

LAKE COUNTY PLANNING AND COMMUNITY DESIGN ANALYSIS APPLICATION FOR CONDITIONAL USE PERMIT

LAKE COUNTY ZONING BOARD
January 4, 2012



BOARD OF COUNTY COMMISSIONERS
January 24, 2012

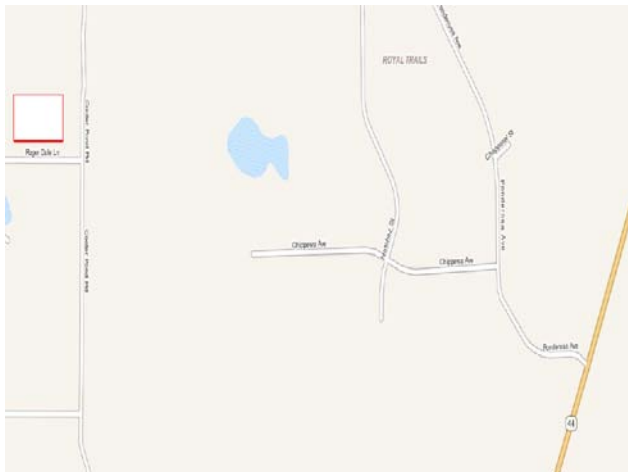
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| CUP #11/9/1-5 Shabam's Pets | Case Manager: Jennifer M. Cotch, Environmental Specialist | Agenda Item # 3 |
|--|---|-----------------|

Applicant: Tammy Fisher Hobbs (the "Applicant") **Owner:** Tammy Fisher Hobbs (the "Owner")

Requested Action: The Applicant is requesting a Conditional Use Permit (CUP) in the Agriculture (A) Zoning District to allow a kennel.

- Site Location & Information -

Approximate site location outlined in Red



| | | |
|--------------------------|---|-----------|
| Size | 5 +/- acres | |
| Location | Lake Mack area, southeast of the SR 44 and SR 42 intersection | |
| Alternate Key # | 1599741 | |
| Future Land Use | Current | Proposed |
| | Rural | Rural |
| Future Land Use Density | 1 du/5 gross acre maximum | |
| | Existing | Proposed |
| | A | A |
| Zoning District | A | A |
| Density | 1 du/5 ac | 1 du/5 ac |
| Floor Area Ratio | .10 | .10 |
| Impervious Surface Ratio | .10 | .10 |
| Joint Planning Area | N/A | |
| Utility Area: | N/A | |
| Site Utilities | Existing well and septic system | |
| Road Classification | local | |
| Flood Zone/ FIRM Panel | Flood Zone X/ Panel 260 7/3/02 | |
| Commissioner District | District 5-Cadwell | |

Site Visit July 22, 2011
Sign Posted December 9, 2011 (2 posted)

Land Use Table

| Direction | Future Land Use | Zoning | Existing Use | Comments |
|-----------|-----------------------------|--|---------------------------------------|----------|
| North | Rural | Agriculture (A) | Agriculture, low density residential | |
| South | Rural | Agriculture (A) | Agriculture, low density residential | |
| East | Rural | Agriculture (A) | Agriculture, low density residential | |
| West | Rural/Public Resource Lands | Agriculture (A), Rural Residential (R-1) | Rural Residential, Conservation Lands | |

– Summary of Staff Determination –

STAFF RECOMMENDATION: Staff recommends **DENIAL** of the request for a Conditional Use Permit.

ZONING BOARD RECOMMENDATION: The Zoning Board recommended **APPROVAL**, with the conditions in the attached Ordinance, with a 3-1 vote

– Summary of Analysