation
 10:02 10 based on his use and location.
 11 MR. WELK: What we're asking for is using an
 12 existing building that's there to offices and also
 13 to do the snack boxes that we do. All we need is a
 14 small warehouse right next to it to store product
 15 and that would be all we do on the property. There
 16 wouldn't be anymore transportation or vehicles than
 17 there are on the property now. So it's going to
 18 be -- we don't do any retail business, nobody comes
 19 in. We would have maybe a delivery one day a week,
 10:03 20 just a small truck usually.
 21 MR. BRISKE: Mr. Tate, I think you had a
 22 question about the location that you asked Mr. Page.
 23 MR. TATE: How close are you to the bait shop?
 24 MR. WELK: I'm going to guess between
 25 8,000 feet, it's about halfway down Guidy Lane from
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1 my property.
 2 MR. TATE: And the dwelling, the current
 3 dwelling that's there, how is it currently used or
 4 been used in the past?
 5 MR. WELK: A rental unit. We've been renting
 6 it out.
 7 MR. TATE: Residential?
 8 MR. WELK: Yes.
 9 MR. BRISKE: Board members, any additional
 10:03 10 questions for Mr. Welk?
 11 Mr. Page, did you wish to --
 12 MR. PAGE: Thanks.
 13 MR. BRISKE: Thank you, Mr. Welk.
 14 Staff, any questions of Mr. Welk?
 15 MR. FISHER: No.
 16 MR. BRISKE: Mr. Page, any additional witnesses
 17 that you wish to call at this time?
 18 MR. PAGE: No, sir.
 19 MR. BRISKE: All right. At this time then we
 10:04 20 will go into the public comment portion of the
 21 meeting. We do have a couple of speakers who have
 22 signed up to speak on this matter.
 23 For those members of the public who wish to
 24 speak on this matter, please note that the Planning
 25 Board bases our decisions on the six criteria and
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1 exceptions described in Section 2.08.02.D of the
 2 Escambia County Land Development Code. During its
 3 deliberations the Planning Board will not consider
 4 general statements of support or opposition.
 5 Accordingly, please limit your testimony to those
 6 six criteria and exceptions shown on the screen and
 7 described in Section 2.08.02. Please also note that
 8 only those individuals who are here today and give
 9 testimony on the record before the Planning Board
 10:05 10 will be allowed to speak at the subsequent hearing
 11 before the Board of County Commissioners.
 12 I do have two individuals signed up to speak.
 13 The first one is Duffy Meligan. Good morning, sir,
 14 if you will come up and be sworn in, please.
 15 (Duffy Meliigan sworn.)
 16 MR. BRISKE: State your name and address for
 17 the record, please.
 18 MR. MELIGAN: My name is Duffy Meligan. My
 19 address is 10,000 Guidy Lane, Pensacola, Florida.
 10:05 20 MR. BRISKE: Yes, sir. Please proceed.
 21 MR. MELIGAN: I've had this residence for
 22 16 years. This is primarily a residential
 23 neighborhood and there is no other developments like
 24 this in the neighborhood and it's just -- it's not
 25 that type of zoning and it's just a neighborhood and
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1 that's why I purchased the property years ago.
 2 MR. BRISKE: You're opposed to the rezoning?
 3 MR. MELIGAN: Yes, I am.
 4 MR. BRISKE: Based on the criterion here,
 5 consistency from what I'm hearing.
 6 MR. MELIGAN: The agreement that -- the
 7 findings of the staff.
 8 MR. BRISKE: Okay. Mr. Page, do you have any
 9 questions for this witness?
 10:06 10 MR. PAGE: No, sir.
 11 MR. BRISKE: Board members?
 12 MS. SINDEL: No.
 13 MR. BRISKE: Staff.
 14 MR. FISHER: No, Mr. Chairman.
 15 MR. BRISKE: Mr. Meligan, anything else you
 16 would like to ask?
 17 MR. MELIGAN: Not at this time.
 18 MR. BRISKE: I noticed that you would like to
 19 be notified if there is any further action on this
 10:06 20 item, so the staff will keep these forms and they
 21 will keep track of this for us. Thank you for your
 22 participation, sir.
 23 MR. MELIGAN: Thank you.
 24 MR. BRISKE: Our next speaker is Mr. Steven
 25 White. Good morning, sir. Please be sworn in.
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1 (Steven White sworn.)
 2 MR. BRISKE: Sir, once again, your name and
 3 address for the record, please.
 4 MR. WHITE: Steven White, 990 Candlestick
 5 Drive.
 6 MR. BRISKE: Go ahead, please.
 7 MR. WHITE: I would like to speak against the
 8 rezoning of the parcel. As the staff has rightfully
 9 found, the subject property does not meet the
 10:07 10 locational criteria stipulated in the Land
 11 Development Code. There was one previous attempt on
 12 one of the two parcels zoned commercial in this
 13 district to bring a development order. That
 14 development order was denied because of the
 15 locational criteria. Guidy Lane is a local road.
 16 It has a 66-foot right-of-way. It already has
 17 enough traffic on it. Any type of commercial
 18 enterprise is just going to introduce additional
 19 traffic that it does not have the capacity to
 10:07 20 support.
 21 Further, one of the reasons or one of the
 22 discussion points during the previous attempt to
 23 develop one of those commercial parcels centered on
 24 whether or not there were other commercial
 25 enterprises along that corridor. If you do indeed
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1 go ahead and allow the rezoning of this parcel to
 2 include some commercial component, you're going to
 3 open up Pandora's box on two commercial parcels that
 4 I would suggest indeed meet the criteria for spot
 5 zoning. Thank you.
 6 MR. BRISKE: Board members, any questions of
 7 Mr. White?
 8 Mr. Page?
 9 MR. PAGE: Mr. Chairman, if he could show us
 10:08 10 where he is on the map, it would be helpful for us.
 11 MR. BRISKE: Yes, please.
 12 MR. WHITE: This is my parcel right here.
 13 MR. PAGE: Thank you.
 14 MR. BRISKE: Let's get clarification of where.
 15 MR. WHITE: I'm at the corner of Candlestick
 16 Drive and Guidy Lane, the northwesterly corner.
 17 MR. BRISKE: Does that represent where you're
 18 at where the pointer is?
 19 MR. WHITE: Yes, sir.
 10:09 20 MR. BRISKE: That's your parcel?
 21 MR. WHITE: Yes, sir.
 22 MR. BRISKE: Like he said, the corner of
 23 Candlestick Drive and Guidy Lane, single-family
 24 residence.
 25 MR. WHITE: Single-family residential.
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1 MR. BRISKE: Any additional questions of this
 2 witness, Mr. Page?
 3 MR. PAGE: Mr. Chairman, I presume the red is
 4 commercial right across the street from him.
 5 MR. BRISKE: Go to the concurrent zoning, if
 6 you would, please, Karen.
 7 MR. WHITE: Those are two commercially zoned
 8 parcels.
 9 MR. PAGE: C-2.
 10:09 10 MR. BRISKE: C-2 across the street, that's
 11 correct, across Guidy Lane.
 12 Any other questions for this witness?
 13 Staff, any questions?
 14 MR. FISHER: No, Mr. Chairman.
 15 MR. BRISKE: Mr. White, anything else you would
 16 like to add?
 17 MR. WHITE: No, thank you.
 18 MR. BRISKE: Thank you, sir.
 19 Is there anyone else from the public that
 10:10 20 wishes to speak on this matter? Hearing none, the
 21 Chair will close the public hearing portion of the
 22 meeting at this time and we'll come back --
 23 Mr. Page, you have an opportunity to come back and
 24 give any additional --
 25 MR. PAGE: We have nothing further.
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1 MR. BRISKE: Okay.
 2 Staff, any additional items to offer?
 3 MR. JONES: I would like for the record --
 4 MR. BRISKE: Let's have your name, again,
 5 Horace and your position.
 6 (Testimony by Horace Jones, previously sworn.)
 7 MR. JONES: Horace Jones, Division Manager.
 8 Mr. Welk stated for a warehouse, and for the record,
 9 again, we don't look at the uses, for the record.
 10:10 10 If the Planning Board or BCC approves this rezoning
 11 for R-6, R-6 does allow for mini-warehouses with
 12 conditional use approval. So since he stated that,
 13 I want to make that clear for the record that there
 14 could be some additional step if he decides to put a
 15 warehouse there. I want to lay out for the record.
 16 MR. BRISKE: Okay.
 17 MS. DAVIS: I do have a question of Mr. Jones.
 18 The C-2 property which is so glaring on there, a
 19 glaring difference, is that grandfathered in?
 10:11 20 What's the history of that?
 21 MR. JONES: More than likely. I'm not aware of
 22 that.
 23 MR. FISHER: It's vacant as of right now.
 24 MR. TATE: They probably got to choose what
 25 they wanted to have when that process was open.
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1 MR. JONES: More than likely.
 2 MS. DAVIS: There's nobody here right now?
 3 MR. JONES: It's vacant right now.
 4 MR. BRISKE: Is Drew researching that?
 5 MR. JONES: Yes, he is.
 6 MR. BRISKE: I think that would be important to
 7 get that as part of the record just so we know what
 8 it is.
 9 MR. STITT: Mr. Chairman?
 10:11 10 MR. BRISKE: Yes, sir.
 11 MR. STITT: Just out of curiosity, in this
 12 location, would the type of function that the
 13 applicant is seeking to work through the zoning
 14 process actually be as a right a use of the property
 15 as a home occupation?
 16 MR. JONES: To answer your question, this would
 17 not meet the criteria for home occupation.
 18 MR. STITT: Thank you.
 19 MR. HOLMER: Andrew Holmer, Development
 10:12 20 Services.
 21 MR. BRISKE: Was he sworn in at the beginning?
 22 I just want to make sure.
 23 MR. HOLMER: I just checked on that C-2
 24 property that is to the southeast there. In our
 25 zoning layer it doesn't show any case number, which
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1 indicates to me, without going and check the mylar,
 2 that was the original. I can always double-check,
 3 if necessary.
 4 MR. BRISKE: So it's been -- '93?
 5 MR. JONES: '87. It's been in there a good
 6 while, yes, '87.
 7 MR. BARRY: A quick question of Mr. Jones.
 8 Were there any other alternatives discussed between
 9 you and the applicant as far as between R-2 and R-6,
 10:13 10 anything else that would fit what he wanted to do?
 11 MR. JONES: What he wants to do -- R-5 does
 12 allow for offices, but it is professional type
 13 offices like insurance offices, architects, doctor's
 14 office, lawyer's office. I don't think that would
 15 meet the R-5 as far as professional type offices.
 16 This is more or less a commercial establishment, a
 17 commercial business.
 18 MR. TATE: You have a business that would draw
 19 less traffic than a lawyer's office, but it's not
 10:14 20 compatible.
 21 MR. JONES: I would assume that's the way the
 22 Code -- R-5 just says professional doctor's office,
 23 insurance office, that type.
 24 MR. BRISKE: Just for clarity, could we please
 25 have the R-5 and R-6 zoning brought up to show what
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1 is allowed in those areas?
 2 MS. SINDEL: Part of that differential with
 3 referencing what Mr. Tate just said because with a
 4 professional office, a lawyer, you are going to have
 5 foot traffic. With this new venture there's no foot
 6 traffic, but there's storage.
 7 MR. JONES: Absolutely.
 8 MS. SINDEL: That's a big difference because
 9 you actually have a warehouse with storage.
 10:14 10 MR. JONES: That is the difference, yes.
 11 MR. BRISKE: If you would, please, go to the
 12 R-6 first so we can see what the actual request is.
 13 Many of you already know this, but I'll reiterate
 14 it. When the Planning Board recommends a certain
 15 zoning, any and all categories within that zoning
 16 category can be used. We cannot be project specific
 17 to what he's planning on putting there, because
 18 potentially he could sell the property and all kind
 19 of things could happen. We have to consider
 10:15 20 everything that could potentially go on that
 21 property when we look at it, so that's kind of what
 22 this whole discussion is surrounding.
 23 Let's get that up and then we can have a good
 24 idea. Let's go to R-6 first, go to the permitted
 25 uses. If one of the staff members would just go
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1 ahead and read those permitted uses into the record
 2 so we know what could potentially be.
 3 MR. JONES: It says retail -- number two,
 4 retail sales and services, square foot area of the
 5 building not to exceed 6,000 square feet. No
 6 permanent outside storage allowed.
 7 Then it goes A through M for uses: Food and
 8 drug stores, professional service shop, clothing and
 9 dry goods stores, hardware, home furnishings and
 10:16 10 appliances, specialty shops, banks, florist shops,
 11 health clubs, studios. K, L and M. Then you start
 12 laundromat, restaurants, automobile service
 13 stations, number five, no outside storage. Minor
 14 repair only.
 15 Seven, place of worship and educational
 16 facilities, fortune teller.
 17 Then number nine -- this is stuff that Mr. Page
 18 had mentioned -- other uses which are similarly or
 19 compatible to the use permitted herein that would
 10:16 20 promote the intent and purposes of this district.
 21 And this is key. Determination of other uses shall
 22 be made by the Planning Board. That means that
 23 someone has the ability to come before y'all to
 24 present evidence to show that this will be -- their
 25 use will be -- that use will be compatible with the
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1 R-6.
 2 Then you go to number C, conditional uses.
 3 MR. BARRY: You're reading R-6.
 4 MR. JONES: This is R-6, yes, sir.
 5 Do we need to go to R-5?
 6 MR. BRISKE: Yes.
 7 MS. SINDEL: Please.
 8 MR. BARRY: Are we just in our discussion?
 9 MR. BRISKE: This is just discussion. We
 10:17 10 closed the public comments. Mr. Page will have an
 11 opportunity to do a closing statement or questions
 12 and that will be it.
 13 MR. BARRY: The reason I asked about other
 14 categories, I don't have an issue with what he wants
 15 to try to do in that area. I'm trying to find if
 16 there's another solution or if there's a zoning
 17 category with a conditional use that would allow
 18 that.
 19 MR. JONES: R-6, per se, would allow for
 10:17 20 commercial offices. If you look at -- go back to
 21 R-6 and look at the conditional uses.
 22 MR. BARRY: I'm sorry, Horace. I'm looking at
 23 something less intense.
 24 MR. JONES: The only thing that would be
 25 allowed would be R-5. R-4 does not allow for
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1 commercial type uses. R-5 does allow for
 2 professional type office use.
 3 MS. SINDEL: But not for outdoor storage.
 4 MR. BRISKE: Okay, folks, one at a time on the
 5 record, please.
 6 MR. JONES: We're looking at R-5 now.
 7 MR. BARRY: This is R-5.
 8 MR. JONES: Take a look at number two,
 9 professional office building included but not
 10:18 10 limited to those of architect, engineering, lawyer,
 11 accountants and medical and dental clinics, real
 12 estate and insurance offices.
 13 MR. BARRY: When I look at those, there's a lot
 14 of those examples that have more traffic -- that
 15 have more traffic than what I think Mr. Welk is
 16 trying to do.
 17 MR. JONES: And the same thing, we have to look
 18 at even -- one of the criteria that was mentioned,
 19 this is just for discussion, was that Guidy Lane is
 10:19 20 a local road.
 21 MR. BARRY: I don't think that's -- that's not
 22 going to be long term. It's not going to maintain a
 23 long-term status of a local road.
 24 MR. JONES: And, also, too, and even in the
 25 background information that's in your planning
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1 packet there is a truck prohibition that was placed
 2 on Guidy Lane. That is in the background
 3 information in your Planning Board packet. And
 4 although Guidy Lane, there may be something
 5 futuristic, but right now we have to go by the
 6 existing use of the road, existing classification
 7 which classifies Guidy Lane as a local road. That's
 8 why, as the gentleman spoke earlier, that's one of
 9 the reason why that a development order tried to
 10:19 10 come through on Guidy Lane, but it was denied
 11 basically because it did not meet the locational
 12 criteria. I'm just providing that --
 13 MR. BARRY: I don't think the truck
 14 prohibition -- I don't know exactly what Mr. Welk's
 15 trucks look like, but what I envision them looking
 16 like, they aren't related to the truck prohibition,
 17 I wouldn't think.
 18 MR. JONES: I'm just -- yes, sir.
 19 MS. DAVIS: Would you scroll down the
 10:20 20 conditional uses so we can see them all?
 21 MR. JONES: Now, we're looking at R-5,
 22 Ms. Davis. That's R-5.
 23 MR. BRISKE: Conditional uses would be required
 24 to go through the Board of Adjustment.
 25 Just for the record, can we go to the R-2
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1 zoning that the property currently is and let's just
 2 show what those permitted uses are?
 3 MR. JONES: And basically it goes back to R-1.
 4 The R-1 zoning district is a single-family
 5 residential home only.
 6 MR. BRISKE: Okay. Board members, the staff
 7 has recommended denial. Mr. Page has provided his
 8 evidence in which he feels like he has given us
 9 substantial and competent evidence. There are four
 10:21 10 criteria that are not in agreement. Any further
 11 discussion amongst the Board?
 12 MR. TATE: I have just a question. There are a
 13 lot of multifamily dwellings in the area. I'm
 14 trying to get back to the zoning map itself. Are
 15 those consistent with their zoning or were they
 16 probably there prior to their zoning, but they
 17 represent zoning more intense than what --
 18 MR. JONES: Drew and Allyson, when you did the
 19 site inspection, could you tell? R-2 zoning does
 10:21 20 not allow for multifamily dwelling, so I can only
 21 assume that those uses were there prior to actual
 22 placement of the zoning.
 23 MR. TATE: But they represent the intensity of
 24 what zoning?
 25 MR. JONES: Multifamily would come into play in
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1 R-3 and R-4.
 2 MR. BRISKE: Mr. Page, do you have anything
 3 else that you wish to add at this time?
 4 MR. PAGE: No, sir.
 5 MR. BRISKE: The Chair will entertain a motion
 6 from the Board. If you don't want to have a motion,
 7 then let's have further discussion on what your
 8 thoughts are here.
 9 MR. TATE: I think in regards to the last
 10:23 10 witness something that was brought out as far as,
 11 you know, opening the door, I don't know that that
 12 R-6 to C-2 jump necessarily does that. I understand
 13 where you see the connection, but, I mean, I'm
 14 asking a question of staff when we look at that,
 15 when you looked at that, when it was denied prior,
 16 it had to do with the roadway requirement,
 17 obviously, the fact that there was no other
 18 commercial. When you look -- are you just looking
 19 at commercial? Are you looking at similar
 10:23 20 commercial when you see a --
 21 MR. JONES: When looking at the locational
 22 criteria, we look at the requirements based upon
 23 what the Land Development Code says. When we look
 24 at commercial -- we do look at commercial. There
 25 are certain types of commercial the list gives us to
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1 focus on when looking at the locational criteria.
 2 MR. TATE: C-2 is pretty intense.
 3 MR. JONES: Yes, it is.
 4 MR. TATE: My question is when somebody has a
 5 C-2 development review, are you looking to see if
 6 somebody else has an R-6 use that meets an R-6 and
 7 as such you can now grant a C-2? I'm seeing shakes
 8 of head. Mr. Kerr is here. I would guess he needs
 9 to be sworn in.
 10:24 10 MR. BRISKE: Good morning, Lloyd. We would
 11 like to swear you in because we're under
 12 quasi-judicial here.
 13 (Lloyd Kerr sworn.)
 14 MR. BRISKE: Please state your name and
 15 position for the record.
 16 MR. KERR: Lloyd Kerr. I'm the director of
 17 Development Services. When we do a review for
 18 commercial, if you're asking about a development
 19 order review, we would look at the locational
 10:25 20 criteria. We would also look at the surrounding
 21 uses. We would look at the surrounding zonings. If
 22 there's a commercial use in an R-6 but the C-2
 23 application may be for something very intense, an
 24 R-6 may have a professional office, which is very
 25 light intensity, but we would look at all of
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1 those -- all of those items. You can't say yes
 2 categorically because there's another commercial use
 3 there that you would necessarily approve an
 4 application, you have to take all of the things into
 5 consideration.
 6 MR. TATE: I mean, an R-6 can have some
 7 neighborhood, you know, a gas station or repair
 8 shop, but that's not going to lead you down the road
 9 of saying that C-2 is -- we're discussing actually
 10:26 10 in the record a development order that's here as
 11 part of it showing that we denied a commercial
 12 development. So I'm trying to say, okay, is this
 13 even relevant to this discussion because we're
 14 dealing with a C-2 thing that was denied through
 15 development, but it's not going to be the same case
 16 because of an R-6, an unapproved R-6 site.
 17 MR. KERR: I think in this particular case the
 18 relevance had to do with the locational criteria.
 19 MR. TATE: The road use. But also I'm going
 10:26 20 through this, as well, to -- the local residents can
 21 see that that's not a step that can take place. Not
 22 to say that it can't happen. Anything can happen in
 23 this county. That was editorial, sorry.
 24 But from the strict use of that development
 25 review, this process, land review, you just can't
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1 jump from an R-6 to a C-2 and see them as compatible
 2 and, therefore, grant one or the other based on the
 3 existence of one or the other.
 4 MR. KERR: That's true. You can't do that
 5 necessarily, no.
 6 MR. BARRY: Can you pull R-5 back up again,
 7 please. I'm sorry, Tim.
 8 MR. TATE: That's fine.
 9 MR. BARRY: To allow us to look at R-5 with the
 10:27 10 intended use, what exactly would the Planning Board
 11 need to -- what kind of direction would we need to
 12 go under that number five where it says other uses
 13 which are similar and compatible? How would that
 14 even work?
 15 MR. BRISKE: First of all, I would think that
 16 the applicant would have to agree to amend their
 17 application to an R-5 zoning before we could -- I
 18 don't think we can just arbitrarily change it. We
 19 have to vote on what they've presented, if I'm
 10:28 20 correct.
 21 MR. KERR: I think you would want to get
 22 agreement, definitely get agreement from the
 23 applicant, but I don't believe that they necessarily
 24 have to agree. Your recommendation can still be for
 25 a zoning that is less intense than what the
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1 applicant is requesting.
 2 MR. BARRY: There's so much R-5 in the
 3 surrounding uses.
 4 MR. TATE: The issue for the applicant goes to
 5 the warehouse, whether or not he has the ability to
 6 build what would be necessary for his business in an
 7 R-5.
 8 MS. DAVIS: Can he do it with conditional uses
 9 under that?
 10:29 10 MR. JONES: Not R-5. You have to have an R-6,
 11 then get conditional use approval for a
 12 mini-warehouse per se.
 13 MR. BARRY: Can Mr. Page come back up?
 14 MR. PAGE: Sure.
 15 MR. BARRY: He's not talking about
 16 mini-warehouses to start with, that's not the issue.
 17 He's talking about warehousing the goods via the
 18 candy bars that he puts in.
 19 MR. PAGE: That's correct. The mini-warehouse,
 10:29 20 I think, was a suggestion or finding by the staff.
 21 MR. BARRY: Okay. That was a suggestion by the
 22 staff.
 23 MR. PAGE: Yes.
 24 MR. BARRY: Is that necessary to construct on
 25 the site to be able to fill the boxes with candy
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1 bars?
 2 MR. PAGE: Mr. Chairman, that's a good question
 3 because we view all of these things that are listed
 4 in terms of these offices -- it says similar or
 5 compatible with these offices. I know several real
 6 estate offices are in a category for just offices
 7 that have a nice area built out back where they
 8 store all their real estate signs. I know of an
 9 engineering and surveying office that has the same
 10:30 10 type of storage built for all of their survey stakes
 11 and all that type of equipment and it's built under
 12 the guise of an office category.
 13 MR. BARRY: I'm familiar with -- I mean he's
 14 talking about these boxes 20 inches by 20 inches
 15 that hold candy bars that have a honor system in the
 16 front. That's the construction of those. I mean,
 17 basically just filling that little stuff. I do that
 18 much stuff in my office.
 19 MS. SINDEL: I think you have to go back to the
 10:30 20 applicant who made the comment that he would need to
 21 build a storage facility or a warehouse to warehouse
 22 the product. I understand what Mr. Page is saying,
 23 but where heard that from was the testimony of
 24 applicant of a building that would have to be
 25 constructed to store the product.
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1 MR. BARRY: I think what Mr. Page is saying is
 2 that that wasn't the applicant's idea, that that was
 3 instruction from staff that would it be necessary.
 4 MS. DAVIS: Mr. Page, along those lines, how
 5 big is this thing going to be, could it be a garage,
 6 a large garage, which it sounds like when you talk
 7 about real estate agencies and things like that,
 8 that was a garage that they are storing signs in.
 9 MR. PAGE: Perhaps Mr. Welk could square that
 10:31 10 circle up for us.
 11 MR. BRISKE: Mr. Welk, you still are under oath
 12 and please just state your name so the court
 13 reporter can track this.
 14 MR. WELK: Charles Welk. Yes, it could be just
 15 a garage. In fact, I could but a garage there by my
 16 house or a shed would probably be all right to put
 17 there.
 18 MS. DAVIS: That would change the zoning
 19 requirement.
 10:31 20 MR. WELK: Right.
 21 MR. TATE: You do not need a warehouse?
 22 MR. WELK: No, I do not need a warehouse. It
 23 wouldn't even be 1,000 square feet, I don't imagine.
 24 MS. DAVIS: And it doesn't have to be high like
 25 some warehouse are?
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1 MR. WELK: No, it does not. It would probably
 2 be similar to a garage.
 3 MR. BARRY: Can't you store the candy in like
 4 an empty office. I mean, you don't need the square
 5 footage.
 6 MR. WELK: Well, we have to have not only
 7 candy, we have potato chips, crackers.
 8 MR. BARRY: You don't work on pallets and such
 9 like that, do you?
 10:32 10 MR. WELK: Sometimes we do get pallets of
 11 stuff. Especially if we get something on promotion,
 12 where we have to buy so many cases to get a better
 13 price.
 14 MS. DAVIS: How would we fix this? An R-5, if
 15 he builds just a garage, would that work?
 16 MR. KERR: Well, I guess that's the question,
 17 what is he calling a business. We don't have
 18 warehousing outside of building a mini-warehouse. I
 19 understand what he's saying this is just a garage,
 10:33 20 but there's no use -- I mean, primarily what you
 21 have in the R-6 are related to retail or personal
 22 type services. R-5, is primarily professional
 23 offices and those sorts of things. If Mr. Welk is
 24 operating a small neighborhood store, that's one
 25 issue, but it sounds very much like regardless of
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1 what the size of the building is what he really
 2 wants is a place to warehouse or store merchandise
 3 to be sold at other places and that's really not
 4 covered in R-5 or R-6.
 5 MR. BRISKE: I think it's very important to
 6 remember to get on the record that when we give a
 7 zoning we're giving everything that's permitted in
 8 that zoning to that property. Regardless of what
 9 Mr. Welk wants to do, we have to remember that.
 10:34 10 That's very important. That's one of our core rules
 11 of rezoning is what the permitted uses are and also
 12 we have to look at what conditional uses could be
 13 for the property.
 14 MR. BARRY: And I think that point is why I
 15 referenced R-5 just because of all the surrounding
 16 R-5. That is a block that is adjacent to this
 17 parcel. R-5 is certainly prevalent in the area.
 18 MR. TATE: This would result, though, in the
 19 applicant, if we downzone, if the BCC approved it,
 10:34 20 the applicant would still have to come back before
 21 this board and we would have to find whether or not
 22 his business is similar or compatible to uses
 23 permitted.
 24 MS. SINDEL: I understand what we're all trying
 25 to do, but right now we have six criteria that we're
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1 supposed to make a decision from and current staff
 2 findings are that four of those six do not meet the
 3 necessary criteria. I think that's huge.
 4 MR. BARRY: I understand what you're saying,
 5 Karen, but we also have the latitude to use our
 6 judgment as to the R-5, how many of those criterion
 7 would be found incompatible -- I shouldn't say
 8 incompatible, but how many of those criterion would
 9 be a different answer if the applicant had applied
 10 for R-5.
 11 MS. SINDEL: And that's where I was going with
 12 that. I think that we need to hear that the only
 13 criteria that's creating a problem with R-5 is the
 14 issue about outside storage then --
 15 MR. JONES: With R-5 it's the use. It is the
 16 use of the property which we don't look at use. R-5
 17 is very very specific in what its uses are,
 18 professional type office settings, not retail,
 19 professional type offices, so it's the use
 20 requirement.
 21 MR. BRISKE: I mean, that's for another
 22 meeting, but this is not retail. He's not retailing
 23 from this location. It's basically just a transfer
 24 facility where he puts candy bars in boxes is from
 25 what I understand. I don't know that it would be
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1 considered retail.
 2 MR. BARRY: Mr. Chairman, could Mr. Page come
 3 up and talk for a moment? Can you on behalf of your
 4 client give a little bit of direction? You know,
 5 I'm sure you can perceive what's going to happen if
 6 the application stays as it is, so what does the
 7 client want?
 8 MR. PAGE: Mr. Chairman, the client needs to
 9 have the R-6 request considered by the Board.
 10 MR. BRISKE: That's fair enough. The Chair
 11 will call the question.
 12 MR. GOODLOE: I'll make a motion.
 13 MR. BRISKE: Yes, sir.
 14 MR. GOODLOE: I move that we deny the rezoning
 15 application to the Board of County Commissioners and
 16 adopt the Findings-of-Fact provided in the rezoning
 17 hearing package here for this case, Z-2011-17.
 18 MR. BRISKE: Do we have a second?
 19 MS. DAVIS: I second it.
 20 MR. BRISKE: Any further discussion?
 21 MR. TATE: Only to state that although the
 22 roads themselves are different, I don't see any
 23 difference between this and our previous case.
 24 MR. BRISKE: So noted for the record. Any
 25 other discussion by the Board?
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1 MR. WINGATE: Mr. Chairman.
 2 MR. BRISKE: Yes, Mr. Wingate.
 3 MR. WINGATE: It looks like the criteria has
 4 got our hands tied for something simpler for a man
 5 to be -- to do a business that can't do a business
 6 because the rules have him tied. What he wants is
 7 to provide a service and have a place to store it.
 8 It's no different than a professional office like a
 9 real estate office or somewhere where the person is
 10 providing a service that when you take a sign out,
 11 you've got a little warehouse there. He's providing
 12 a warehouse putting stuff together to take and
 13 provide a service. In other words, he's not
 14 retailing at the premises. He's providing a
 15 service. The service -- and no matter what service
 16 you do, you're always going to get paid. You know
 17 he's providing a service and he gets paid on the
 18 other end. He don't get paid there. He gets paid
 19 when somebody picks up one of his products somewhere
 20 at a different location. I wouldn't see a big
 21 problem. Like I say, it's the same principle of if
 22 he had a house living there with a big garage and he
 23 that stuff coming in and you're putting it together
 24 and taking it somewhere. The only thing he would
 25 have the trucks coming in; there's two little trucks
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1 coming and going.
 2 MR. BRISKE: Any further discussion by the
 3 Board? I will reiterate this is a motion to deny
 4 the rezoning, accepting the staff's
 5 Findings-of-Facts. We have a motion and a second.
 6 All those in favor, say, aye.
 7 (Board members vote.)
 8 MR. BRISKE: Opposed?
 9 MR. TATE: Oppose.
 10 MR. WINGATE: Opposed.
 11 MR. BRISKE: Were there two opposed?
 12 MS. SINDEL: Two.
 13 MR. BRISKE: Wingate and Tate opposed.
 14 (The motion passed with two opposed.)
 15 MR. BRISKE: The motion to deny has been
 16 approved, so the rezoning is not going to be
 17 recommended to the commissioners. Mr. Page, I know
 18 you're familiar with this, but I'll just remind you
 19 again that if you wish to seek judiciary review of
 20 this decision after the Board of County
 21 Commissioners reviews it, you must do so in a court
 22 of competent jurisdiction within 30 days of the date
 23 that the Board of County Commissioners either
 24 approves or rejects the recommended order of the
 25 Planning Board.
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1 Thank you. That will end the quasi-judicial
2 cases. We will take a brief recess. I know
3 Mr. Barry has to leave us at this point. Let's come
4 back at 15 until 11:00, so 10:45 we'll come back
5 into session. Thank you.

6 (The rezoning hearings concluded at 10:40 a.m.)
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1 CERTIFICATE OF REPORTER
2

3 STATE OF FLORIDA
4 COUNTY OF ESCAMBIA
5

6 I, LINDA V. CROWE, Court Reporter and Notary
7 Public at Large in and for the State of Florida, hereby
8 certify that the foregoing Pages 2 through 97 both
9 inclusive, comprise a full, true, and correct transcript of
10 the proceeding; that said proceeding was taken by me
11 stenographically, and transcribed by me as it now appears;
12 that I am not a relative or employee or attorney or counsel
13 of the parties, or relative or employee of such attorney or
14 counsel, nor am I interested in this proceeding or its
15 outcome.

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 and affixed my official seal on 21st day of October 2011.
18

19 _____
20 LINDA V. CROWE, COURT REPORTER
21 Notary Public - State of Florida
My Commission No.: DD 848081
My Commission Expires: 02-05-2013
22
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24
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TAYLOR REPORTING SERVICES, INCORPORATED



DEVELOPMENT SERVICES DEPARTMENT FINDINGS-OF-FACT

REZONING CASE: Z-2011-17
October 10, 2011

I. SUBMISSION DATA:

BY: Wiley C. Buddy Page, Agent
FOR: Charles and Linda Welk
PROPERTY REFERENCE NO.: 07-1S-30-1018-000-000
PROJECT ADDRESS: 9991 Guidy Lane
FUTURE LAND USE: MU-U
COMMISSIONER DISTRICT: 5
BCC MEETING DATE: November 6, 2011

II. REQUESTED ACTION:

REZONE

FROM: R-2, Single Family District
(cumulative), Low-Medium Density
(7 du/acre).

TO: R-6 Neighborhood Commercial and
Residential District, (cumulative)
High Density (25 du/acre).

III. RELEVANT AUTHORITY:

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder,
627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

CRITERION (1)

Consistent with the Comprehensive Plan.

Whether the proposed amendment is consistent with the Comprehensive Plan.

Comprehensive Plan Policy (CPP) FLU 1.1.1 Development Consistency. New development and redevelopment in unincorporated Escambia County shall be consistent with the Escambia County Comprehensive Plan and the Future Land Use Map (FLUM).

CPP FLU 1.3.1 Future Land Use Categories. The Mixed-Use Urban (MU-U) Future Land Use (FLU) category is intended for an intense mix of residential and nonresidential uses while promoting compatible infill development and the separation of urban and suburban land uses within the category as a whole. Range of allowable uses include: Residential, Retail and Services, Professional Office, Light Industrial, Recreational Facilities, Public and Civic. The minimum residential density is 3.5 dwelling units per acre and the maximum residential density is 25 dwelling units per acre.

CPP FLU 1.5.3 New Development and Redevelopment in Built Areas. To promote the efficient use of existing public roads, utilities and service infrastructure, the County will encourage redevelopment in underutilized properties to maximize development densities and intensities located in the Mixed-Use Suburban, Mixed-Use Urban, Commercial and Industrial Future Land Use district categories (with the exception of residential development).

FINDINGS

The proposed amendment to **R-6 is not consistent** with the intent and purpose of Future Land Use category MU-U as stated in **CPP FLU 1.3.1**. The proposed amendment does promote the efficient use of existing public roads, utilities and service infrastructure. However, staff determined that the proposed use does not promote compatible infill development, since the property is currently not underutilized and the proposed use is also incompatible with the residential nature of the surrounding properties. Therefore, staff finds that the proposed amendment **is not consistent** with the intent and purpose as stated in **CPP FLU 1.3.1** and **FLU 1.5.3**.

CRITERION (2)

Consistent with the Land Development Code.

Whether the proposed amendment is in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

Land Development Code (LDC) 2.08.02. D. 7. b Quasi-judicial Rezoning. An applicant for a proposed rezoning has the burden of proving by substantial, competent evidence that the proposed rezoning: is consistent with the Comprehensive Plan; furthers the goals, objectives and policies of the

Comprehensive Plan and is not in conflict with any portion of the county's Land Development Code. b. The proposed rezoning will constitute "spot zoning," that is an isolated zoning district that may be incompatible with the adjacent and nearby zoning districts and uses, or as spot zoning is otherwise defined by Florida law.

(LDC) 6.05.07. R-2 single-family district (cumulative), low-medium density.

This district is intended to be a single-family residential area with large lots and low population density. The maximum density is seven dwelling units per acre. Refer to article 11 for uses and densities allowed in R-2, single-family areas located in the Airport/Airfield Environs. Structures within Airport/Airfield Environs, Zones, and Surfaces remain subject to the height definitions, height restrictions, and methods of height calculation set forth in article 11. Refer to the overlay districts within section 6.07.00 for additional regulations imposed on individual parcels with R-2 zoning located in the Scenic Highway Overlay District and RA-1(OL) Barrancas Redevelopment Area Overlay District.

6.05.13. R-6 neighborhood commercial and residential district, (cumulative) high density.

This district is intended to provide for a mixed use area of residential, office and professional, and certain types of neighborhood convenience shopping, retail sales and services which permit a reasonable use of property while preventing the development of blight or slum conditions. This district shall be established in areas where the intermixing of such uses has been the custom, where the future uses are uncertain and some redevelopment is probable. The maximum density is 25 dwelling units per acre, except in the low density residential (LDR) future land use category where the maximum density is 18 dwelling units per acre.

All neighborhood commercial (R-6) development, redevelopment, or expansion must be consistent with the locational criteria in the Comprehensive Plan (Policies FLU 1.1.0) and in article 7.

B. Permitted uses.

1. Any use permitted in the R-5 district.
2. Retail sales and services (gross floor area of building not to exceed 6,000 square feet). No permanent outside storage allowed.
 - a. Food and drugstore, including convenience stores without gasoline sales.
 - b. Personal service shop.
 - c. Clothing and dry goods store.
 - d. Hardware, home furnishings and appliances.
 - e. Specialty shops.
 - f. Banks and financial institutions.
 - g. Bakeries, whose products are made and sold at retail on the premises.
 - h. Florists shops provided that products are displayed and sold wholly within an enclosed building.
 - i. Health clubs, spa and exercise centers.
 - j. Studio for the arts.
 - k. Martial arts studios.
 - l. Bicycle sales and mechanical services.
 - m. Other retail/service uses of similar type and character of those listed herein above.

3. Laundromats and dry cleaners (gross floor area not to exceed 4,000 square feet).
4. Restaurants.
5. Automobile service stations (no outside storage, minor repair only).
6. Appliance repair shops (no outside storage or work permitted).
7. Places of worship and educational facilities/institutions.
8. Fortune tellers, palm readers, psychics, etc.
9. Other uses which are similar or compatible to the uses permitted herein that would promote the intent and purposes of this district. Determination on other permitted uses shall be made by the planning board (LPA).
10. Mobile home subdivision or park.

C. Conditional uses.

1. Any conditional use allowed in the R-5 district.
2. Drive-through restaurants (fast food or drive-in, by whatever name known).
3. Any building exceeding 120 feet height.
4. Neighborhood commercial uses that do not exceed 35,000 square feet of floor area.
5. Automobile service operations, including indoor repair and restoration (not including painting), and sale of gasoline (and related service station products), gross floor area not to exceed 6,000 square feet. Outside repair and/or storage and automotive painting is prohibited.
6. Mini-warehouses meeting the following standards:
 - a. One acre or less in size (building and accessory paved area);
 - b. Three-foot hedge along any right-of-way line;
 - c. Dead storage use only (outside storage of operable vehicles including cars, light trucks, RVs, boats, and similar items).
 - d. No truck, utility trailer, and RV rental service or facility allowed, see C-2.
7. Radio broadcasting and telecasting stations, studios, and offices with satellite dishes and antennas. On-site towers are prohibited. (See section 6.08.02.L.)
8. Temporary structures. (See section 6.04.16)
9. Arcade amusement centers and bingo facilities.

LDC 7.20.04. Neighborhood commercial locational criteria (AMU-1, R-6, VM-1).

A. Neighborhood commercial uses shall be located along a collector or arterial roadway and near a collector/collector, collector/arterial, or arterial/arterial intersection and must provide a smooth transition between commercial and residential intensity.

B. They may be located at the intersection of an arterial/local street without providing a smooth transition when the local street serves as a connection between two arterial roadways and meets all the following criteria:

1. Shares access and stormwater with adjoining commercial uses or properties;
2. Includes a six-foot privacy fence as part of any required buffer and develops the required landscaping and buffering to ensure long-term compatibility with adjoining uses as described in Policy 7.A.3.8 and article 7;
3. Negative impacts of these land uses on surrounding residential areas shall be minimized by placing the lower intensity uses on the site (such as stormwater ponds and parking) next to abutting residential dwelling units and placing the higher

intensity uses (such as truck loading zones and dumpsters) next to the roadway or adjacent commercial properties;

4. Intrusions into recorded subdivisions shall be limited to 300 feet along the collector or arterial roadway and only the corner lots in the subdivision.

C. They may be located along an arterial or collector roadway without meeting the above additional requirements when one of the following conditions exists:

1. The property is located within one-quarter mile of a traffic generator or collector, such as commercial airports, medium to high density apartments, military installations, colleges and universities, hospitals/clinics, or other similar uses generating more than 600 daily trips; or

2. The property is located in areas where existing commercial or other intensive development is established and the proposed development would constitute infill development. The intensity of the use must be of a comparable intensity of the zoning and development on the surrounding parcels and must promote compact development and not promote ribbon or strip commercial development.

LDC 7.01.06. Buffering between zoning districts and uses.

A. *Zoning districts.* The following spatial relationships between zoning districts require a buffer:

2. AMU-1, AMU-2, R-4, R-5, R-6, V-4, VM-1, or VM-2 districts, where they are adjacent to single-family or two-family districts (RR, SDD, R-1, R-1PK, R-2, R-2PK, R-3, V-1, V-2, V-2A, V-3, V-5, VR-1, VR-2).

LDC 7.20.02B Waivers, The planning board (PB) may waive the roadway requirements when determining consistency with the Comprehensive Plan and Land Development Code for a rezoning request when unique circumstances exist. In order to determine if unique circumstances exist, a compatibility analysis shall be submitted that provides competent and substantial evidence that the proposed use will be able to achieve long-term compatibility with surrounding uses as described in Comprehensive Plan Policy 7.A.3.8. Infill development would be an example of when a waiver could be recommended. Although a waiver to the roadway requirement is granted, the property will still be required to meet all of the other performance standards for the zoning district as indicated below. The additional landscaping, buffering, and site development standards cannot be waived without obtaining a variance from the board of adjustment.

FINDINGS

The proposed amendment **is not consistent** with the intent and purpose of the Land Development Code. The applicant has failed to provide competent evidence that the proposed rezoning will not constitute “spot zoning.” From a site visit, staff observed that the nature of the surrounding zoning and existing uses is predominantly residential, thus the proposed amendment **is not consistent** with the intent of Land Development Code (LDC) 2.08.02. D. 7. B and C, Quasi-judicial Rezoning.

The proposed amendment **does not meet** the general commercial and light manufacturing uses locational criteria requirements; the parcel is on a local road, it is not located at or in proximity to intersections of arterial/arterial roadways or along an arterial roadway within one-quarter mile of the intersection and does not provide for a smooth transition between commercial and residential intensity, as stated in the Escambia County Land Development Code (LDC 7.20.04). In addition a Development Order #PSP090600059, located at 9796 Guidy Lane was denied due to the locational criteria requirements being located on a local road. See exhibit A.

The proposed amendment **does not meet** the requirements for infill development as stated in (LDC 7.20.03.B). Infill development is defined as an area where over 50 percent of a block is either zoned or used for commercial development. This article also defines a block as the road frontage on one side of a street between two public rights-of-way. In this case the block is identified as the road frontage from Candlestick Dr, along the south side of Guidy Lane, to Signal Hill Lane along the North. There are eleven (11) properties within this block: three (4) single family residences, and seven (7) multifamily properties, the intensity of the proposed use is not comparable with the existing zoning and development on the surrounding parcels and does not promote compact development.

Buffering requirement will apply, as stated in (LDC 7.01.06); further review from the Development Review Committee (DRC) will be needed to ensure the buffering requirements and other performance standards have been met, should this amendment to R-6 be granted.

CRITERION (3)

Compatible with surrounding uses.

Whether and the extent to which the proposed amendment is compatible with existing and proposed uses in the area of the subject property(s).

FINDINGS

The proposed amendment **is not compatible** with surrounding existing uses in the area.

Within the 500' radius impact area, staff observed 66 properties with zoning districts of R-2, R-3, R-5, and C-2. Out of the 66 properties 38 are single family residential, 26 are multifamily residential, one (1) church, and one (1) vacant lot.

CRITERION (4)

Changed conditions.

Whether and the extent to which there are any changed conditions that impact the amendment or property(s).

FINDINGS

Staff found one parcel case number Z-2001-42 at 9918 Guidy Lane that was rezoned from R-2 to R-3 on 12-06-2001 by the BCC. Staff sees **no changed** conditions that would impact the amendment or property(s).

CRITERION (5)

Effect on natural environment.

Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment.

FINDINGS

According to the National Wetland Inventory, wetlands and hydric soils **were not** indicated on the subject property. When applicable, further review during the Development Review Committee (DRC) process will be necessary to determine if there would be any significant adverse impact on the natural environment.

CRITERION (6)

Development patterns.

Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

FINDINGS

The proposed amendment **would not result** in a logical and orderly development pattern. The property is located along Guidy Lane, a local road in a mixed-use area. The permitted uses of the R-6 zoning district are not of comparable intensity with the surrounding predominantly residential uses.

Note: The above technical comments and conclusion are based upon the information available to Staff prior to the public hearing; the public hearing testimony may reveal additional technical information.



Exhibit A

THE COUNTY OF ESCAMBIA
PENSACOLA, FLORIDA

**SITE PLAN DEVELOPMENT ORDER
with Concurrency Certification**

Project: Grantham Warehouse Development **Future Land Use:** MU-2
Location: 9796 Guidy Ln **Zoning District:** C-2
Property Reference #s: 07-1S-30-1007-000-000 **Flood Zone:** X
Development Review #: PSP090600059 **Exhibit A:** Adoption Prohibiting Trucks

PROJECT DESCRIPTION

Construction of an 8,250 sq. ft. warehouse with six units on a 0.94-acre parcel, and a minimum of 21 graveled parking spaces provided. A 10' x 10' dumpster pad with a 6-foot privacy fence enclosure will be maintained for solid waste. Site access will be utilized from a driveway on Guidy Lane. An on-site retention pond will be constructed to accommodate the increased impervious cover. No "protected" trees will be removed from the site. Frontage trees, buffering, privacy fencing, and other required vegetation will be provided within site landscape areas. Potable water and sanitary sewer will be provided through connections to ECUA systems and a septic tank system respectively.

STANDARD PROJECT CONDITIONS

1. This Development Order with concurrency certification shall be effective for a period of 18 months from the date of approval. Site plan approval and concurrency shall expire and become null and void if a permit for the approved development has not been obtained from the Building Inspections Department (BID) within the effective period and no extension has been applied for. After issuance of such permit, site plan approval and concurrency shall only terminate upon permit expiration or revocation by the BID. The Board of Adjustment may grant one extension for a maximum of 12 months to the original effective period of the Development Order, but application for such extension must be submitted before termination of the initial 18-month period. If the Development Order expires or is revoked, allocated capacity will be withdrawn and made available to other applicants. If the applicant chooses to proceed with development of the project site, a new site plan application must be submitted for review, approval, and capacity allocations subject to Code provisions and Level of Service conditions at the time of the new application.
2. This Development Order alone does not authorize site development to commence. A valid Escambia County Building Permit must be obtained prior to any building construction. Site development as described on the approved site plan, including protected tree removal and grading, may occur under the authorization of the Building Permit. However, commencement of such activity prior to issuance of a Building Permit will require a separate **Pre-construction Site Work Permit**, or if no Building Permit is applicable will require a separate

Parking Lot Permit, obtained from the Building Inspections Department, with erosion control, tree protection, and all other provisions of the approved site plan fully applicable and enforced.

3. All specifications and requirements, expressed or implied by note or drawing, in the site development plans approved with this Development Order must be fulfilled.
4. No development activities may commence in areas regulated by state or federal agencies unless all required state and federal permits, or proof of exemption, have been obtained and a copy provided to the County.
5. Proof of application from the Emerald Coast Utilities Authority (ECUA) for connection to the sewage system, or from the Escambia County Health Department for an Onsite Sewage Treatment and Disposal System (OSTD), must be obtained prior to issuance of an Escambia County Building Permit.
6. After issuance of this Development Order, it shall be unlawful to modify, amend, or otherwise deviate from the terms and conditions without first obtaining written authorization through the Development Review Committee (DRC) departments. Approval of such modifications shall be requested in writing and obtained prior to initiating construction of any requested change. The applicable review process for the proposed modification shall be determined based on the applicant's written description of such modifications. Escambia County may require submittal of a new or revised plan and impose additional requirements and/or conditions depending upon the extent of any proposed modifications. The applicant has a continuing obligation to abide by the approved plan. Initiating construction of plan modifications without written County approval shall automatically terminate and render null and void this Development Order, and shall be subject to penalties and/or increased fees specified by the BCC.
7. A copy of this Development Order and the approved site development plans must be maintained and readily available on site once any construction activity has begun, including clearing and grading. The approved building construction plans must also be on site once any building construction has begun.

SPECIAL PROJECT CONDITIONS

1. Total site sign area, wall and freestanding, is limited by the Land Development Code (LDC) to 382 sq.ft. (255 x 1.5). Total wall sign area is additionally limited to 10% of the area of wall surface facing Guidy Lane, and no one sign may exceed 200 sq.ft. Freestanding signage is additionally limited to one sign per street frontage, a maximum 100 sq. ft. in area, a maximum 20 feet in height, and a minimum 200 feet from any other such site sign. Each freestanding sign is limited to a minimum 10-foot setback from rights-of-way and must maintain visual clearance along rights-of-way and at driveways and intersections. A valid Escambia County Sign Permit must be obtained prior to erecting, constructing, altering, or relocating any site signage. These signage conditions do not preclude variances that otherwise may be allowed by the provisions of the LDC.

- A. Accepting and approving for recording following seventeen (17) Quit Claim Deeds for right-of-way, and one Drainage Easement from Edward Chadbourne, Inc., on Elmhurst Road in District 3:

EXHIBIT

tabbies

A

- (1) Charles A. Glaze and Loretta Glaze
 - (2) Etta Lee Roshell
 - (3) Thomas J. Kihlstadius and Regina K. Kihlstadius
 - (4) Julius Savage and Eunnie Bell Savage
 - (5) Galloway Rich
 - (6) Sammy Savage and Thelma Savage
 - (7) Donald C. White and Lessie B. White
 - (8) Donald White and Lessie White
 - (9) Jimmie Lee Savage and Perlie Mae Savage
 - (10) James E. Davison and Lillie Bell Davison
 - (11) James Crenshaw and Willie Ruth Crenshaw
 - (12) Clara Bell Lee
 - (13) Merdean Christel Savage and Pearlle Mae Savage
 - (14) Maytha Clark, Lankford Clark and Lurea Jean Clark
 - (15) Juanita L. Savage
 - (16) Rosa Turk
 - (17) Earl J. Crosswright and Evelyn S. Crosswright
- B. Deleting twelve (12) roads in District 3 from the Board's approved "H-7" Resurfacing Contract, amended to also delete Leonard Street and add Unity Court and Irving Avenue for resurfacing, for an estimated savings of \$120,445.09;
- C. Approving Change Order Number 1 to the "H-7" Resurfacing Contract, adding the construction of paving and drainage improvements on Elmhurst Road at a lump sum cost of \$119,254.45; and
- D. Authorizing staff to do the necessary surveys for the purpose of filing a maintenance map on the portion of road where the County was unable to acquire right-of-way.

(Attached and Shown as EXHIBIT "C")

7. Adoption of Resolutions Prohibiting Trucks on Fox Run Road and Guidy Lane Between Nine Mile Road and Ten Mile Road

Motion made by Commissioner Robertson, seconded by

Commissioner Junior, and carried unanimously:

- A. Approving and adopting the Resolution prohibiting trucks on Fox Run Road between Nine Mile Road and Ten Mile Road; and
- B. Approving and adopting the Resolution prohibiting trucks on Guidy Lane between Nine Mile Road and Ten Mile Road.

(Attached and Shown as EXHIBIT "D")

8. Adoption of Resolution Reducing Speed Limit from 55 MPH to 45 MPH on Barrineau Park Road Between U. S. 29 and C-95A (Old Palafox Highway)

Motion made by Commissioner Robertson, seconded by

Commissioner Pavlock, and carried unanimously, approving and adopting a Resolution which reduces the speed limit from 55 MPH

RESOLUTION

WHEREAS, the Board of County Commissioners of Escambia County enacted Ordinance 85-22, which authorizes the Board, pursuant to Section 315.555, Florida Statutes, to establish by Resolution, load and weight limits on certain roads when necessary due to the design and deterioration of the roads or for the public safety and convenience; and

WHEREAS, the Board of County Commissioners of Escambia County has received complaints from residents residing on Guidy Lane and adjacent streets due to tractor/trailer trucks traversing and parking along this roadway; and

WHEREAS, County Engineering personnel have viewed area along Guidy Lane and are of the opinion that the area is primarily of residential character, and that other routes are available and more suitable for traffic traffic; and

WHEREAS, the Board of County Commissioners of Escambia County has determined that load and weight limits are necessary for the roads as described below; now therefore,

BE IT RESOLVED, by the Board of County Commissioners of Escambia County, Florida:

That Guidy Lane will have the following load and weight limitations:

No trucks except for pick-up trucks, light vans, or any trucks servicing or having business Guidy Lane between 9 Mile Road and 10 Mile Road shall be allowed.

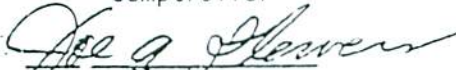
BE IT FURTHER RESOLVED, that staff of the Board of County Commissioners is hereby instructed to install a truck prohibition signs on Guidy Lane where upon this prohibition shall take effect.

DULY ADOPTED this 2nd day of May, 1990.

ESCAMBIA COUNTY, FLORIDA
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA


Kenneth J. Kelson, Chairman

ATTEST: Joe A. Flowers
Comptroller


Clerk

(SEAL)

ORDINANCE NUMBER 85- 22

AN ORDINANCE AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, TO ESTABLISH LOAD AND WEIGHT LIMITS AND PLACE SPEED LIMITATION UPON CERTAIN ROADS AND HIGHWAYS FROM TIME TO TIME BY RESOLUTION; TO LIMIT USES OF SAID ROADS AND HIGHWAYS TO CERTAIN CLASSES SIZES OF VEHICLES; AUTHORIZING THE POSTING OF NOTICE OF THOSE LIMITATIONS AND REQUIRING NOTICE TO THE DEPARTMENT OF TRANSPORTATION WHEN STATE ROADS ARE AFFECTED; REPEALING ESCAMBIA COUNTY ORDINANCE NUMBER 81-4.

SECRETARY OF STATE

JUL 8 11 46 AM '85

FILED

WHEREAS, Section 316.555, Florida Statutes, 1980, provides that local authorities, with respect to highways under their jurisdiction, may prescribe loads and weights and speed limits, whenever, in their judgment, any road or part thereof, or any bridge or culvert shall, by reason of its design, deterioration, rain or other climatic or natural causes be liable to be damaged or destroyed by motor vehicles, trailers or semi-trailers, and may, by like notice, regulate or prohibit, in whole or part, the operation of any specified class or size of motor vehicles, trailers, or semi-trailers on any highway or specified parts thereof under its or their jurisdiction, whenever, in their judgment, such regulation or prohibition is necessary to provide for the public safety and convenience on the highways, or parts thereof by the traveling public or other reasons of public safety; and

WHEREAS, it is hereby determined by the Board of County Commissioners of Escambia County, State of Florida, that certain roads and highways under its jurisdiction require load, weight and speed limitations as a result of deterioration, rain and other climatic or natural causes and for public safety and convenience, NOW, THEREFORE,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:

Section 1. That said Board of County Commissioners is hereby authorized to place upon certain roads and highways, or parts thereof, which are under its jurisdiction, load and weight limits, speed limitations, and limits on the size and/or class of vehicles, from time to time, by resolution.

Section 2. That the said resolution shall state, with specificity, the reason or reasons for the imposition of such limits.

Section 3. That before such limitation shall become effective, notice thereof shall be posted at conspicuous places at terminals of all

intermediate crossroads and road junctions with the section of highway or road to which the notice shall apply. The posting of such notice in accordance with such resolutions is hereby authorized and approved by said Board of County Commissioners.

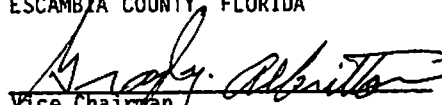
Section 4. That, if such limitation shall effect traffic over State roads, such limitation shall not become effective unless and until approval of said limitation has been obtained from the Department of Transportation, as required by Section 316.555, Florida Statutes, 1979.

Section 5. Escambia County Ordinance Number 81-4 is hereby repealed.


Section 6. In accordance with Section 125.66(2), Florida Statutes, a certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by said Board and shall take effect upon receipt and official acknowledgement from that office that said ordinance has been filed.

PASSED AND ADOPTED by the Board of County Commissioners of Escambia County, Florida, this 2nd day of July, 1985.

BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA


Vice Chairman

ATTEST: JOE A. FLOWERS
COMPTROLLER

By: 
Patricia Hutchings
Deputy Clerk

(SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

I, JOE A. FLOWERS, COMPTROLLER, and ex-officio Clerk to the Board of County Commissioners in and for the County and State aforesaid, do hereby certify that the above and foregoing is a true and correct copy of an ordinance as the same was duly adopted and passed at a Regular Meeting of the Board on the 2nd day of July, 1985, and as the same appears on record in my office.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 3rd day of July, 1985.

JOE A. FLOWERS, COMPTROLLER
AND EX-OFFICIO CLERK TO THE
BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA

By 
Deputy Clerk

(S E A L)

BARKSDALE ST



MEADOWVIEW LN

VALLEY GRANDE RD VALLEY RIDGE CIR

RIDGE RD

DEEDRA AVE

BISON RD

O DANIEL DR

E TEN MILE RD

MERCER LN

VINTAGE DR

WATERFORD DR GREYSTONE DR

GREENBRIER BLVD

SUGAR CREEK DR

LAKELAND CT

CANDLESTICK LN

REQUIN LN

HUNTSMAN PATH

VIXEN PL

BOBWHITE WAY

BOBWHITE DR

WANDA DR

SUNSHINE LN

CREEK BRIDGE RD

ROBIN RD

MUSIC LN

MAPLELEAF CIR

HUMMINGBIRD BLVD

GUIDY LN

HOLLOWBROOK DR

PICKWOOD DR

FOXRUN RD

SUNNEHANNA BLVD

DN AVE

E NINE MILE RD

ANKS CIR

NKS RD

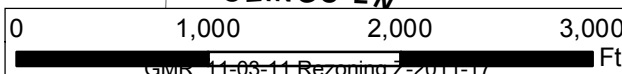
N RD



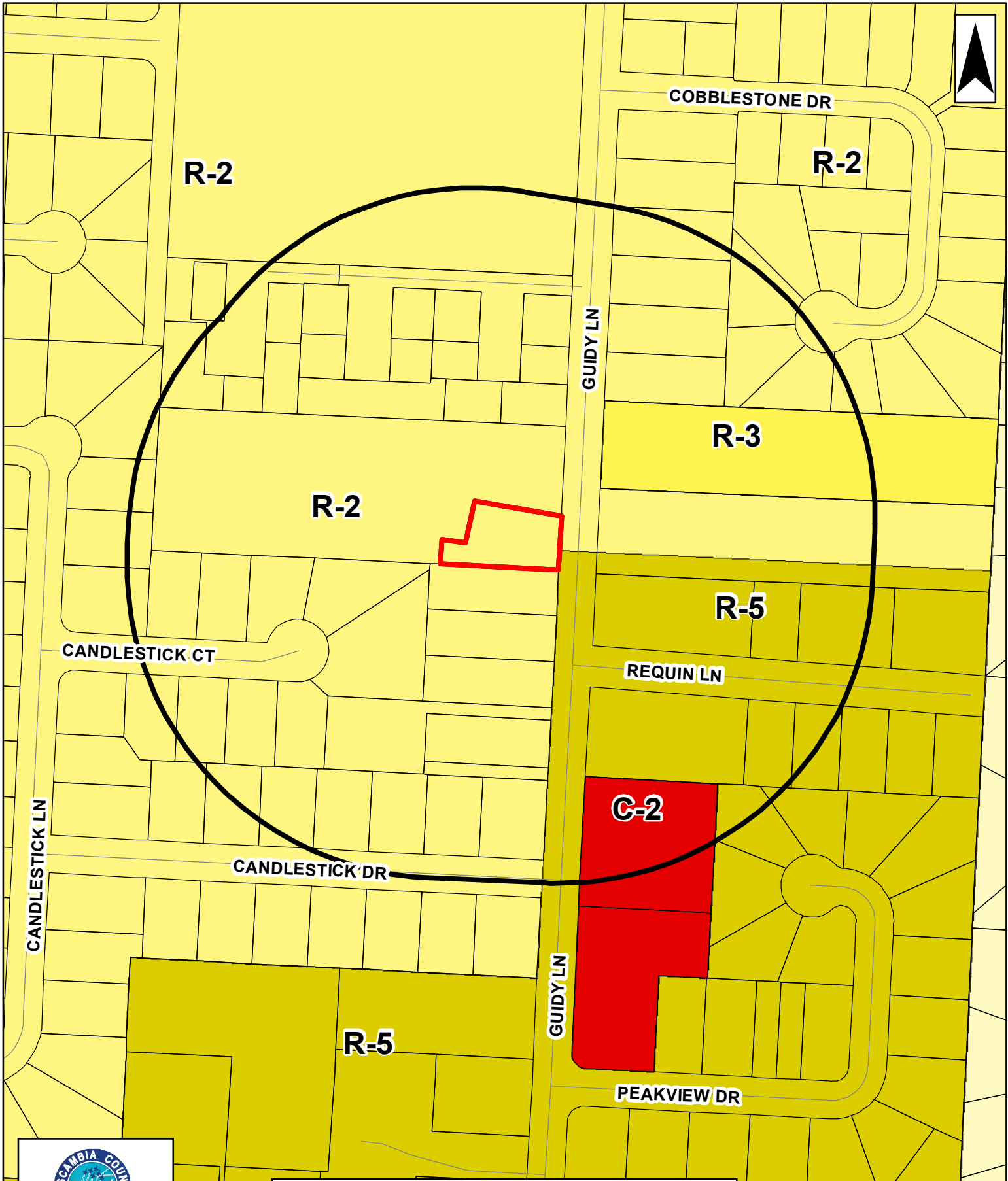

This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

Z-2011-17 LOCATION MAP



- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD

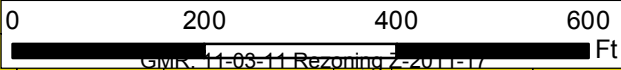








This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

Z-2011-17

500' RADIUS ZONING



-  PRINCIPAL ARTERIAL
-  MINOR ARTERIAL
-  COLLECTOR
-  LOCAL ROAD
-  PARCELS

Page 31 of 49

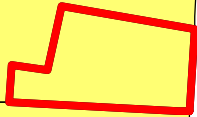


MU-U

COBBLESTONE DR

GUIDY LN

MU-U



MU-U

CANDLESTICK CT

REQUIN LN

CANDLESTICK LN

CANDLESTICK DR

MU-U

MU-U

GUIDY LN

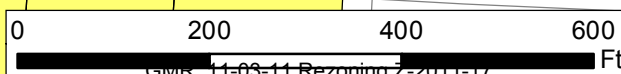
PEAKVIEW DR



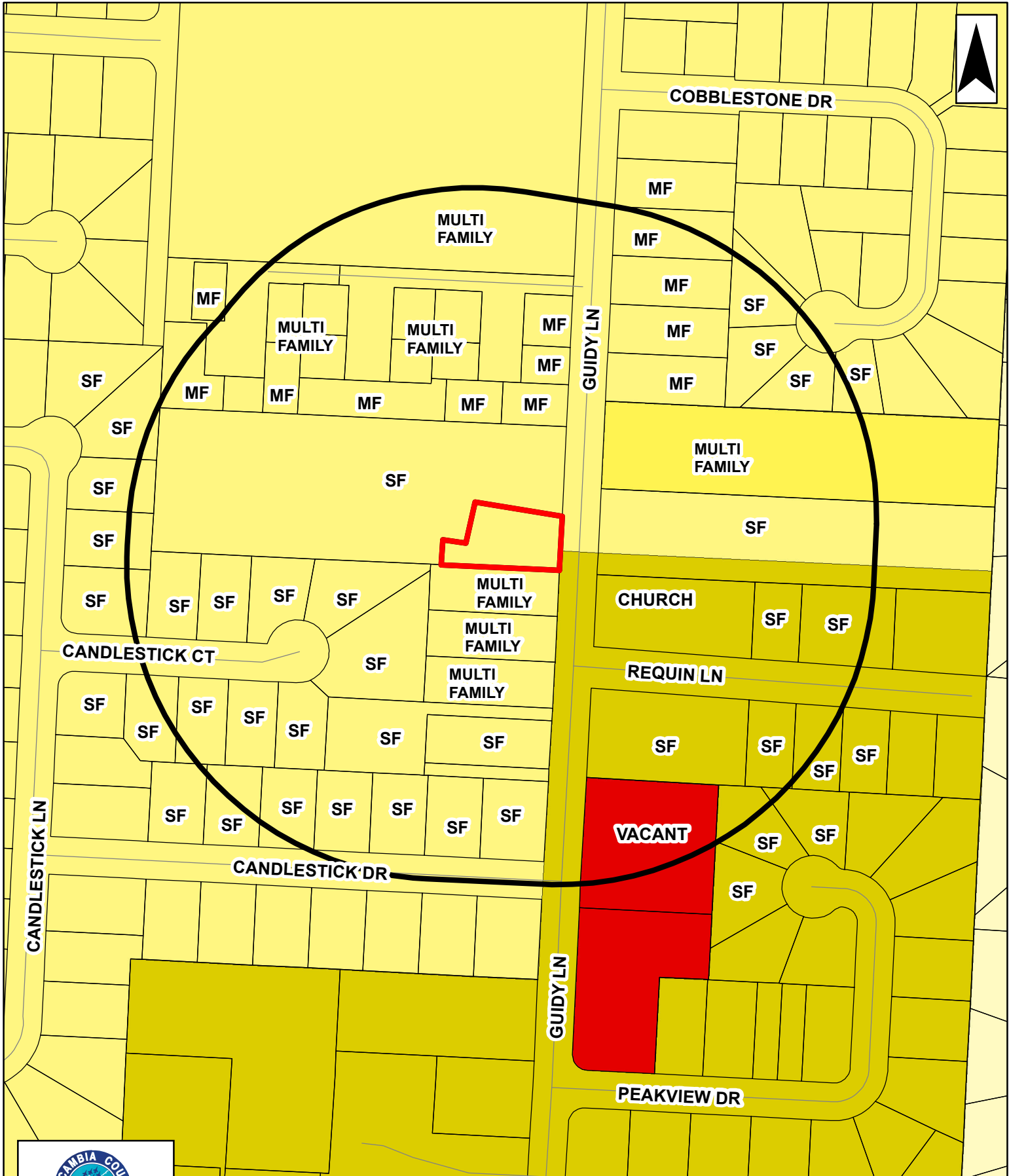

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Andrew Holmer
Planning and Zoning Dept.

Z-2011-17 FUTURE LAND USE



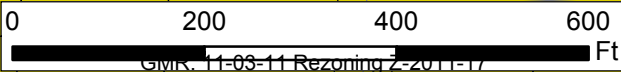
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD
- PARCELS









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Andrew Holmer
Planning and Zoning Dept.

Z-2011-17 EXISTING LAND USE



-  PRINCIPAL ARTERIAL
-  MINOR ARTERIAL
-  COLLECTOR
-  LOCAL ROAD
-  PARCELS

Page 33 of 49



GUIDY LN

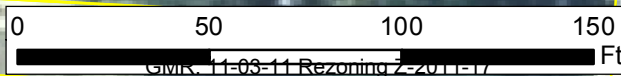
REQUIN LN



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Andrew Holmer
Planning and Zoning Dept.

Z-2011-17 AERIAL MAP



- PRINCIPAL ARTERIAL
 - MINOR ARTERIAL
 - COLLECTOR
 - LOCAL ROAD
 - PARCELS
- Page 34 of 49

Wiley C. "Buddy" Page, MPA, APA
Professional Growth Management Services, LLC

5337 Hamilton Lane
Pace, Florida 32571
Office 850.994.0023 Cell 850.232.9853
budpage1@mchsi.com

September 1, 2011
VIA HAND DELIVERY

Mr. Horace Jones
Development Services Dept.
3363 West Park Place
Pensacola, Florida 32505

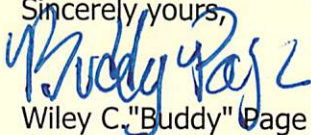
9991 BB
~~9987 BB~~ OK

RE: Rezoning Request for 9991 Guidy Lane
Parcel: 07-1S-30-1018-000-000

Dear Mr. Jones:

Please find our application packed attached wherein we request consideration to change the referenced property above from R-2 to R-6 Neighborhood Commercial. We are asking for a waiver as allowed under LDC 7.20.04.A.

Please contact me if you have any questions or require anything further. Thank you.

Sincerely yours,

Wiley C. "Buddy" Page

copy: Mr. Charles F. Welk



Development Services Department

Escambia County, Florida

APPLICATION

Please check application type:

Administrative Appeal

Development Order Extension

Conditional Use Request for: _____

Variance Request for: _____

Rezoning Request from: R-2 to: R-6

Name & address of current owner(s) as shown on public records of Escambia County, FL

Owner Name: Charles and Linda Welk Phone: 850-449-9138
 Address: 9991 9987 Guidy Lane Pensacola, FL 32514 Email: charleswelk@cox.net

Check here if the property owner(s) is authorizing an agent as the applicant and complete the Affidavit of Owner and Limited Power of Attorney form attached herein.

Property Address: 9987 Guidy Lane 9991
 Property Reference Number(s)/Legal Description: 07-15-30-1018-000-000

By my signature, I hereby certify that:

- 1) I am duly qualified as owner(s) or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection and authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff; and
- 5) I am aware that Public Hearing notices (legal ad and/or postcards) for the request shall be provided by the Development Services Bureau.

Charles Welk
 Signature of Owner/Agent

Charles Welk
 Printed Name Owner/Agent

8-4-11
 Date

Linda L. Welk
 Signature of Owner

Linda Welk
 Printed Name of Owner

8-4-11
 Date

STATE OF Florida COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 04 day of August 20 11,
 by Felecia D. Toler.

Personally Known OR Produced Identification . Type of Identification Produced: Florida Driver License

Felecia D. Toler
 Signature of Notary
 (notary seal must be affixed)

Felecia D. Toler
 Printed Name of Notary



FOR OFFICE USE ONLY

Meeting Date(s): 10/10/11 Accepted/Verified by: ACam Date: 9/2/11
 Fees Paid: \$ 1,050 Receipt #: _____ Permit #: PRZ110900015



Development Services Department

Escambia County, Florida

FOR OFFICE USE:

CASE #: 2011-19

CONCURRENCY DETERMINATION ACKNOWLEDGMENT

For Rezoning Requests Only

Property Reference Number(s): 07-15-30-1018-000-000

Property Address: 9987 Guidy Lane Pensacola, Florida 32514

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

I/We further acknowledge and agree that no development for which concurrency must be certified shall be approved unless at least one of the following minimum conditions of the Comprehensive Plan will be met for each facility and service of the County's concurrency management system prior to development approval:

- a. The necessary facilities or services are in place at the time a development permit is issued.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For transportation facilities, all in-kind improvements detailed in a proportionate fair share agreement must be completed in compliance with the requirements of Section 5.13.00 of the LDC. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS 4th DAY OF August, YEAR OF 2011.

[Signature]
Signature of Property Owner

Charles Welk
Printed Name of Property Owner

8-4-11
Date

[Signature]
Signature of Property Owner

Linda Welk
Printed Name of Property Owner

8-4-11
Date



Development Services Department

Escambia County, Florida

FOR OFFICE USE:

CASE #: 2011-99017

AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY

As owner of the property located at 9987 Guidy Lane,
Florida, property reference number(s) 07-15-30-1018-000-000

I hereby designate Wiley C. "Buddy" Page for the sole purpose
of completing this application and making a presentation to the:

- Planning Board and the Board of County Commissioners to request a rezoning on the above referenced property.
- Board of Adjustment to request a(n) OP on the above referenced property.

This Limited Power of Attorney is granted on this 1st day of August the year of, 2011, and is effective until the Board of County Commissioners or the Board of Adjustment has rendered a decision on this request and any appeal period has expired. The owner reserves the right to rescind this Limited Power of Attorney at any time with a written, notarized notice to the Development Services Bureau.

Agent Name: Wiley C. "Buddy" Page Email: budpage1@mchsi.com
Address: 5337 Hamilton Lane Pace, FL 32571 Phone: 850-2329853

Charles Welk
Signature of Property Owner

Charles Welk
Printed Name of Property Owner

8-4-11
Date

Linda G. Welk
Signature of Property Owner

Linda Welk
Printed Name of Property Owner

8-4-11
Date

STATE OF Florida COUNTY OF Escambia

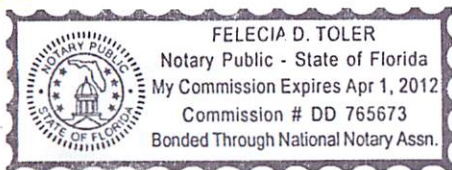
The foregoing instrument was acknowledged before me this 04 day of August 20 11,
by Felecia D. Toler.

Personally Known OR Produced Identification . Type of Identification Produced: Florida Driver License

Felecia D. Toler
Signature of Notary

Felecia D. Toler
Printed Name of Notary

(Notary Seal)



Locational Criteria Analysis

9991 9991 Guidy Lane
~~8770~~
9991 BS

This site is located on Guidy Lane, which provides a major direct connection between Greenbrier Boulevard (Ten Mile Road) on the north and Nine Mile Road to the south. It is one mile in length and one of only two major roadway connections providing a southerly route in the area with the other being Chemstrand Road. There are plans to connect Greenbrier Boulevard east to Campus Road, which will provide a westerly exit for traffic from the University of West Florida campus. Guidy Lane will then be the first intersection allowing this traffic a southerly connection to Nine Mile Road.

The site is surrounded with rental property projects which easily generate over 600 trips per day (see attached spreadsheet) as required under LDC 7.20.04.C.1. As shown on the county land use map, this one mile roadway contains a diversity of zoning categories including R-5, C-1, C-2, R-2, R-3 and R-6. Our request for an additional R-6 parcel will continue to provide the area with smooth transition between existing uses and zoning categories.

Given the above, this request can be approved with a waiver as allowed under 7.20.04.A.

Escambia County Property Appraiser
071S301018000000 - Full Legal Description

BEG AT SE COR OF SEC N ALG E LI 3575 FT W 693 FT TO W R/W LI OF GUIDY LANE FOR
POB CONT SAME COURSE 188 6/10 FT 88 DEG 42 MIN RT 41 FT 85 DEG 15 MIN RT 37
18/100 FT 85 DEG 46 MIN LEFT 67 22/100 FT 93 DEG 07 MIN 40 SEC RT 140 25/100 FT TO W
LI OF GUIDY LANE S ALG RD R/W 98 23/100 FT TO POB OR 888 P 410/416 CASE #74-647

Instructions:

Enter Numbers into the "Expected Units" in the Corresponding Yellow Column

Trip Generation Rates from the 8th Edition ITE Trip Generation Report

NA: Not Available KSF²: Units of 1,000 square feet
 DU: Dwelling Unit Fuel Position: # of vehicles that could be fueled simultaneously
 Occ.Room: Occupied Room

Description / ITE Code	Units	PM Peak Period Rate	% PM In	% PM Out	Expected Units (independent variable)	Calculated Daily Trips	PM Peak Trips - Total	PM In	PM Out
Waterport/Marine Terminal 010	Berths	NA	NA	NA		0	NA	NA	NA
Commercial Airport 021	Employees	0.80	54%	46%		0	0	NA	NA
Commercial Airport 021	Avg Flights/Day	5.75	56%	44%		0	0	NA	NA
Commercial Airport 021	Com. Flights/Day	6.88	54%	46%		0	0	NA	NA
General Aviation Airport 022	Employees	1.03	45%	55%		0	0	NA	NA
General Aviation Airport 022	Avg. Flights/Day	NA	NA	NA		0	NA	NA	NA
General Aviation Airport 022	Based Aircraft	0.37	45%	55%		0	0	NA	NA
Truck Terminal 030	Acres	6.55	43%	57%		0	0	NA	NA
Park&Ride w/ Bus Service 090	Parking Spaces	0.62	22%	78%		0	0	NA	NA
Park&Ride w/ Bus Service 090	Occ. Spaces	0.81	28%	72%		0	0	NA	NA
Light Rail Station w/ Park 093	Parking Space	1.24	58%	42%		0	0	NA	NA
Light Rail Station w/ Park 093	Occ. Spaces	1.33	58%	42%		0	0	NA	NA
General Light Industrial 110	KSF ²	0.97	12%	88%		0	0	NA	NA
General Light Industrial 110	Employees	0.42	21%	79%		0	0	NA	NA
General Heavy Industrial 120	KSF ²	0.68	NA	NA		0	0	NA	NA
General Heavy Industrial 120	Employees	0.88	NA	NA		0	0	NA	NA
Industrial Park 130	KSF ²	0.86	21%	79%		0	0	NA	NA
Industrial Park 130	Employees	0.46	20%	80%		0	0	NA	NA
Manufacturing 140	KSF ²	0.74	36%	64%		0	0	NA	NA
Manufacturing 140	Employees	0.36	44%	56%		0	0	NA	NA
Warehousing 150	KSF ²	0.32	25%	75%		0	0	NA	NA
Warehousing 150	Employees	0.59	35%	65%		0	0	NA	NA
Mini Warehouse 151	KSF ²	0.26	51%	49%		0	0	NA	NA
Mini Warehouse 151	Storage Units	0.02	NA	NA		0	0	NA	NA
Mini Warehouse 151	Employees	6.04	52%	48%		0	0	NA	NA
High-Cube Warehouse 152	KSF ²	0.10	33%	67%		0	0	NA	NA
High-Cube Warehouse 152	Employees	0.66	35%	65%		0	0	NA	NA
Utilities 170	KSF ²	0.76	45%	55%		0	0	NA	NA
Utilities 170	Employees	0.76	90%	10%		0	0	NA	NA
Single Family Homes 210	DU	1.01	63%	37%		0	0	NA	NA
Single Family Homes 210	Vehicles	0.67	66%	34%		0	0	NA	NA
Apartment 220	DU	0.62	65%	35%	100.0	665	62	40	22
Apartment 220	Persons	0.40	NA	NA		0	0	NA	NA
Apartment 220	Vehicles	0.60	NA	NA		0	0	NA	NA
Low Rise Apartment 221	Occ.DU	0.58	65%	35%	100.0	659	58	38	20
High Rise Apartment 222	DU	0.35	61%	39%		0	0	NA	NA
Mid-Rise Apartment 223	DU	0.39	58%	42%		0	0	NA	NA
Rental Townhouse 224	DU	0.72	51%	49%	100.0	0	72	37	35
Resd. Condo/Townhouse 230	DU	0.52	67%	33%		0	0	NA	NA
Resd. Condo/Townhouse 230	Persons	0.24	67%	33%		0	0	NA	NA
Low Rise Resd. Condo 231	DU	0.78	58%	42%		0	0	NA	NA
High Rise Resd. Condo 232	DU	0.38	62%	38%		0	0	NA	NA
Luxury Condo/Townhouse 233	Occ. DU	0.55	63%	37%		0	0	NA	NA
Mobile Home Park 240	DU	0.59	62%	38%		0	0	NA	NA
Mobile Home Park 240	Persons	0.26	63%	37%		0	0	NA	NA
Retirement Community 250	DU	0.27	56%	44%		0	0	NA	NA
Elderly Housing-Detached 251	DU	0.27	61%	39%		0	0	NA	NA
Congregate Care Facility 253	Occ.DU	0.17	56%	44%		0	0	NA	NA
Elderly Housing- Attached 252	Occ.DU	0.16	60%	40%		0	0	NA	NA
Recreational Homes 260	DU	0.26	41%	59%		0	0	NA	NA
Residential PUD 270	DU	0.62	65%	35%		0	0	NA	NA
Hotel 310	Occ. Room	0.70	49%	51%		0	0	NA	NA
Hotel 310	Rooms	0.59	53%	47%		0	0	NA	NA
Hotel 310	Employees	0.80	54%	46%		0	0	NA	NA
All Suites Hotel 311	Occ.Room	0.55	42%	58%		0	0	NA	NA
All Suites Hotel 311	Rooms	0.40	45%	55%		0	0	NA	NA

$x = 100$
 $y = 665$ PMPH

For case # 07-15-30-1018- WELK
000-002



Development Services Department FOR OFFICE USE.
Escambia County, Florida

CASE #: _____

**APPLICATION
ATTACHMENTS CHECKLIST**

- 1 1. For BOA, original letter of request, typed or written in blue ink & must include the reason for the request and address all criteria for the request as outlined in LDC Article 2.05 (dated, signed & notarized – notarization is only necessary if an agent will be used).
- 2 2. Application/Owner Certification Form - Notarized Original (page 1) (signatures of ALL legal owners or authorized agent are required)
- 3 3. Concurrency Determination Acknowledgment form - Original (if applicable) (page 2)
- 4 4. Affidavit of Owner & Limited Power of Attorney form - Notarized Original (if applicable) (page 3) (signatures of ALL legal owners are required)
- 5 5. Legal Proof of Ownership (e.g. copy of Tax Notice or Warranty Deed). *need*
Include Corporation/LLC documentation or a copy of Contract for Sale if applicable.
- 6 6. Legal Description of Property Street Address / Property Reference Number
- 7 7. a. Rezoning: Boundary Survey of subject property to include total acreage, all easements, and signed & sealed by a surveyor registered in the state of Florida.
b. BOA: Site Plan drawn to scale.
- 8 8. For Rezoning requests: If the subject parcel does not meet the roadway requirements of Locational Criteria (Comprehensive Plan 7.A.4.13 & LDC 7.20.00.), a compatibility analysis to request a waiver or an exemption to the roadway requirements will need to be submitted as part of the application.
- 9 9. Pre-Application Summary Form, Referral Form, Zoning Verification Request Form and/or copy of citation from Code Enforcement Department if applicable.
- 10 10. Application fees. (See Instructions page for amounts) Payment cannot be accepted after 3:00pm.

Please note: Forms with signatures dated more than sixty (60) days prior to application submittal will not be accepted as complete.

Please make the following three appointments with the Coordinator.

- Appointment for pre-application meeting: _____
- Appointment to turn in application: _____
- Appointment to receive findings-of-fact: _____

Application submitted on 9-1-11 *W. 85*
need #5
Mr. Lodge will bring 5 items on 9-2-11
need a new check Applicant will bring 9-2-11

PROFESSIONAL GROWTH MANAGEMENT SERVICES, LLC
 Wiley C. "Buddy" Page, MPA, APA
 3363 West Park Place Pensacola, FL 32505
 (850) 595-3475 * FAX: (850) 595-3481



Development Services Bureau
Escambia County, Florida

6/6

**PLANNING BOARD
REZONING PRE-APPLICATION SUMMARY FORM**

07-15-30-1018-000-000
Property Reference Number

Charles Walk
Name

9987 Gurdy Lane
Address

Owner Agent

Referral Form
Included? Y / N

MAPS PREPARED

PROPERTY INFORMATION

- Zoning
- FLU
- Aerial
- Other: _____

Current Zoning: R-2 Size of Property: _____ +/-
 Future Land Use: MU-U Commissioner District: _____
 Overlay/AIPD: _____ Subdivision: _____
 Redevelopment Area: _____

COMMENTS

Desired Zoning: R-6

Is Locational Criteria applicable? yes If so, is a compatibility analysis required? yes

Requires smaller portion for office. Parcel is on a local street
Recommended to go to DRC pre-application meeting to
discuss issues with the change of use.

- Applicant will contact staff for next appointment
 - Applicant decided against rezoning property
 - Applicant was referred to another process
 - BOA
 - DRC Pre-App
 - Other: _____
- Process Name

Staff present: Allison Cain, Andrew Holman Date: 6/6/11

Applicant/Agent Name & Signature: Charles Walk

No comment made by any persons associated with the County during any pre-application conference or discussion shall be considered either as approval or rejection of the proposed development, development plans, and/or outcome of any process.

ACCOUNT NUMBER	ESCROW CD	ASSESSED VALUE	EXEMPTIONS	TAXABLE VALUE	MILLAGE CODE
01-4424-000		48000		48000	06

266
 WELK CHARLES & LINDA
 9987 GUIDY LN
 PENSACOLA FL 32514

9983 GUIDY LN
 BEG AT SE COR OF SEC N ALG
 E LI 3575 FT W 693 FT TO
 W R/W LI OF GUIDY LANE FOR
 POB CONT SAME COURSE 188
 6/10 FT 88 DEG 42 MIN RT 41
 FT 85 DEG 15 MIN RT

First Installment Notice: 2003 Real Estate 1013629.0000

AD VALOREM TAXES		
TAXING AUTHORITY	MILLAGE RATE (DOLLARS PER \$1,000 OF TAXABLE VALUE)	TAXES LEVIED
COUNTY OF ESCAMBIA	8.7560	420.29
SCHOOL BOARD OF ESCAMBIA CO.	8.8870	426.58
N.W. FLORIDA WATER MANAGEMENT	0.0500	2.40
M.S.T.U. - SHERIFF	0.7470	35.86
TOTAL MILLAGE		18.4400
AD VALOREM TAXES		885.13

*#2894
6-26-03*

RETAIN THIS
 PORTION
 FOR
 YOUR
 RECORDS

ESCAMBIA COUNTY TAX COLLECTOR * P.O. BOX 1312 * PENSACOLA, FL 32591-1312

NON-AD VALOREM ASSESSMENTS		
LEVYING AUTHORITY	RATE	AMOUNT
FIRE (CALL 595-4960)		50.00
NON-AD VALOREM ASSESSMENTS		50.00

PLEASE
 PAY ONLY
 ONE
 AMOUNT
 SHOWN IN
 YELLOW
 SHADED
 AREA

Payment of this first installment will ensure your participation in the installment plan for 2003 taxes.

COMBINED TAXES AND ASSESSMENTS	935.13	PAY ONLY ONE AMOUNT	See reverse side for important information
	If Paid by the Amount is	Jun 30 2003 219.74	Jul 31 2003 245.47

AMOUNT
 DUE
 IF PAID
 BY



BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

Development Services Department
3363 West Park Place, Pensacola, FL 32505
(850) 595-3475 - Phone
(850) 595-3481 - FAX
www.myescambia.com

Escambia County Planning Board

Public Hearing
Speaker Request Form

Please Print Clearly

Rezoning Quasi-judicial Hearing OR Regular Planning Board Meeting
Rezoning Case #: 2011-17 Agenda Item Number/Description:

In Favor Against _____

*Name: BUDDY PAGE

*Address: 5337 HAMILTON LN *City, State, Zip: PACE FL 32571

Email Address: budpage1@mchsi.com Phone: 232-9853

Please indicate if you:

- would like to be notified of any further action related to the public hearing item.
- do not wish to speak but would like to be notified of any further action related to the public hearing item.

All items with an asterisk * are required.

Chamber Rules

1. All who wish to speak will be heard.
2. You must sign up to speak. This form must be filled out and given to the Clerk in order to be heard.
3. When the Chairman calls you to speak, come to the podium, adjust the microphone so you can be heard, then state your NAME and ADDRESS for the record.
4. Please keep your remarks BRIEF and FACTUAL.
5. Everyone will be granted uniform time to speak (normally 3 - 5 minutes).
6. Should there be a need for information to be presented to the Board, please provide 13 copies for distribution. The Board will determine whether to accept the information into evidence. Once accepted, copies are given to the Clerk for Board distribution.
7. During quasi-judicial hearings (i.e., rezonings), conduct is very formal and regulated by Supreme Court decisions. Verbal reaction or applause is not appropriate.



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Escambia County Planning Board

Public Hearing
Speaker Request Form

Please Print Clearly

Rezoning Quasi-judicial Hearing

Regular Planning Board Meeting

Rezoning Case #: 2-2011-17

OR

Agenda Item Number/Description: _____

In Favor Against

*Name: CHARLES WELIC

*Address: 9987 GARDY LANE *City, State, Zip: PENSACOLA FL 32505

Email Address: _____ Phone: 850-477-9686

Please indicate if you:

- would like to be notified of any further action related to the public hearing item.
- do not wish to speak but would like to be notified of any further action related to the public hearing item.

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Escambia County Planning Board

Public Hearing
Speaker Request Form

Please Print Clearly

Rezoning Quasi-judicial Hearing

Regular Planning Board Meeting

Rezoning Case #: Z-2011-17

OR

Agenda Item Number/Description:

In Favor [check] Against

*Name: Duffy Meligan

*Address: 10,000 Guidy Lane *City, State, Zip: Pensacola FL 32514

Email Address: dmeligan@yahoo Phone: (850) 255-6762

Please indicate if you:

- [checked] would like to be notified of any further action related to the public hearing item.
[] do not wish to speak but would like to be notified of any further action related to the public hearing item.

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Escambia County Planning Board

Public Hearing
Speaker Request Form

Please Print Clearly

Rezoning Quasi-judicial Hearing

Regular Planning Board Meeting

Rezoning Case #: Z-2011-17

OR

Agenda Item Number/Description:

In Favor V Against

*Name: Steven White

*Address: 990 Candlestick Dr *City, State, Zip: Pensacola, FL 32514

Email Address: nevels73@nevels73@gmail.com Phone:

Please indicate if you:

- [X] would like to be notified of any further action related to the public hearing item.
[] do not wish to speak but would like to be notified of any further action related to the public hearing item.

All items with an asterisk * are required.

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RESUME OF THE REGULAR BCC MEETING – Continued

GROWTH MANAGEMENT REPORT – Continued

I. PUBLIC HEARINGS – Continued

1. Continued...

Recommendation: That the Board take the following action concerning Rezoning Case Z-2011-17 heard by the Planning Board (PB) on October 10, 2011:

- A. Review and either adopt, modify, overturn, or remand to the Planning Board, the Planning Board's recommendation; and
- B. Authorize the Chairman to sign the Order of the Escambia County Board of County Commissioners for the Rezoning Case that was reviewed, as follows:

- (2) Case Number: Z-2011-17
- Location: 9991 Guidy Lane
- Property Reference Number: 07-1S-30-1018-000-000
- Property Size: .35 (+/-) acre
- From: R-2, Single-Family District (cumulative), Low-Medium Density (7 dwelling units per acre)
- To: R-6, Neighborhood Commercial and Residential District (cumulative), High Density (25 dwelling units per acre)
- FLU Category: MU-U, Mixed Use-Urban
- Commissioner District: 5
- Requested by: Wiley C. "Buddy" Page, Agent for Charles F. and Linda Welk, Owners
- PB Recommendation: Denial

Approved 5-0 to remand the Case to the Planning Board to evaluate the locational criteria and consider the possibility of R-5 or R-6

Speaker(s):

Wiley C. "Buddy" Page
Charles F. Welk

NOVEMBER 3, 2011
REZONING CASE Z-2011-11
CHARLES F. AND LINDA WELK

Commissioner Kevin W. White, Chairman (White)
Commissioner Grover C. Robinson IV (Robinson)
Commissioner Wilson B. Robertson (Robertson)
Commissioner Gene M. Valentino (Valentino)
Charles R. "Randy" Oliver (Oliver)
Alison Rogers (Rogers)
T. Lloyd Kerr (Kerr)
Wiley C. "Buddy" Page (Page)
Charles Welk (Welk)

Kerr Next item on the agenda is zoning case 2011-17, 9991 Guidy Lane. The request is to rezone from R-2 to R-6 and the Planning Board recommended denial of this petition.

White: We have two speakers. First one is Buddy Page and Buddy I notice at the top of your speaker request it says you'll accept R-5?

Page Mr. Chairman, Buddy Page. Yes sir, Mr. Commissioner. We had presented this and originally requested R-6 and still would ask consideration for that this evening. The reason several-fold, as follows: most all of us know that Guidy Lane is one mile long, dead ends into Greenbrier and Nine Mile Road. Along that roadway, Mr. Chairman, there is a diversity of zoning categories. We have C-2 on one end, C-1 on the other, and between the two we have other spots of C-2 zoning, R-3, R-2, and R-5. We felt like a request for R-6 that would allow Mr. Charles Welk to move his business off of – he's just off of Fairfield Drive he's had a tremendous drainage problem down in there for years, he's owned this property on Guidy Lane four years and we felt like that an R-6 would allow him to have a small built-in area behind an existing building to continue to carry on his operation. We had several people speak that night, but as a matter of fact, right across the street from the speaker that opposed this being an R-6 actually was a C-2. But his concern, and he may be here this evening to speak for himself, but he was concerned that R-6 three doors down was not in his best interest even though C-2 was right across the street from him. So while we still would desire R-6, that was our original request, the Board labored over this as you may read in the background, because one of the questions that the Board raised was if you take an R-5 you're going to have to have a conditional use in order to build that into the back and if you want to pursue that you're going to have to come right back before this committee because the County has now combined planning and

NOVEMBER 3, 2011
REZONING CASE Z-2011-11
CHARLES F. AND LINDA WELK

the Board of Adjustment so you're going to have to come back to this same Board to make the same request for the different of zoning category. So, Mr. Chairman, the summary of it was that we wanted the Board to go ahead and vote on it – they voted against us for that – we still would make that as our initial request here this evening because we think, given the diversity of the land use in that area that the impact of what Mr. Welk does with two or three employees in the back of an existing building would have a de minimus impact on that neighborhood. As you may well know, he's virtually surrounded by multi-family now. And if you take a look at the overall area on either side of Guidy Lane you have very nice subdivisions that either connect up to Greenbrier or down to almost to the intersection of Nine Mile Road. Very few of them come out onto Guidy. That is a very busy intersection you know the DOT with the traffic light on the south end we cited all of these as reasons for and to support our request, but the Planning Board was just troubled with that but that would be our primary request to be R-6, Mr. Chairman.

White Charles Welk.

Robertson Before he comes, can I ask a question? Buddy, I was not even aware this was coming today and I'm familiar with the area. I used to represent that district, but – and I know you don't serve on the Planning Board. What did staff recommend to the Planning Board as far as R-6. I thought R-6 was designed just for this type of use where you're in a residential neighborhood and you can only have up to a certain square feet, no alcoholic beverages, and all that. So how did staff recommend?

Kerr The staff findings had several of the criteria, or found that several of the criteria were not met in terms of the review. Whether it met the Land Development Code and the requirements of the Comprehensive Plan. Among those was the locational criteria. Inside of the Land Development Code if – it requires that R-6 be located along a collector or an arterial road or within a specified distance from those intersections. Guidy Lane is still considered to be a local road and that was one of the things that was problematic. I did want to address for a second..

White But, Lloyd before you leave that, but doesn't the LDC allow for the Planning Board they can decide whether they (indecipherable) locational criteria?

Kerr The Planning Board could decide if they want to waive that criteria and that was not – because they recommended denial of course that issue was never fully

NOVEMBER 3, 2011
REZONING CASE Z-2011-11
CHARLES F. AND LINDA WELK

discussed but the Planning Board does have the ability to waive locational criteria. One other mention, Mr. Page mentioned that there was some discussion about the Planning Board and the Board of Adjustments being the same Board and that, just for clarity's sake, that's not the case. We have a separate Board of Adjustments as well as with a separate Planning Board which does handle, among other things, rezonings. And I'll be glad to answer any other questions the Board might have.

Robinson The Planning Board had – there was significant discussion about going to an R-5. In fact I think it would have passed the Planning Board because the discussion I had – if it had gone R-5, but Buddy asked that the R-6 be taken up and wanted a vote and that was what was denied. I think based on my understanding of what I see in the record, I could support an R-5. It appeared that the Board was looking to be supportive of an R-5.

Welk Charles Welk (address). There is an existing structure there and that's the only structure we're going to use. We're not going to add to it, we're not going to put any sheds up. We had thought at one time we would but now we're just going to use it for an office. And that's the only (Robinson coughed over)

Kerr One other thing, Mr. Chairman, if I may, that I might mention, is that the – as an R-5, the stated use, although we don't particularly – we never decide zonings based on an end use. I don't know whether that would serve Mr. Welk's purposes, at least as he stated in his – and Mr. Page – in their presentation of what their end use of the property is going to be. And that may be a consideration for Mr. Welk. R-5 allows for professional offices. It's our understanding that Mr. Welk was looking for the ability to also have warehouse type facility there in order to store some materials. R-6 does not specifically allow for a warehouse; however, Mr. Page in his presentation did mention that the Planning Board had the ability to determine if a similar use was compatible to the listed permitted uses and again the Board never made that determination. And again did not make any determination based on the waiving of the locational requirements.

Robinson I'm confused. If you just want to store something I mean as long as it's indoor storage I don't see where that's one way or the other.

NOVEMBER 3, 2011
REZONING CASE Z-2011-11
CHARLES F. AND LINDA WELK

- Kerr The R-5 provides for professional offices. It was our understanding from Mr. Welk that he was seeking the ability to have a warehouse on site. Warehousing is not permitted in R-5.
- Robinson Or R-6.
- Kerr Nor in R-6. There is a provision for mini-warehouses as a conditional use. However, when Mr. Page made his initial presentation, and this is reflected in the minutes from the meeting, he did bring attention to item #9 under the list of permitted uses in R-6. the Item #9 states that and I'm paraphrasing, other similar or compatible uses to the permitted uses as determined by the Planning Board.
- Robinson But, Lloyd, what I was saying is I think if the gentleman wants to simply use the structure that's there and store things on the inside I don't see where that's the issue. I think we're getting into terminology of what is a warehouse.
- Kerr The only reason I bring it up is I did not I wanted to make it clear that warehousing was not permitted in an R-5 should Mr. Welk be granted the rezoning of the property and present the Development Services Department with a Development Order application we would not be able to approve that because it would not be – an application for a warehouse, we would not be able to approve that so I'm bringing it up because it may become problematic for Mr. Welk in the future.
- Robinson But there's nothing wrong with – the picture that's right above us, the picture that's there – he can put things in that place and he can store them and whatever else is there we have no – that is not what I call a warehouse. Whether he chooses to put things in there or not doesn't change the use.
- Kerr Again, I just wanted to make sure that we were clear that should he present a request to obtain a Development Order for a warehouse on the property that there would be a difficulty in getting an approval for that because of the fact that R-5 does not permit that.
- Robinson OK. I think we're saying two different things, but I understand what you're saying.
- Robertson Lloyd, do I understand what you're saying? The Planning Board could've waived the locational criteria and all the other findings were favorable for an R-6?

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- Kerr No, sir, they were not. But the Planning Board could have waived the locational criteria for R-6, but they did not do so obviously because they recommended denial. But if you'll give me just a minute I'll get to the – turn to the staff findings here and we can take a look at all of those.
- Robertson And can you put it back on where all the surrounding properties – you say there's a C-1 in that area?
- White C-2.
- Robertson I mean a C-2.
- Robinson The red
- Kerr Yes, sir. That large – those two parcels at the bottom of the circle there are both zoned C-2.
- White Lloyd you don't have to do all that 'cause I'm going to pass the gavel and make a motion.
- Robertson All right. Commissioner White.
- White Alison, you may have to help me with this. It's been a long time since I've done one of these off the cuff. Under criterion – I'm going to move that we overturn the Planning Board under Criterion Three, find it erroneous where they said the proposed amendment is not compatible with surrounding uses because the surrounding uses are C-2, R-5, R-3. is that sufficient enough, Alison? That's my motion.
- Valentino Can you repeat it.
- White I'll move under Criterion Three to overturn the Planning Board and grant the R-6 because it's erroneous the Planning Board found it is not compatible with surrounding existing uses because you have commercial basically right across the street, just about it.
- Robertson Second? (second not audible) All right, any discussion? Please vote.

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- Robinson Whoa, whoa, whoa, I hit my speaking button real quick tried to get your attention.
- White Well, he's chairing.
- Robertson I couldn't see it way down there (laughter).
- Robinson I'm sorry about that. I guess – in a lot of ways, Commissioner White, I understand exactly where you're going and I don't in many ways necessarily disagree with you, other than the fact that the Planning Board seemed to have considerable deliberation between this R-6/R-5 issue and I think the R-5 would've gone. I think in overturning it I think my comments are simply to I think the Board took an awful lot of discussion on that I agree with you I don't necessarily have a problem with R-6 in that stretch there is a number of different zones in that area of Guidy, but again, I think in some ways by them not taking some type of action on this I see that being problematic, which I said before I would totally do R-5. and I don't necessarily have a problem with R-6, I just have a problem with the fact that the Board didn't take that and they seemed to have spent considerable time on this discussion.
- White And I appreciate the Planning Board and they do an excellent job. I'm not knocking them but we've overturned them before.
- Robertson Many times.
- White Many times.
- Valentino That's correct.
- Kerr Mr. Chairman, also if I may, just to remind the Board that this property does not meet the locational criteria for R-6 zoning. And the Planning Board, only the Planning Board has the authority to waive that requirement. I just make sure that you're aware of that.
- Rogers Yeah, I was going to ask what you want to do about the locational criteria. You know, one option here would be the potential of remanding it back to the Planning Board and specifically ask them to address the locational criteria and the possibility of an R-5 or an R-6, depending on whichever they're happier with, but that would be a possibility.

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Robertson Commissioner Valentino.

Valentino Mr. Chairman, I believe it is consistent with the location criteria. This is not the first time presented to us a use within a circle that had similar uses. Now this property is "adjuxt" to multifamily, which is, or could be, R-6, as well. Not to mention the commercial a block away. The concern I have is not whether this – we grant R-6 because I do favor R-6 – not – because I don't see a clarity in denying them. I do believe it is consistent and as – and this Lloyd is consistent with what we talked about this morning in wanting – in our workshop to get some clarity and definition to some of the not only the zoning categories but some of the meanings behind some of the uses. There's – I'm going to vote in favor – when there's ambiguity you will find me voting in the future in favor of the applicant when there is ambiguity in our decision-making process – in our criteria. And I believe this is ambiguous. When you've got other categories of use that are similar and adjacent to it I concur with Commissioner White on this. It's got to stick out as very inconsistent for it to be called inconsistent.

White Lloyd, if the C-2 met the locational criteria certainly R-6 would've met the locational criteria.

Kerr I'm sorry, I didn't hear you.

White if the C-2 that's right down the road from it met locational criteria

Kerr Well there was – that C-2 zoning, I don't know when that was put into place. I don't know whether or not there was even locational criteria that was required.

Valentino That's the ambiguity.

White That's been done since I've been here. I kind of remember that one.

Kerr I can tell you that there was a recent application for a Development Order there that was denied because it did not meet the locational criteria. Guidy Lane is a local road and commercial development is required to be along a collector or an arterial or a specified distance – it says neighborhood and commercial uses shall be located along a collector or arterial road and near a collector, collector/arterial or arterial/arterial intersection and must provide a smooth transition between commercial and residential intensities.

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- White If my memory serves me correct, there's mini-warehouses on that road now.
- Kerr Pardon me.
- White There's a mini-warehouse already on that road.
- Kerr I don't know. I can't verify that.
- White Isn't that right? Isn't there a mini-warehouse right there close to the ballpark?
- Valentino And that's the ambiguity I'm talking about.
- Robertson Any further discussion?
- Oliver Mr. Newsom texted me and he said that Guidy Lane functions as a collector. If you have any questions.
- Rogers If, you guys, please, you can't go outside the record that we have here. So if there are questions about that that's a perfect thing to remand back to the Planning Board for discussion.
- Robinson That's exactly why I pushed my button. I would like to offer a substitute motion.
- White Hang on. I'll save you the trouble. I'll withdraw my motion.
- Robinson OK. I'd like to offer a motion that we remand this back to the Planning Board and we would like them to resolve this issue of the locational criteria and between what they were looking to do with R-5 and R-6. I think those would be things we need them to – and they have the ability to look at this and they need to evaluate the whatever the criteria
- Rogers Locational criteria.
- Robinson Locational criteria. They need to answer that question before it comes back to us.
- White Buddy. Oh, do we have a second?

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- Page Mr. Chairman, just one brief observation if I can. Mr. Kerr just read something that was very important. I was going to read it myself. Neighborhood locational criteria for R-6 – it's one sentence. "Neighborhood commercial uses shall be located along a collector or arterial roadway and near a collector, collector/arterial, or arterial/arterial intersection and must provide a smooth transition between commercial and residential density." "And near" is what it says. And that's what we're hanging our hat on. It says near and certainly that intersection is near University Parkway and Nine Mile Road, it's very near Chemstrand Road – it is near and that's what we were – that was our interpretation of the word.
- Robinson I think if it's remanded back to them, if I could get a second, this would allow them to evaluate and take this new information into their discussion and deliberation and be able to move that and all this evidence be taken up at that point and brought forward to us.
- White And as bad as I hate to do it, I think that is the proper thing to do at this point.
- Robinson Well, do I have a second?
- Young I'll second.
- Valentino Well, I couldn't support it because I don't believe that – nothing's changed. They should've taken that criteria into account in the first place and that's been my point there's ambiguity in the interpretation in the first place.
- White But in their –the Planning Board's defense, they did not know that road was functioning as a collector roadway. I think if they'd known that...
- Robinson That's why I want that back ...
- Valentino Then let's just continue forward with the acceptance of R-6. Because once they realize it's a collector roadway they'd grant R-6.
- Kerr Mr. Chairman, if I could. If the motion is to remand it to the Planning Board, I would ask that you remand it to the January Planning Board to give us – to make sure we make all of the deadlines and so forth.
- Robinson You've discussed this once. What will be difficult about discussing it again?

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- Valentino Well, then, if it has to go that far, if you're pulling the motion, I'd make the motion Mr.. Chairman, to
- White He's got a motion and a second on the floor now.
- Valentino on the floor? That was Grover's substitute?
- Robinson No, it is the motion.
- White No, I withdrew my motion.
- Robinson If you want to make a substitute motion, you can.
- Valentino My substitute motion would be to accept the applicant's request to R-6.
- Robertson I'll second that.
- Robinson You have to give a reason.
- Valentino And the reason is that the under-riding cri – I disagree with Items 1, on the under-riding criteria, that it is consistent with the locational criteria and there's nothing material that is inconsistent with that.
- Robinson Lf you do that, though, you're setting him up to be potentially – anybody could do this because you have not – that new evidence has not come forward and it needs to go through the proper channels to protect the individual who you're trying to help.
- Valentino May I respond to that? That is not his problem, it's ours. And if we can't get it right then he shouldn't be held hostage to that problem.
- White But, Gene, he could be held hostage because of this. Because the Planning Board's the only one that waive the locational criteria requirement.
- Valentino Well, they should've in the first place.
- White We'll hamstring him if we do it this way.

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- Valentino So, the Planning Board didn't know about the certain condition of the road and that's one of the criteria for them denying it.
- White It wasn't in the testimony.
- Valentino And it wasn't in the testimony. So, now if it goes back to the Planning Board they can't include it at that point either because it's – wasn't in the testimony
- Rogers It can.. Yes they can. That's the whole point.
- Valentino Well, then why not save that step and just accept R-6?
- White Because the Planning Board's the only one who can waive the locational criteria./ We can't.
- Valentino We can. We can over-ride. We can change any Planning Board action.
- Rogers We also have to be careful here because apparently, which also is not in the record, for purposes of this determination, but your staff is telling you you've got someone across the street who's had a Development Order denied so you don't want to get somebody in such a situation where they get over the first hurdle only to hit a wall because they can't go any further.
- Kerr And Mr. Chairman, if I may. I would also tell you that the Ordinance says located along a collector or arterial or near and so forth, but it doesn't say or a road acting as a collector or arterial or functioning as – it says as a collector. And currently that road is classified as a local road and that's what we have to use regardless of what the function until there's a new classification so I understand the way that the road functions, but we're – the Ordinance does not give us that latitude.
- Robinson There's a substitute motion on the table.
- White I know.
- Robinson Mr. Chairman, whatever you want to do.
- White Well, we've got to vote here in a minute. Buddy, you going back to the Planning Board.

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Page Mr. Chairman, time is of the essence in Mr. Welk's case. You might want to speak to that directly, Mr. Welk.

Welk The County's wanting to go ahead and close on my existing warehouse and I need to move my offices someplace. If the County has no problem with holding off in closing on my property, I have no problem.

White Well, I can't speak to that because I don't

Valentino One question, Mr. Chairman. Alison – or Lloyd, excuse me. What's the Future Land Use say that area is?

Kerr Mixed Use Urban.

Valentino Which would qualify it anyway.

Robinson Yeah.

Valentino So, someday, someone else coming in next door looking at the Future Land Use Map, could say "hey, I could put a warehouse there because the Future Land Use Map, which is the vision of where we're going, says that that's an OK use.

Kerr Well, not necessarily. I mean, they might. Because it says Mixed Use Urban does not necessarily mean that it's an appropriate site for any particular use that's allowed in that area – in that Mixed Use Urban.

Valentino Well, I don't sense that this is an industrial complex warehouse. I sense it's a use of an existing shelter from the testimony (someone, maybe Mr. Welk, said "that's correct").

Robertson I just want to ask, since this is your District, Commissioner White, and just ask you, earlier when you gave me the gavel, what was – I've forgotten it – what was your criteria for overruling the Planning Board?

White Well, I just don't want to approve the R-6 and then he goes to the next step and hits a brick wall, like Alison was saying, 'cause we did one to a C-1 not too long ago and the Future Land was residential so as soon as they went to get a Development Order they were dead in the water.

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- Rogers The point which was made earlier which is that you want to make sure in your decisions that you are protecting the applicant as well as the opposing people. If you make a decision which is in violation of your Ordinance, or doesn't strictly follow your Ordinance, or otherwise takes, for example, testimony into consideration that was not presented below, or doesn't provide due process, those are situations in which you can open up your decision to be challenged and so remember here that even though you want to get to the right end for everyone involved, you also want to protect everybody by doing it according to your procedures.
- Robertson Could I ask one other question of Mr. Page, who is a professional that's done this for many, many, many years? If we were to approve R-6 does this put your client, in your opinion, in jeopardy? You know the Ordinances, we want to hear both sides. How do you feel?
- Page Mr. Chairman, if R-6 is granted this evening , I think that any effect on the negative side for Mr. Welk would be dominium at best,
- Robertson I just can't imagine – we have over the years we have for various reasons we have absolutely overruled decisions on the Planning Board I think in every district. I can't recall anyone that hasn't (indecipherable)
- White I'm OK with doing it. I just – like I said, don't want him to hit a brick wall.
- Robertson And I understand that. That's why I wanted to hear from the profession that's representing him and see what they thought because if we do him more harm than good we don't want to do it so
- Valentino The brick wall is the Development Order?
- White It could be if he was going to expand or (mixed discussion).
- Robinson I've asked to speak. And, Buddy, you are an expert at this and I appreciate it but you don't have a law degree and I know you weren't practicing law on your opinion, but let me ask the question – and I'd like to ask this in a very clear way. If we approve something and we take in, in making that approval, evidence that was not heard outside the quasi-judicial situation, to the County Attorney, and

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somebody, because there are active citizens, and a neighbor decides he wants to file a challenge, what would happen to the applicant at that time?

Rogers If the challenge were filed, then we go to Circuit Court and the Circuit Court Judge makes a determination whether or not anything was violated and if so it gets remanded back to start from scratch.

Robinson Seeing that there are neighbors that are not appreciative exactly of where we're going I think the best action for this Board would be to send this thing back and I think there's been considerable discussion. Lloyd, clearly you've heard everything that people have said tonight, and the problems that're there to be – and to put in testimony with Mr. Newsom and all the other things that those things can be heard by the Planning Board and it would be the appropriate thing to do for the applicant. Otherwise I fear you're going to set him up to put in a potential to be in legal purgatory, which I don't think does him any good anyways. But that's just my opinion.

Page Mr. Chairman, the actions that are being contemplated here this evening between R-6 and R-5, we notified, if I'm not mistaken, staff can correct me, but I believe it was 73 individuals, property owners, we had two to show up at the hearing. One opposed and you indicated you only have two speakers this evening?

White Yeah, just you and Mr. Welk.

Page So we are the two speakers here this evening. So while there may be some active folks in the community, a Chapter 120 proceeding would be something that anyone can initiate whether it's us or anyone else, within 30 days after this Board takes action anyway.

White That's right. And, Alison, they do have 30 days to (incomplete)

Young Mr. Chairman, I was just going to say that our Attorney has told us that we would be going against our own Ordinance if we don't follow the procedure. So why not follow the correct procedure and do the right thing and we don't have to come back on it anymore.

White Alison, would we be going against the Ordinance if we overturned it? Our own Ordinance?

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Rogers I think you have a couple of items here that, yes, potentially you're not following the letter of your own Ordinance.

White OK. We have a substitute motion on the floor. And that's to overturn the Planning Board to R-6. Any further discussion? Please vote. Motion fails 3-2. Now we're back to the motion of sending it to the Planning Board and I think, I hate to do it, but that's the proper way to do it, Buddy. You know? I don't want to be going against our Ordinance. Please vote. Motion carries 5-0.

Planning Board-Rezoning

Item #: 5. B.

Meeting Date: 01/09/2012
CASE : Z-2012-01
APPLICANT: Jesse W. Rigby, Agent for James Hinson, Jr.
ADDRESS: 9869 N Loop Rd
PROPERTY REFERENCE NO.: 13-3S-31-7101-000-001;
14-3S-31-2101-000-000
FUTURE LAND USE: MU-S, Mixed Use Suburban
COMMISSIONER DISTRICT: 2
OVERLAY AREA: AIPD-1, APZ-1 & AIPD-2
BCC MEETING DATE: 02/02/2012

Information

SUBMISSION DATA:

REQUESTED REZONING:

FROM: RR, Rural Residential District, (cumulative) Low Density

TO: AMU-2, Airfield Mixed Use-2 District (cumulative to AMU-1 only)

RELEVANT AUTHORITY:

- (1) Escambia County Comprehensive Plan
- (2) Escambia County Land Development Code
- (3) Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469 (Fla. 1993)
- (4) Resolution 96-34 (Quasi-judicial Proceedings)
- (5) Resolution 96-13 (Ex-parte Communications)

CRITERION (1)

Consistent with the Comprehensive Plan.

Whether the proposed amendment is consistent with the Comprehensive Plan.

FLU 1.3.1 Future Land Use Categories. The Mixed-Use Suburban (MU-S) Future Land Use (FLU) category is intended for a mix of residential and nonresidential uses while promoting compatible infill development and the separation of urban and suburban land uses. Range of allowable uses include: Residential, Retail and Services, Professional Office, Recreational Facilities, Public and Civic. The minimum residential density is two dwelling units per acre and the maximum residential density is ten dwelling units per acre.

FLU 4.1.2 Airfield Influence Planning Districts. Escambia County shall provide for Airfield Influence Planning Districts (AIPDs) as a means of addressing encroachment, creating a buffer to lessen impacts from and to property owners, and protecting the health, safety and welfare of citizens living in close proximity to military airfields. The overlay districts shall require density and land use limitations, avigation easements, building sound attenuation, real estate disclosures, and Navy (including other military branches where appropriate) review of proposed development

based on proximity to Clear Zones, Accident Potential Zones (APZs), aircraft noise contours, and other characteristics of the respective airfields. The districts and the recommended conditions for each are as follows:

A. Airfield Influence Planning District-1 (AIPD-1): Includes the current Clear Zones, Accident Potential Zones and noise contours of 65 Ldn and higher, (where appropriate) as well as other areas near and in some cases abutting the airfield.

1. Density restrictions and land use regulations to maintain compatibility with airfield operations; and
2. Mandatory referral of all development applications to local Navy officials for review and comment within ten working days; and
3. Required dedication of avigation easements to the county for subdivision approval and building permit issuance; and
4. Required sound attenuation of buildings with the level of sound protection based on noise exposure; and
5. Required disclosure for real estate transfers.

B. Airfield Influence Planning District-2 (AIPD-2): Includes land that is outside of the AIPD -1 but close enough to the airfield that it may affect, or be affected by, airfield operations.

1. Mandatory referral of all development applications to local Navy officials for review and comment within ten working days; and
2. Required dedication of avigation easements to the county for subdivision approval and building permit issuance; and
3. Required sound attenuation of buildings with the level of sound protection based on noise exposure; and
4. Required disclosure for real estate transfers; and
5. No County support of property rezonings that result in increased residential densities in excess of JLUS recommendations.

The three installations in Escambia County - Naval Air Station Pensacola (NASP), Navy Outlying Field (NOLF) Saufley and NOLF Site 8, are each utilized differently. Therefore, the size and designations of the AIPD Overlays vary according to the mission of that particular installation. The Escambia County Land Development Code details and implements the recommendations. The AIPD Overlays Map is attached herein.

MOB 4.2.7 Compliance Monitoring. Escambia County shall monitor development in the AIPDs for compliance with the JLUS recommendations and AICUZ study requirements. Rezoning to a higher density will be discouraged. The compatibility requirements will be revised as the mission of the military facility changes or removed if the facility closes.

FINDINGS

The proposed amendment to AMU-2 is consistent with the intent and purpose of Future Land Use category MU-S as stated in CPP FLU 1.3.1. The current Future Land Use category of MU-S allows for a mix of residential and nonresidential uses while promoting compatible infill development.

CPP FLU 4.1.2 states the Airfield Influence Planning Districts (AIPD) require density and land use limitations, avigation easements, building sound attenuation, real estate disclosures, and Navy review and comment of proposed development and no County support of property rezonings that result in increased residential densities in excess of JLUS recommendations. The AIPD-2 portion is outside the AIPD-1 but close enough to the airfield that it may affect or be

affected by airfield operations.

The County will monitor development in the AIPD areas for compliance with the JLUS recommendations and rezoning to a higher density will be discouraged as per the Comprehensive Plan MOB 4.2.7.

CRITERION (2)

Consistent with The Land Development Code.

Whether the proposed amendment is in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

6.05.02. RR Rural Residential District (cumulative), low density.

This district is intended to be a single-family residential area of low density in a semi-rural or rural environment. This district is intended to provide a transition from urban to rural densities and agricultural uses. The maximum density is two dwelling units per acre. Refer to article 11 for uses, heights and densities allowed in RR - rural residential areas located in the Airport/Airfield Environs.

6.05.04. AMU-2 Airfield Mixed Use-2 District (cumulative to AMU-1 only).

A. Intent and purpose of district. The airfield mixed use-2 district allows a combination of certain commercial uses and residential development within the airfield influence planning district-2 (AIPD-2). The intent and purpose of the AMU-2 district is two-fold: 1) to allow property owners with zoning that allows less density to up-zone to the three d.u./acre limit and 2) to give property owners a commercial-use option without the high cumulative residential density in the existing commercial districts. While the intent is for this zoning district to apply primarily to the AIPD-2 overlay areas, it can also be utilized in other unincorporated areas of Escambia County in which it is compatible with the future land use category, except AIPD-1. Density in the AMU-2 zoning district is limited to three dwelling units per acre.

All commercial development, redevelopment, or expansion must be consistent with the locational criteria in the Comprehensive Plan (Policies 7.A.4.13 and 8.A.1.13) and in article 7.

B. Permitted uses.

1. All uses permitted in AMU-1.
2. Two-family or three-family structures, providing the overall density of three d.u./acre is not exceeded.
3. Medical and dental clinics, including those permitted in AMU-1.
4. Other professional offices of similar type and character as those listed in the previous district.
5. Neighborhood retail sales and services in addition to those listed in previous district.
 - a. Health clubs, spa and exercise centers.
 - b. Studios for the arts.
 - c. Martial arts studios.
 - d. Other retail/service uses of similar type and character of those listed herein.
6. Laundromats and dry cleaners.
7. Restaurants.
8. Recreational activities, including golf courses, riding stables, water recreation, parks and other cultural, entertainment and recreation.
9. Places of worship and educational facilities/institutions.
10. Child care centers.
11. Mini-warehouses, including RV and boat storage, with adequate buffering from residential uses (see buffering requirements below). No ancillary truck rental service or facility allowed without conditional use approval.
12. Automobile service stations (no outside storage, minor repair only).
13. Appliance repair shops (no outside storage or work permitted).

14. Public utility and service structures.
15. Family day care homes and family foster homes.

7.20.05. Retail commercial locational criteria (AMU-2, C-1, VM-2).

A. Retail commercial land uses shall be located at collector/arterial or arterial/arterial intersections or along an arterial or collector roadway within one-quarter mile of the intersection.

B. They may be located along an arterial or collector roadway up to one-half mile from a collector/arterial or arterial/arterial intersection may be allowed provided all of the following criteria are met:

1. Does not abut a single-family residential zoning district (R-1, R-2, V-1, V-2, V-2A or V-3);
2. Includes a six-foot privacy fence as part of any required buffer and develops the required landscaping and buffering to ensure long-term compatibility with adjoining uses as described in Policy 7.A.3.8 and article 7;
3. Negative impacts of these land uses on surrounding residential areas shall be minimized by placing the lower intensity uses on the site (such as stormwater ponds and parking) next to abutting residential dwelling units and placing the higher intensity uses (such as truck loading zones and dumpsters) next to the roadway or adjacent commercial properties;
4. Intrusions into recorded subdivisions shall be limited to 300 feet along the collector or arterial roadway and only the corner lots in the subdivision.
5. A system of service roads or shared access facilities shall be required, to the maximum extent feasible, where permitted by lot size, shape, ownership patterns, and site and roadway characteristics.

C. They may be located along an arterial or collector roadway more than one-half mile from a collector/arterial or arterial/arterial intersection without meeting the above additional requirements when one or more of the following conditions exists:

1. The property is located within one-quarter mile of a traffic generator or collector, such as commercial airports, medium to high density apartments, military installations, colleges and universities, hospitals/clinics, or other similar uses generating more than 600 daily trips; or
2. The property is located in areas where existing commercial or other intensive development is established and the proposed development would constitute infill development. The intensity of the use must be of a comparable intensity of the zoning and development on the surrounding parcels and must promote compact development and not promote ribbon or strip commercial development.

2.08.02.D.7.b Quasi-judicial rezonings Upon the applicant proving the proposed rezoning complies with these criteria, the planning board shall recommend approval of the rezoning request to the board of county commissioners unless the planning board determines that there is substantial, competent evidence that maintaining the current zoning designation accomplishes a legitimate public purpose. For purposes of this section, a legitimate public purpose shall include but not be limited to preventing the following or as may be determined by law from time to time:

b. The proposed rezoning will constitute "spot Zoning" that is an isolated zoning district that may be incompatible with the adjacent and nearby zoning districts and uses, or as spot zoning is otherwise defined by Florida law.

3.02.00 Definitions-"Spot Zoning" Rezoning of a lot or parcel of land that will create an isolated zoning district that may be incompatible with the adjacent and nearby zoning districts and uses, or as spot zoning is otherwise defined by Florida law

FINDINGS

Per LDC 11.02.01.B.4, for parcels split by AIPD boundaries, only that portion of a parcel that falls within the AIPD is subject to the conditions of the AIPD. The proposed rezoning request from RR to AMU-2 is consistent only with the portion of the parcel that is within the AIPD-2 overlay. According to the intent and purpose of the AMU-2 zoning designation (LDC 6.05.04.A) that portion of the parcel within the AIPD-1 cannot be rezoned to AMU-2. Per LDC regulations the parcel could be rezoned to an AMU designation; the western portion in AIPD-2 to AMU-2 and the eastern portion in AIPD-1 to AMU-1. Although this would create a split zone parcel, the protections for the surrounding areas would be met as per Chapter 11.

In addition to the findings stated above, the proposed rezoning request must comply with the locational criteria regulations as described in Criterion 1 for the broad range of commercial and industrial uses within the proposed zoning category of AMU-2. They may meet locational criteria as stated in LDC 7.20.05.C.1. The parcel is located within one quarter-mile from a traffic generator such as medium to high density apartments, generating more than 600 daily trips.

While the proposed zoning category would be isolated, the uses and densities of the zoning designation are compatible with the existing surrounding zoning categories.

CRITERION (3)

Compatible with surrounding uses.

Whether and the extent to which the proposed amendment is compatible with existing and proposed uses in the area of the subject property(s).

FINDINGS

The proposed amendment is compatible with surrounding existing uses in the area. Within the 500' radius impact area, staff observed properties with zoning districts RR, R-6, and C-1. One commercial, one mobile home park, two mobile homes, 26 single family residential, two apartment complexes and seven vacant parcels.

CRITERION (4)

Changed conditions.

Whether and the extent to which there are any changed conditions that impact the amendment or property(s).

FINDINGS

Staff found no changed conditions that would impact the amendment or property within the 500' radius of the subject parcel. As a rule, this measurement is used to review the rezoning request but it does not preclude looking beyond the 500' to see that the area to the North has been developed with a mix of residential and commercial uses.

CRITERION (5)

Effect on natural environment.

Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment.

FINDINGS

As stated in the Comprehensive Plan Policy CON 1.1.2 the County will use the National

Wetlands Inventory Map, the Escambia County Soils Survey, and the Florida Fish and Wildlife Conservation Commission's (FFWCC) LANDSAT imagery as indicators of the potential presence of wetlands or listed wildlife habitat in the review of applications for development approval. AMU-2 allows for clustering, planned unit developments and density transfers to avoid impacts to wetlands and more restrictive AIPD areas. Within the total 43.4 (+/-) acre site, the County Soil Survey shows approximately 29.1 (+/-) acres of hydric soils. The applicant provided a boundary survey depicting the wetland areas and during the site plan review process a current wetland survey may be required to determine if there would be any significant adverse impact on the natural environment.

CRITERION (6)

Development patterns.

Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.

FINDINGS

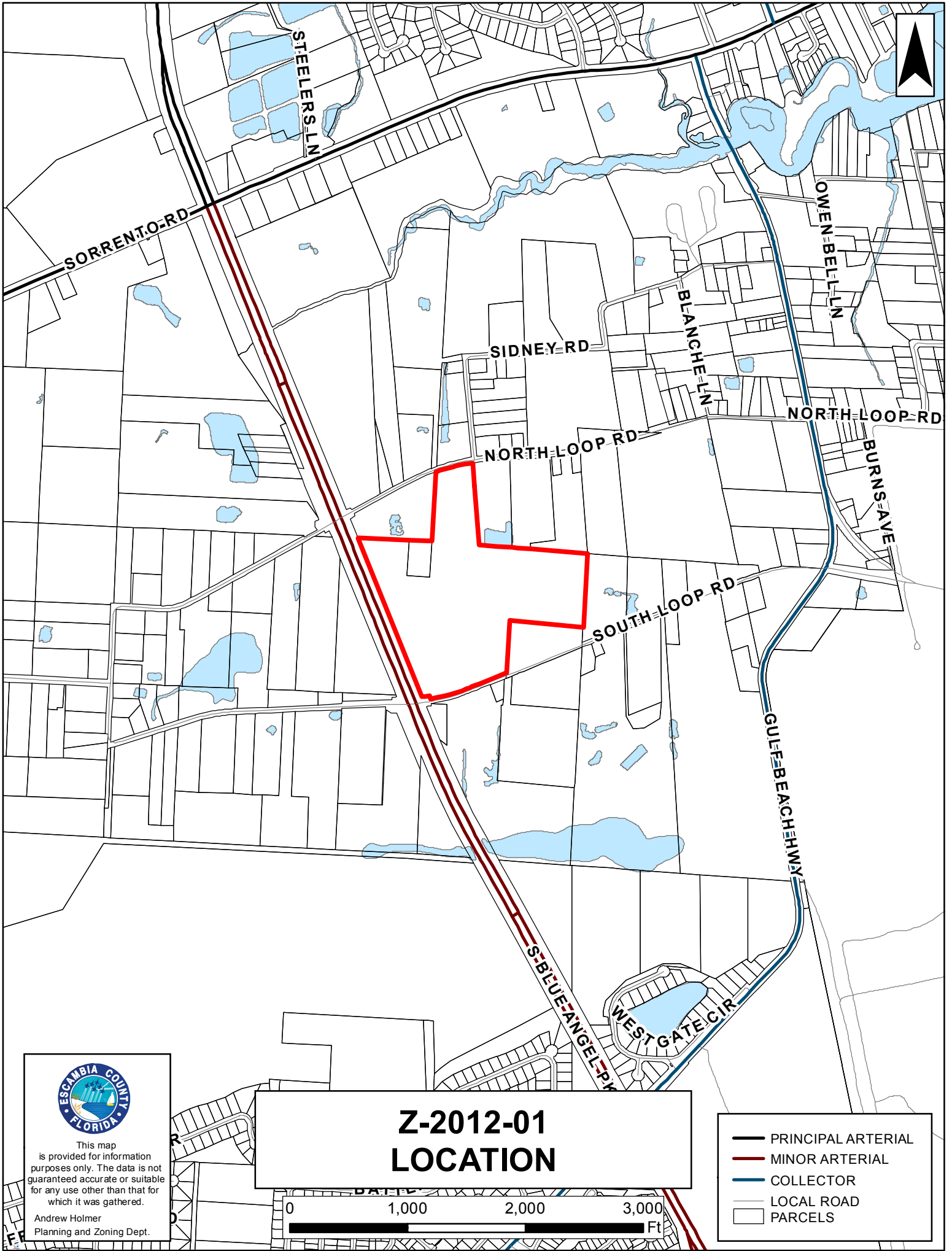
The proposed amendment would result in a logical and orderly development pattern. The parcels adjacent to and in close proximity are existing residential uses; therefore, the rezoning request to AMU-2 and the allowable permitted uses would be in line with the existing development pattern.

Attachments






Z-2012-01

Navy Memo

Z-2012-01



Z-2012-01 LOCATION

-  PRINCIPAL ARTERIAL
-  MINOR ARTERIAL
-  COLLECTOR
-  LOCAL ROAD
-  PARCELS



This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

AG



C-1

SIDNEY RD

NORTH LOOP RD

C-1

R-R

R-R

S BLUE ANGEL PKWY

R-R

SOUTH LOOP RD

R-R

SOUTH LOOP RD

C-1

R-6

R-1

SDD

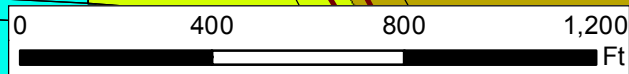
SDD



This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

Z-2012-01 500' RADIUS ZONING



- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD
- ▭ PARCELS



MU-S

MU-S

MU-S

MU-S

MU-S

SIDNEY RD

NORTH LOOP RD

S BLUE ANGEL PKWY

SOUTH LOOP RD

SOUTH LOOP RD

C

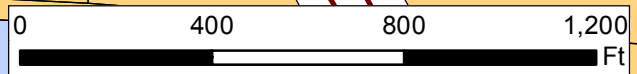


This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

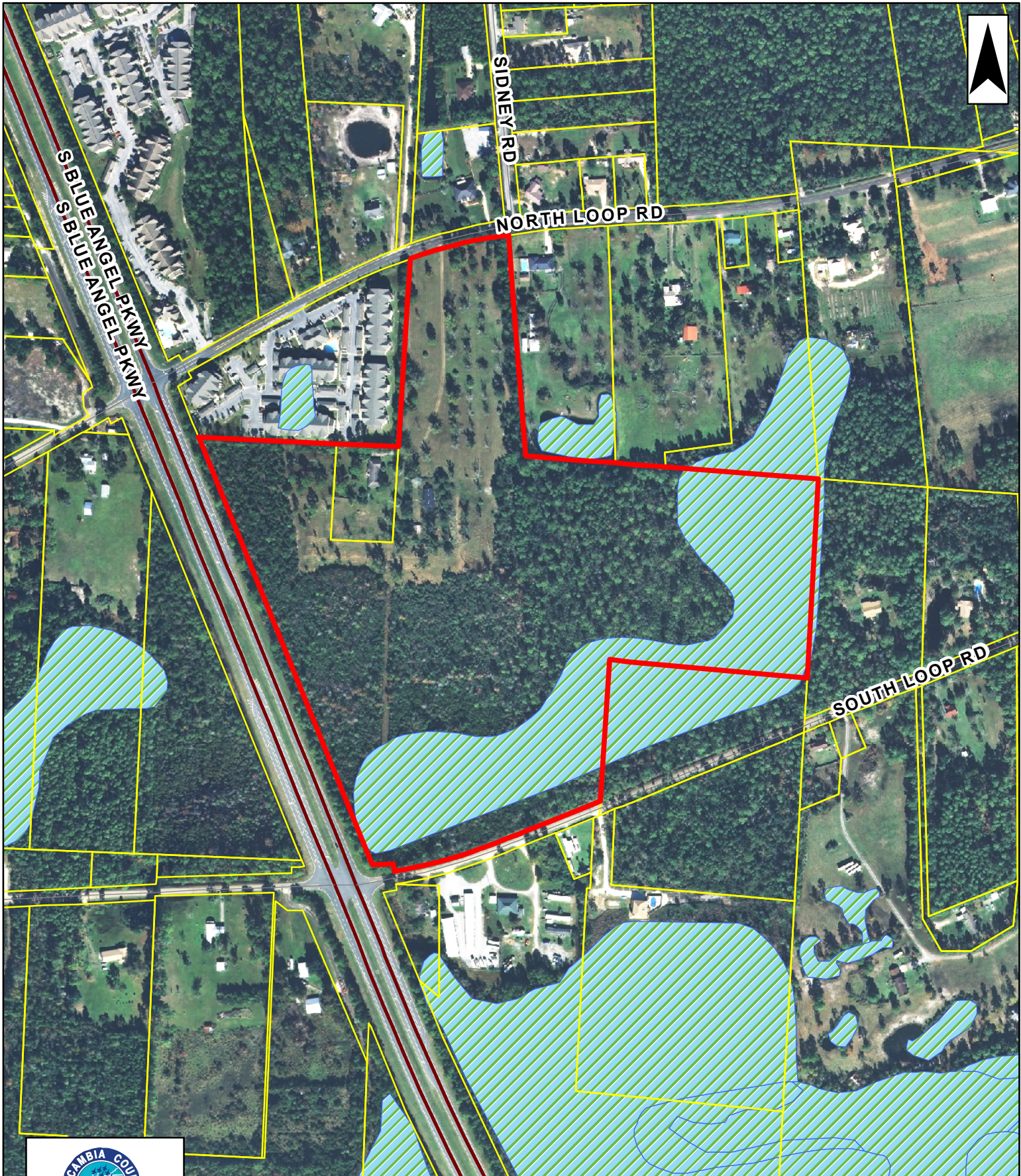
Andrew Holmer
Planning and Zoning Dept.

CON

Z-2012-01 FUTURE LAND USE MAP



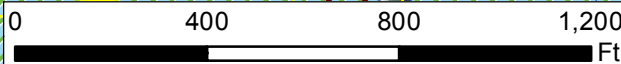
- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD
- PARCELS



This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

Andrew Holmer
Planning and Zoning Dept.

Z-2012-01 AERIAL/WETLANDS



- PRINCIPAL ARTERIAL
- MINOR ARTERIAL
- COLLECTOR
- LOCAL ROAD
- PARCELS
- WETLANDS_2006

CLARK PARTINGTON HART
LARRY BOND & STACKHOUSE

ATTORNEYS AT LAW

Pensacola • Destin • Tallahassee

Jesse W. Rigby
Direct (850) 434-3282
jrigby@cphlaw.com

November 30, 2011

Chairman
Escambia County Planning Board
3363 West Park Place
Pensacola, Florida 32505
ATTN: Alyson Cain, Planning Board Coordinator

**Re: Requests of Knowhow Group USA, Inc. and James C. Hinson, Jr.,
for rezoning of property**

Dear Mr. Briske and Planning Board Members:

I represent James C. Hinson, Jr. and Knowhow Group USA, Inc. ("Applicants") with respect to this request to rezone land from rural residential (R-R) to AMU-2. The properties are identified on the applications filed on behalf of the Applicants, and consist of a parcel of 40 plus acres owned by Knowhow Group USA, Inc. and a smaller adjacent parcel of about 1.3 acres owned by Mr. Hinson. The properties are located adjacent to and east of Blue Angel Parkway, and are located between North Loop Road and South Loop Road.

Other relevant factors are that the properties are in the AIPD-2 overlay district. Mr. Hinson's smaller parcel is in the APZ-2 overlay area (within AIPD-2) and the larger parcel owned by Knowhow Group USA is split between the APZ-2 overlay in the western portion of the property and the APZ-1 overlay in the eastern portion of the property. Within AIPD-2, the APZ-1 overlay restricts residential development to one dwelling unit per 2.5 acres, with a minimum lot size of 2.5 acres. The APZ-2 overlay allows residential density of three dwelling units per acre, with no minimum lot size.

Exhibit "A" attached to this letters depicts the information described in the previous paragraphs.

It is important to note that AIPD-2, APZ-1 and APZ-2 are NOT zoning districts. Each parcel of land within these overlays carries a separate zoning district classification, and carries the development density associated with the zoning district. At the present time, this zoning district is rural residential for the Applicants' property, which restricts use of the property to two units per acre, with a minimum lot size of one-half acre.

125 West Romana Street • Suite 800 • Pensacola, Florida 32502
P.O. Box 13010 • Pensacola, Florida 32591-3010
Phone (850) 434-9200 • Fax (850) 432-7340
www.cphlaw.com

The property at issue is in the mixed use-suburban (MU-S) future land use category.

With the above background information set out, I will address the six criteria at issue for a rezoning application.

Consistency with the Comprehensive Plan

The proposed amendment to AMU-2 is consistent with the Comprehensive Plan. The MU-S future land use category is designed to accommodate a mix of residential and non-residential uses. For residential uses, the minimum density required by the Comprehensive Plan is two dwelling units per acre, and the maximum density is ten dwelling units per acre. Zoning district AMU-2, at three dwelling units per acre, falls within the allowed range. For non-residential development, the maximum intensity floor area ratio is 1.0. Compliance with this requirement would be addressed at the time of submission of a request for a development order that includes a commercial use.

Consistency with this Code

The proposed amendment to AMU-2 is NOT in conflict with any portion of the LDC, and is consistent with the stated purpose and intent of the LDC.

Section 11.02.03, LDC, provides that density within the AIPD-2 overlay is controlled by the underlying zoning category. Density limits in AIPD-2 are not absolute, meaning clustering, planned unit development and density transfers are permitted. The only additional regulations regarding density are the following:

Rezoning is allowed only to a zoning district that allows three d.u./acre or less. An alternatively mixed-use zoning category that allows commercial uses and limits density to three d.u./acre is offered in place of the current high density commercial zoning districts. (See article 6, zoning districts – AMU-1 and AMU-2.) Properties that currently have density of less than three d.u./acre can apply for an up-zoning to AMU-1, AMU-2 or V-2A, which have a maximum density of three d.u./acre.

Accordingly, not only is AMU-2 consistent with the LDC; it is also one of the three desired/recommended zoning districts for the AIPD-2 overlay.

Compatibility with surrounding uses

A significant portion of the Knowhow Group USA parcel consists of regulated wetlands. The historical development that surrounds the property to the northeast, east, and south is sparsely developed residential. The western portion of the property is bounded by Blue Angel Parkway, with essentially no development immediately to

the west of Blue Angel Parkway. A triangle shaped parcel immediately west of Blue Angel Parkway is also owned by the Hinson family, but is not included in this rezoning application.

The most significant recent development in the area immediately adjacent to the property is the large apartment complex between North Loop Road and Blue Angel Parkway, and adjacent to this property at the northwest corner of the property.

Other significant development changes include the large scale commercial development one half mile to the north at the intersection of Blue Angel Parkway and Sorrento Road. This intersection is now occupied by Wal-Mart, Target, and a convenience store with fuel service, with other commercial development in the immediate vicinity of the intersection. In summary, over the last ten years, the development in the immediate vicinity is primarily commercial and the intensity of development has increased several fold.

A development, primarily of residential uses, in the uplands portion of the properties would be entirely consistent and compatible with the surrounding uses.

Changed conditions

The changed conditions are identified in the previous section, and include the large apartment complex and the significant commercial development a short distance to the north of the property. In summary, the increased development of this area has been significant over the last ten years.

Approximately sixty percent (60%) of the property is in the very restricted APZ-1 overlay district. The imposition of the overlays resulting from the Joint Land Use Study (JLUS) of the late 1990s constitute changed conditions. As a result of this regulation, no longer can the property owner make a commercially reasonable use of the property in the APZ-1 overlay area. However, the current Comprehensive Plan recognizes this impediment and includes, as policy CON 1.3.8 Density Clustering, the following:

Escambia County shall include density clustering provisions in the LDC to avoid development in environmentally sensitive lands, conservation and preservation areas, and Airfield Influence Planning Districts (AIPD) whenever feasible. In the event development must be permitted in such areas, adverse impact shall be minimized through the use of clustering and variance of lot size and setback requirements by the County. Further, development which may impact sensitive natural resources may be required to utilize reduced construction "footprints," modified construction techniques, innovative construction techniques, land use and development techniques which minimize negative environmental impacts or results.

Chairman, Escambia County Planning Board
November 30, 2011
Page 4

The County Commission's recognition of the adverse impact on property owners imposed by regulations derived from the JLUS led to the creation of AMU-2, as one of the three desired zoning districts for these newly restricted areas. This action recognized that these JLUS restricted areas created changed conditions that would have to be addressed in future rezoning decisions.

Effect on natural environment

The proposed change to AMU-2 would have a positive, rather than a negative, impact on the natural environment. AMU-2 allows for planned unit developments and for clustering away from wetlands and the APZ-1 portion of the property. Both should, or at least may, allow the Applicants to make a reasonable and commercially economical use of the property by clustering density to the uplands portion generally located in the northwestern part of the larger tract.

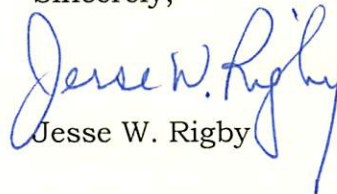
Development patterns

The applicants' request for AMU-2 zoning will allow a reasonable use of the property for residential, and potentially, some limited commercial activities. These future development activities should include clustering of development density to the portion of the property that is within the APZ-2 district, and outside of sensitive wetland areas. Even with clustering, the somewhat denser development patterns should be less intense than the large apartment complex to the immediate northwest, which clearly changed the development patterns in this area.

Summary

For the reasons stated herein, the applicants have demonstrated compliance with each of the six criteria to be evaluated by the Planning Board. Accordingly, we request that the applications to rezone these properties to AMU-2 be approved.

Sincerely,


Jesse W. Rigby

JWR\cw


Enclosures

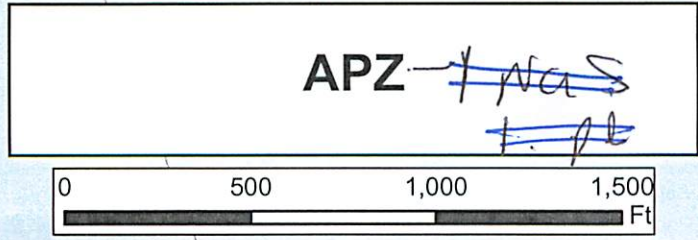
cc: Knowhow Group USA, Inc.
James C. Hinson








A0978132.DOC



Exh. "A"


 This map is provided for information purposes only. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.
 Andrew Holmer
 Planning and Zoning Dept.



-  PARCELS selection
-  sde_vec.ESCAMBIA.aicuz_apz
-  PRINCIPAL ARTERIAL
-  MINOR ARTERIAL
-  COLLECTOR
-  LOCAL ROAD
-  PARCELS



Development Services Department

Escambia County, Florida

APPLICATION

Please check application type:

- Administrative Appeal
- Development Order Extension
- Conditional Use Request for: _____
- Variance Request for: _____
- Rezoning Request from: R-R to: AMU-2

Name & address of current owner(s) as shown on public records of Escambia County, FL

Owner(s) Name: Knowhow Group USA, Inc. Phone: 434-3282 (Agent)

Address: 9869 N. Loop Rd., Pensacola, FL 32507 Email: jrigby@cphlaw.com

Check here if the property owner(s) is authorizing an agent as the applicant and complete the Affidavit of Owner and Limited Power of Attorney form attached herein.

Property Address: 9869 N. Loop Rd., Pensacola, FL 32507

Property Reference Number(s)/Legal Description: _____

14-3S-31-2101-000-000

By my signature, I hereby certify that:

- 1) I am duly qualified as owner(s) or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection and authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff; and
- 5) I am aware that Public Hearing notices (legal ad and/or postcards) for the request shall be provided by the Development Services Bureau.

Jesse W. Rigby
Signature of Owner/Agent

James C. Hinson
Signature of Owner

Jesse W. Rigby, Esquire (Agent)
Printed Name Owner/Agent

James C. Hinson, Jr., Treasurer
Printed Name of Owner

11/30/2011
Date

11/30/11
Date

STATE OF Florida COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 30th day of November, 20 11, by James C. Hinson

Personally Known OR Produced Identification . Type of Identification Produced: FL DL # HS25443 BL4580

Constance M. Weiss
Signature of Notary
(notary seal must be affixed)

Constance M. Weiss
Printed Name of Notary



CONSTANCE M. WEISS
COMMISSION # DD 811149
EXPIRES: Aug. 03, 2012

FOR OFFICE USE ONLY CASE NUMBER: _____

Meeting Date(s): _____ Accepted/Verified by: _____ Date: _____

Fees Paid: \$ _____ Receipt #: _____ Permit #: _____



Development Services Department

Escambia County, Florida

FOR OFFICE USE:

CASE #: _____

CONCURRENCY DETERMINATION ACKNOWLEDGMENT

For Rezoning Requests Only

Property Reference Number(s): 14-3S-31-2101-000-000

Property Address: 9869 N. Loop Rd., Pensacola, FL 32507

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

I/We further acknowledge and agree that no development for which concurrency must be certified shall be approved unless at least one of the following minimum conditions of the Comprehensive Plan will be met for each facility and service of the County's concurrency management system prior to development approval:

- a. The necessary facilities or services are in place at the time a development permit is issued.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For transportation facilities, all in-kind improvements detailed in a proportionate fair share agreement must be completed in compliance with the requirements of Section 5.13.00 of the LDC. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five-Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS 30 DAY OF NOVEMBER, YEAR OF 2011.

James C. Hinson, Jr.
Signature of Property Owner

James C. Hinson, Jr., Treasurer
Printed Name of Property Owner

11/30/11
Date

Signature of Property Owner

Printed Name of Property Owner

Date



Development Services Department

Escambia County, Florida

FOR OFFICE USE:

CASE #:

AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY

As owner of the property located at 9869 N. Loop Rd., Pensacola, FL 32507,
Florida, property reference number(s) 14-3S-31-2101-000-000

I hereby designate Jesse W. Rigby, Esquire for the sole purpose
of completing this application and making a presentation to the:

Planning Board and the Board of County Commissioners to request a rezoning on the above
referenced property.

Board of Adjustment to request a(n) _____ on the above referenced property.

This Limited Power of Attorney is granted on this 30th day of November the year of,
2011, and is effective until the Board of County Commissioners or the Board of Adjustment has
rendered a decision on this request and any appeal period has expired. The owner reserves the right to
rescind this Limited Power of Attorney at any time with a written, notarized notice to the Development
Services Bureau.

Agent Name: Jesse W. Rigby, Esquire Email: jrigby@cphlaw.com

Address: Clark Partington Hart Larry Bond & Stackhouse Phone: 434-3282 (Agent)
125 W. Romana St., Suite 800, Pensacola, FL 32502

James C. Hinson
Signature of Property Owner

James C. Hinson, Jr., Treasurer
Printed Name of Property Owner

11/30/11
Date

Signature of Property Owner

Printed Name of Property Owner

Date

STATE OF Florida

COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 30th day of November 2011,
by James C. Hinson

Personally Known OR Produced Identification . Type of Identification Produced: FL DL # H525443364530

Constance M. Weiss
Signature of Notary

Constance M. Weiss
Printed Name of Notary



(Notary Seal)
CONSTANCE M. WEISS
COMMISSION # DD 811149
EXPIRES: Aug. 03, 2012



Development Services Department

Escambia County, Florida

FOR OFFICE USE

CASE #: _____

APPLICATION ATTACHMENTS CHECKLIST

- _____ 1. For BOA, original letter of request, typed or written in blue ink & **must** include the reason for the request and address all criteria for the request as outlined in LDC Article 2.05 (dated, signed & notarized – notarization is only necessary if an agent will be used).
- ✓ 2. Application/Owner Certification Form - Notarized Original (page 1) (signatures of ALL legal owners or authorized agent are required)
- ✓ 3. Concurrency Determination Acknowledgment form - Original (if applicable) (page 2)
- ✓ 4. Affidavit of Owner & Limited Power of Attorney form - Notarized Original (if applicable) (page 3) (signatures of ALL legal owners are required)
- ✓ 5. Legal Proof of Ownership (e.g. copy of Tax Notice or Warranty Deed). Include Corporation/LLC documentation or a copy of Contract for Sale if applicable.
- ✓ 6. Legal Description of Property Street Address / Property Reference Number
- ✓ 7.
 - a. Rezoning: Boundary Survey of subject property to include total acreage, all easements, and signed & sealed by a surveyor registered in the state of Florida.
 - b. BOA: Site Plan drawn to scale.
- _____ 8. For Rezoning requests: If the subject parcel does not meet the roadway requirements of Locational Criteria (Comprehensive Plan 7.A.4.13 & LDC 7.20.00.), a compatibility analysis to request a waiver or an exemption to the roadway requirements will need to be submitted as part of the application.
- _____ 9. Pre-Application Summary Form, Referral Form, Zoning Verification Request Form and/or copy of citation from Code Enforcement Department if applicable.
- ✓ 10. Application fees. (See Instructions page for amounts) Payment cannot be accepted after **3:00pm**.

Please note: Forms with signatures dated more than sixty (60) days prior to application submittal will not be accepted as complete.

Please make the following three appointments with the Coordinator.

Appointment for pre-application meeting: Held, November 28, 2011

Appointment to turn in application: _____

Appointment to receive findings-of-fact: _____



Development Services Department

Escambia County, Florida

APPLICATION

Please check application type:

Administrative Appeal

Development Order Extension

Conditional Use Request for: _____

Variance Request for: _____

Rezoning Request from: R-R to: AMU-2

Name & address of current owner(s) as shown on public records of Escambia County, FL

Owner(s) Name: James C. Hinson, Jr. Phone: 434-3282 (Agent)

Address: 9869 N. Loop Rd., Pensacola, FL 32507 Email: jrigby@cphlaw.com

Check here if the property owner(s) is authorizing an agent as the applicant and complete the Affidavit of Owner and Limited Power of Attorney form attached herein.

Property Address: 9869 N. Loop Rd., Pensacola, FL 32507

Property Reference Number(s)/Legal Description: _____

13-3S-31-7101-000-001

By my signature, I hereby certify that:

- 1) I am duly qualified as owner(s) or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection and authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff; and
- 5) I am aware that Public Hearing notices (legal ad and/or postcards) for the request shall be provided by the Development Services Bureau.

Jesse W. Rigby
Signature of Owner/Agent

James C. Hinson
Signature of Owner

Jesse W. Rigby, Esquire
Printed Name Owner/Agent

11/30/2011
Date

James C. Hinson, Jr.
Printed Name of Owner

11/30/11
Date

STATE OF Florida

COUNTY OF Escambia

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by James C. Hinson

Personally Known OR Produced Identification . Type of Identification Produced: FL DL #H520443364530

Constance M. Weiss
Signature of Notary
(notary seal must be affixed)

Constance M. Weiss
Printed Name of Notary



CONSTANCE M. WEISS
COMMISSION # DD 811149
EXPIRES: Aug. 03, 2012

FOR OFFICE USE ONLY

CASE NUMBER: _____

Meeting Date(s): _____ Accepted/Verified by: _____ Date: _____

Fees Paid: \$ _____ Receipt #: _____ Permit #: _____



Development Services Department

Escambia County, Florida

FOR OFFICE USE

CASE #: _____

CONCURRENCY DETERMINATION ACKNOWLEDGMENT

For Rezoning Requests Only

Property Reference Number(s): 13-3S-31-7101-000-001

Property Address: 9869 N. Loop Rd., Pensacola, FL 32507

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

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- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For transportation facilities, all in-kind improvements detailed in a proportionate fair share agreement must be completed in compliance with the requirements of Section 5.13.00 of the LDC. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five-Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS 30th DAY OF November, YEAR OF 2011.

James C. Hinson, Jr.
Signature of Property Owner

James C. Hinson, Jr.
Printed Name of Property Owner

11/30/11
Date

Signature of Property Owner

Printed Name of Property Owner

Date



AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY

As owner of the property located at 9869 N. Loop Rd., Pensacola, FL 32507,

Florida, property reference number(s) 13-3S-31-7101-000-001

I hereby designate Jesse W. Rigby, Esquire for the sole purpose of completing this application and making a presentation to the:

Planning Board and the Board of County Commissioners to request a rezoning on the above referenced property.

Board of Adjustment to request a(n) _____ on the above referenced property.

This Limited Power of Attorney is granted on this 30 day of NOVEMBER the year of, 2011, and is effective until the Board of County Commissioners or the Board of Adjustment has rendered a decision on this request and any appeal period has expired. The owner reserves the right to rescind this Limited Power of Attorney at any time with a written, notarized notice to the Development Services Bureau.

Agent Name: Jesse W. Rigby, Esquire Email: jrigby@cphlaw.com

Address: Clark Partington Hart Larry Bond & Stackhouse Phone: 434-3282 (Agent)
125 W. Romana St., Suite 800, Pensacola, FL 32502

James C. Hinson
Signature of Property Owner

James C. Hinson, Jr.
Printed Name of Property Owner

11/30/11
Date

Signature of Property Owner

Printed Name of Property Owner

Date

STATE OF Florida

COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 30th day of November 20 11, by James C. Hinson

Personally Known OR Produced Identification . Type of Identification Produced: FL DL #H525443364520

Constance M. Weiss
Signature of Notary

Constance M. Weiss
Printed Name of Notary



CONSTANCE M. WEISS
COMMISSION # DD 811149
EXPIRES: Aug. 03, 2012



Development Services Department

Escambia County, Florida

FOR OFFICE USE:

CASE #: _____

APPLICATION ATTACHMENTS CHECKLIST

1. For BOA, original letter of request, typed or written in blue ink & **must** include the reason for the request and address all criteria for the request as outlined in LDC Article 2.05 (dated, signed & notarized – notarization is only necessary if an agent will be used).
- ✓ 2. Application/Owner Certification Form - Notarized Original (page 1) (signatures of ALL legal owners or authorized agent are required)
- ✓ 3. Concurrency Determination Acknowledgment form - Original (if applicable) (page 2)
- ✓ 4. Affidavit of Owner & Limited Power of Attorney form - Notarized Original (if applicable) (page 3) (signatures of ALL legal owners are required)
- ✓ 5. Legal Proof of Ownership (e.g. copy of Tax Notice or Warranty Deed). Include Corporation/LLC documentation or a copy of Contract for Sale if applicable.
- ✓ 6. Legal Description of Property Street Address / Property Reference Number
- ✓ 7.
 - a. Rezoning: Boundary Survey of subject property to include total acreage, all easements, and signed & sealed by a surveyor registered in the state of Florida.
 - b. BOA: Site Plan drawn to scale.
8. For Rezoning requests: If the subject parcel does not meet the roadway requirements of Locational Criteria (Comprehensive Plan 7.A.4.13 & LDC 7.20.00.), a compatibility analysis to request a waiver or an exemption to the roadway requirements will need to be submitted as part of the application.
9. Pre-Application Summary Form, Referral Form, Zoning Verification Request Form and/or copy of citation from Code Enforcement Department if applicable.
- ✓ 10. Application fees. (See Instructions page for amounts) Payment cannot be accepted after **3:00pm**.

Please note: Forms with signatures dated more than sixty (60) days prior to application submittal will not be accepted as complete.

Please make the following three appointments with the Coordinator.

Appointment for pre-application meeting: Held November 28, 2011

Appointment to turn in application: _____

Appointment to receive findings-of-fact: _____

House

Janet Holley

Ad Valorem Taxes and Non-Ad Valorem Assessments

Escambia County Tax Collector

REAL ESTATE 2011 62677

Account Number	Payor	Exemptions	Taxable Value	Millage Code
10-1811-500		See Below	See Below	06

HINSON JAMES C JR
 9869 NORTH LOOP RD
 PENSACOLA FL 32507

133S31-7101-000-001 9869 NORTH
 LOOP RD E 200 FT OF N 300 FT OF
 GOVT LT 7 OR 1883 P 259

Ad Valorem Taxes				
Taxing Authority	Rate	Exemption Amount	Taxable Value	Taxes Levied
COUNTY	6.9755	50,000	\$53,958	\$376.38
PUBLIC SCHOOLS				
By Local Board	2.2480	25,000	\$78,958	\$177.50
By State Law	5.5730	25,000	\$78,958	\$440.03
SHERIFF	0.6850	50,000	\$53,958	\$36.96
WATER MANAGEMENT	0.0400	50,000	\$53,958	\$2.16
Total Millage		15.5215	Total Taxes	\$1,033.03

Non-Ad Valorem Assessments		
Code	Levying Authority	Amount
NFP	FIRE (CALL 595-4960)	\$80.00
Total Assessments		\$80.00

Taxes & Assessments		\$1,113.03
---------------------	--	------------

If Paid By	Nov 30 2011	Dec 31 2011	Jan 31 2012	Feb 29 2012	Mar 31 2012
Please Pay	\$1,068.51	\$1,079.64	\$1,090.77	\$1,101.90	\$1,113.03

[Back](#)

Source: Escambia County Property Appraiser

[Restore Full Page Version](#)

General Information Reference: 133S317101000001 Account: 101811500 Owners: HINSON JAMES C JR Mail: 9869 NORTH LOOP RD PENSACOLA, FL 32507 Situs: 9869 NORTH LOOP RD 32507 Use Code: SINGLE FAMILY RESID Taxing Authority: COUNTY MSTU Tax Inquiry: Open Tax Inquiry Window Tax Inquiry link courtesy of Janet Holley, Escambia County Tax Collector		2011 Certified Roll Assessment Improvements: \$98,422 Land: \$20,824 Total: \$119,246 Save Our Homes: \$103,958 <p style="text-align: center;">Disclaimer</p> <p style="text-align: center;">Amendment 1 Calculations</p>
Sales Data Sale Date Book Page Value Type Official Records (New Window) 02/1984 1883 259 \$4,700 WD View Instr Official Records Inquiry courtesy of Ernie Lee Magaha, Escambia County Clerk of the Court		2011 Certified Roll Exemptions HOMESTEAD EXEMPTION Legal Description E 200 FT OF N 300 FT OF GOVT LT 7 OR 1883 P 259 Extra Features None

Parcel Information [Restore Map](#) [Get Map Image](#) [Launch Interactive Map](#)

Section Map Id: 13-3S-31 Approx. Acreage: 1.3400 Zoned: R-R	
---	--

Buildings	
Building 1 - Address:9869 NORTH LOOP RD, Year Built: 1984, Effective Year: 1984	
Structural Elements FOUNDATION-SLAB ON GRADE EXTERIOR WALL-BRICK-FACE NO. PLUMBING FIXTURES-8.00 DWELLING UNITS-1.00 ROOF FRAMING-GABLE ROOF COVER-COMPOSITION SHG INTERIOR WALL-DRYWALL-PLASTER FLOOR COVER-CARPET NO. STORIES-1.00 DECOR/MILLWORK-ABOVE AVERAGE HEAT/AIR-CENTRAL H/AC STRUCTURAL FRAME-WOOD FRAME	
Areas - 3121 Total SF BASE AREA - 2217 GARAGE FIN - 632 OPEN PORCH FIN - 8 OPEN PORCH UNF - 24 PATIO - 240	
Images	
None	

The primary use of the assessment data is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.



Development Services Department
Escambia County, Florida

**PLANNING BOARD
REZONING PRE-APPLICATION SUMMARY FORM**

14-35-31-2101-000-001
Property Reference Number

Jesse Rigby
Name

9869 North Loop Rd
Address

Owner Agent

Referral Form Included? **Y/N**

MAPS PREPARED

- Zoning
- FLU
- Aerial
- Other: AIPD

PROPERTY INFORMATION

Current Zoning: R-2 Size of Property: 49.57 +/-
 Future Land Use: MU-5 Commissioner District: _____
 Overlay/AIPD: AIPD 1+2 NAS APZ-1 Subdivision: _____
 Redevelopment Area*: _____

*For more info please contact the CRA at 595-3217 prior to application submittal.

COMMENTS

Desired Zoning: R-4 AMU-2

Is Locational Criteria applicable? _____ If so, is a compatibility analysis required? _____

Parcel in AIPD 1+2 also NAS-APZ-1 - (1 du/2.5 acres)
Came through DRC as Carswell SUB PP 2006.
Applicant considering Aggregate Living Facility for approx 43 acres for 140 units approx.
No development in AIPD 1. Considering clustering for assisted
living + possible ^{sublot} cond. Bldg - Multi use development
May require BOA process depending on the direction they are
going w/ development

- Applicant will contact staff for next appointment
- Applicant decided against rezoning property
- Applicant was referred to another process
- BOA DRC Other: _____
Process Name

Staff present: Trace Jones, Andrew Holman, Allyson Coe Date: 11/28/11

Applicant/Agent Name & Signature: Jesse W. Rigby

No comment made by any persons associated with the County during any pre-application conference or discussion shall be considered either as approval or rejection of the proposed development, development plans, and/or outcome of any process.

This Instrument was Prepared By:
CHARLES F. JAMES, IV., ESQUIRE
CLARK, PARTINGTON, HART,
LARRY, BOND & STACKHOUSE
125 West Romana Street, Suite 800
Post Office Box 13010
Pensacola, Florida 32591-3010

CPH&H File no. 05-1847

TAX PARCEL I.D. #:14-3S-31-2101-000-000

STATE OF FLORIDA
COUNTY OF ESCAMBIA

WARRANTY DEED

THIS INDENTURE, made effective the 1st day of November, 2005, by JAMES CARSWELL HINSON, a SLAVE man (the "Grantor") in favor of KNOWHOW GROUP USA, INC., a Florida corporation, whose address is 9869 North Loop Road, Pensacola, Florida 32507 (the "Grantee").

WITNESSETH, that Grantor, as a contribution to capital to the Grantee, has granted, bargained and sold to said Grantee, and Grantee's heirs, successors and/or assigns forever, that certain tract or parcel of real property situate, lying and being in Escambia County, Florida, and being more particularly described as follows (the "Property"):

See Exhibit "A" attached hereto and by this reference made a part hereof

together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, free from all exemptions.

The above-described property is not the homestead of the Grantor.

SUBJECT TO taxes for the year 2005 and subsequent years, and easements of record, if any, which are not hereby reimposed.

GRANTOR COVENANTS that it is well seized of an indefeasible estate in fee simple in the Property, and has a good right to convey the same; that it is free of lien or encumbrance, and Grantor hereby fully warrants the title to the Property and will defend same against all persons lawfully claiming the same.

IN WITNESS WHEREOF, Grantor has signed and sealed this Warranty Deed as of the day and year first above written.

WITNESSES

Jamie Gibson
JAMIE GIBSON

[Type/print name of witness]

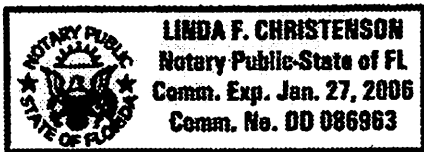
Linda F Christenson
Linda F Christenson

[Type/print name of witness]

James Carswell Hinson
James Hinson
JAMES CARSWELL HINSON

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 1st of November, 2005, by JAMES CARSWELL HINSON, who () is personally known to me or () has produced a drivers license as identification.



[NOTARIAL SEAL]

Linda F Christenson

(Print/Type Name)
NOTARY PUBLIC

Commission Number: _____
My Commission Expires: _____

Exhibit A

Parcel 1:

Beginning at the point where the South right-of-way line of the county road cuts the West line of Lot 1, Section 14, Township 3 South, Range 31 West, thence Easterly with the right-of-way of said county road on a curve concave to the South to a pipe, said pipe being at a chord distance of 319.9 feet from the Point of Beginning, said chord including a center angle of 107°34' with the West line of aforesaid Section; thence Southerly following the approximate center line of a ditch 713.25 feet to a pipe set in the South boundary line of Lot 1 of aforesaid Sectional a distance of 397.75 feet from the Southwest corner of said lot; thence Westerly with said South line 397.75 feet to an iron axle at the Southwest corner; thence Northerly with the West line of said Lot 596.02 feet to the Point of Beginning, in Escambia County, Florida.

Parcel 2:

North half of North half of Lot 2 and Southwest Quarter of North half of Lot 2, lying North of South Loop Road, Section 14, Township 3 South, Range 32 West, Escambia County, Florida, LESS AND EXCEPT any portion of caption property conveyed to the State of Florida in Official Records Book 1195, Page 552, of the public records of Escambia County, Florida.

Parcel 3:

The East 23 acres of the North half of Lot 7, Section 13, Township 3 South, Range 31 West, less that parcel described in O.R. Book 1883, Page 259, of the public records of Escambia County, Florida, LESS AND EXCEPT any portion of caption property lying within the right-of-way of State Road #297.

This instrument prepared by:
Charles F. James, IV, Esquire
Clark, Partington, Hart, Larry,
Bond, & Stackhouse
Post Office Box 13010
Pensacola, FL 32591-3010
(850) 434-9200

CPH&H File no. 05-1847

Parcel ID Number: 14-3S-31-2101-000-000

WARRANTY DEED (Statutory Form-Section 689.02, F.S.)

This Indenture, Made this 28th day of October, 2005, between **HATTIE P. HINSON**, an unmarried woman, and **MARION HINSON FORD**, a married woman, whose address is 7171 North Ninth Avenue, Apt. No. F-10, Pensacola, Florida 32504, Grantor, and **KNOWHOW GROUP USA, INC.**, a Florida corporation, whose address is 9869 North Loop Road, Pensacola, Florida 32507, Grantee,

WITNESSETH, That said Grantor, for and in consideration of the sum of Ten and 00/100 (\$10.00) Dollars, and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Escambia County, Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

The above described property is not the constitutional homestead of Grantors.

Subject to zoning and other requirements imposed by governmental authorities; restrictions and matters appearing on the plat, if there is a recorded plat, or otherwise common to the subdivision, if the property is located within a subdivision; valid easements and mineral reservations of record affecting the property, if any, which are not hereby reimposed; and taxes for the current and subsequent years.

Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

"Grantor" and "Grantee" are used for singular or plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Charles F. James, IV
CHARLES F. JAMES, IV
[Type/print name of witness]

Hattie P. Hinson
HATTIE P. HINSON

Linda F. Christensen
Linda F. Christensen
[Type/print name of witness]

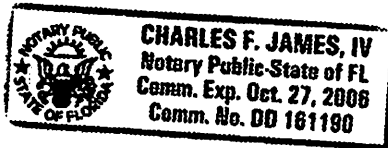
Charles F. James, IV
CHARLES F. JAMES, IV
[Type/print name of witness]

Marion H. Ford
MARION HINSON FORD

Linda F. Christensen
Linda F. Christensen
[Type/print name of witness]

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 28th of October, 2005, by HATTIE P. HINSON, who () is personally known to me or () has produced a drivers license as identification.



[NOTARIAL SEAL]

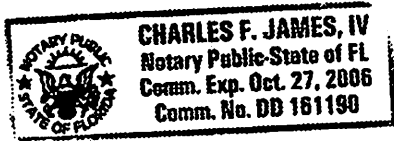
Charles F. James, IV

(Print/Type Name)
NOTARY PUBLIC

Commission Number: _____
My Commission Expires: _____

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 28th of October, 2005, by MARION HINSON FORD, who () is personally known to me or () has produced a drivers license as identification.



[NOTARIAL SEAL]

Charles F. James, IV

(Print/Type Name)
NOTARY PUBLIC
Commission Number: _____
My Commission Expires: _____

Exhibit A

Parcel 1:

Beginning at the point where the South right-of-way line of the county road cuts the West line of Lot 1, Section 14, Township 3 South, Range 31 West, thence Easterly with the right-of-way of said county road on a curve concave to the South to a pipe, said pipe being at a chord distance of 319.9 feet from the Point of Beginning, said chord including a center angle of 107°34' with the West line of aforesaid Section; thence Southerly following the approximate center line of a ditch 713.25 feet to a pipe set in the South boundary line of Lot 1 of aforesaid Sectional a distance of 397.75 feet from the Southwest corner of said lot; thence Westerly with said South line 397.75 feet to an iron axle at the Southwest corner; thence Northerly with the West line of said Lot 596.02 feet to the Point of Beginning, in Escambia County, Florida.

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Parcel 3:

The East 23 acres of the North half of Lot 7, Section 13, Township 3 South, Range 31 West, less that parcel described in O.R. Book 1883, Page 259, of the public records of Escambia County, Florida, LESS AND EXCEPT any portion of caption property lying within the right-of-way of State Road #297.

From: [Horace L Jones](#)
To: [Ryan E. Ross](#)
Cc: [Allyson Cain](#)
Subject: FW: Group Home in AMU-2
Date: Tuesday, December 13, 2011 3:42:38 PM

Sounds good to me. No PB interpretation has been applied for.

From: Ryan E. Ross
Sent: Tuesday, December 13, 2011 1:52 PM
To: T. Lloyd Kerr; Horace L Jones; Andrew D. Holmer; Allyson Cain
Cc: Alison A. Perdue; Stephen G. West; Tara D. Cannon
Subject: Group Home in AMU-2

This is my proposed response to Jesse about whether a state-licensed group home is a permitted use in the AMU-2 zoning district. Please provide me with any thoughts today so I can go ahead and send it to him (unless he has already applied for a PB interpretation on this issue.

-
Jesse:

At your request, I have reviewed the narrow issue of whether a “community residential home” home is a permitted use in the AMU-2 zoning district under the Escambia County Land Development Code. Based on our discussions, I don’t believe your client plans to operate a home of six or fewer residents. If it does, then it would probably be considered as a permitted single-family use under F.S. 419.001(2).

Community residential homes (state-licensed and housing 7-14 residents) are regulated under F.S. 419.001(3). F.S. 419.001(3)(c)1. requires a community residential home to conform to local zoning regulations. Assuming that your client would qualify as a community residential home under F.S. 419.001(1)(a), the question is whether our zoning allows for such a use in AMU-2.

The AMU-2 zoning district does not list “community residential home” as a permitted or conditional use. (It does list “child care centers” and “family day care homes and family foster homes as permitted uses.) However, there are zoning districts where “community residential home” is listed as a permitted use, such as R-4 (LDC 6.05.11.B.4). As we discussed, LDC 6.04.01 states that “unless otherwise authorized as provided herein, land uses not listed or included as permitted uses in a given zoning classification shall be considered prohibited uses in such zoning classification.” I also note that some zoning districts allow for “uses which are similar or compatible to the uses . . . that promote the intent and purpose of (the) district.” However, the AMU-2 zoning district regulations do not contain this “similar use” provision. Because the AMU-2 zoning district does not list community residential home as a permitted use, although it is explicitly listed as a use for other zoning districts, and because the LDC does not allow for “similar uses” in AMU-2 like it does for other zoning districts, I do not believe that community residential homes housing more than six residents are permitted uses within the AMU-2 zoning districts.

I understand that you may request a Planning Board interpretation. I look forward to discussing this issue with you prior to any hearings.



Development Services Department

Building Inspections Division

3363 West Park Place
Pensacola, Florida, 32505
(850) 595-3550
Molino Office - (850) 587-5770

RECEIPT

Receipt No. : **545459**

Date Issued. : 12/02/2011

Cashier ID : DAROSE

Application No. : PRZ111200019

Project Name : Z-2012-01

PAYMENT INFO

Method of Payment	Reference Document	Amount Paid	Comment
Check	2094	\$1,050.00	App ID : PRZ111200019
		\$1,050.00	Total Check

Received From : KNOWHOW GROUP USA INC

Total Receipt Amount : **\$1,050.00**

Change Due : \$0.00

APPLICATION INFO

Application #	Invoice #	Invoice Amt	Balance	Job Address
PRZ111200019	638758	1,050.00	\$0.00	9869 N LOOP RD, PENSACOLA, FL, 32507

Total Amount :

1,050.00

\$0.00

Balance Due on this/these
Application(s) as of 12/21/2011

Response Memo concerning the Rezoning request case number Z-2012-01

To: The Escambia County Planning and Zoning Board

From: Mr. Bruce Stitt, Community Planning Liaison Officer, Naval Air Station Pensacola

Date: December 29, 2011

In regards to the Rezoning application referenced above, NAS Pensacola has the following concerns:

The County Code discourages the Split Zoning of a property but the subject property is split in two nearly equal halves by two different AIPDs. It is also true that any Rezoning granted for this property would apply to the entire property as it has not been requested that two different zonings be applied to the property. However, Article 6-Zoning Districts- A., *Intent and purpose of district*, states that: *"While the intent is for this zoning district (AMU2) to apply primarily to the AIPD-2 overlay areas, it can also be utilized in other unincorporated areas of Escambia County in which it is compatible with the future land use category, except AIPD-1."*

While the AIPD regulations only apply to the portions of the property which they overlay, it would appear that the Rezoning will apply to the whole of the property since there is no existing mechanism to accomplish Split Zoning. However, it cannot functionally be applied to the whole of the property since there is an existing exclusion for the requested zoning category to be utilized in the AIPD-1.

Therefore this request should be denied due to the resulting internal inconsistency with the Land Development Regulations for Escambia County that approving it would create.

Since the property is split by the AIPD designations any resulting construction would be more compatible if the more stringent density and use standards of the AIPD 1/ APZ-1 be applied to any Rezoning designation for this property so as to be more consistent with the apparent intent and purpose of the district. However, there doesn't seem to be any existing mechanism within the LDC to accommodate that type of interpretation of the application of regulations to the overlay designations.

County records show that three years after the JLUS, a Preliminary Plat Development Order was given for the 15 unit single-family Carswell subdivision on the 43.9 acres in August of 2006. However a final plat was never submitted. This application was approved under the RR designation.

Since the 2003 Joint Land Use Study, it was determined that development in areas designated within the AIPDs should be regulated to assist in directing the type and density of growth and development into areas compatible with the aircraft flight training paths coming in and out of the Military air bases in Escambia County. Further, it was determined that there were more

critical areas where the location of residences or the congregation of people should either be discouraged or entirely prohibited.

Properties within Clear Zones are not to have any population located within them since the statistics for aircraft mishaps are very high within this area. The next severe area for mishaps is the Accident Potential Zone 1 (APZ1). Although the lines on the map are based on noise contours and flight patterns, those lines on the paper do not stop a plane from going beyond them. They are literally guidelines to assist the Planning Board in making informed decisions which will have the best potential to keep citizens out of harms way should a training mission go wrong, a mechanical error or even a bird strike occur.

The recently submitted 2010 Air Installation Compatibility Use Zone (AICUZ) study indicates that Multi-Family, Residential (apartment & transient lodging), Single Family nor Public Assembly are compatible uses within the 65-70 db noise ranges (Table 6.1). All of these types of uses are permitted in the AMU2 category. The 65-70 db is the range which the APZ-1 overlaying this subject parcel lies within. The measurements for the impacts of the decibel levels are based on typical weather and other atmospheric conditions based on a day/night average. Lower cloud levels and night time operations can alter the actual reach of the noise levels either amplifying or redirecting the sound. The results could be that the impacts of the greater noise levels could shift outside of the AIPD1/APZ-1 and over into the AIPD 2 area.

So while the application for the Rezoning of this property is permitted by the LDC, the potential types of uses allowed by the AMU categories may not be compatible with the flying of jets and other aircraft.

It is recommended that this Rezoning request be denied and that the Planning Board hold a workshop as soon as possible to address the issues regarding these types of parcels split by AIPD designations in better detail and then implement the resulting text changes through the required public process.

Additional Recommendations:

Should the rezoning request somehow be granted and sent on to the BOCC, it is requested that at a minimum, the following and all other applicable regulations and LDC elements be followed and enforced.

- 1) Avigation Easement. Section 11.02.01 B1 requires that the land owner provide a dedication of an Avigation easement to the county to be recorded with the deed to the land and run in perpetuity with the land.
- 2) Noise Reduction. Section 11.02.01 B2a (1) Noise Zone 1, cites that the standards for the noise reduction of 25db to be achieved for residential construction.
- 3) Real estate disclosure form. Section 11.02.01 B3 requires that all real estate transactions with an AIPD shall include a form disclosing the proximity of the site to the

military airfield. The form shall be affixed to all listing agreements, sales and rental contracts, subdivision plats, and marketing materials provided to prospective buyers and lessees.

- 4) Prohibited concentrations of population. Enforcement of concentrations of populations as delineated in Section 11.02.02 A1 of the LDC.
- 5) Density Limitations in AIPD1. Section 11.02.02 D requires the application of absolute density limits where applicable and lot size inverse ratio to maximum density in Area "B".
- 6) Density and Rezoning in AIPD 2. Section 11.02.03 states that clustering is allowed as well as density transfers, but there is not a mechanism in place for such transfers as of now. Rezoning is allowed but only to a zoning district which allows three d.u. per acre or less as well as an alternative mixed-use zoning which allows the same density of three d.u. per acre such as AMU-1, AMU-2 or V-2A.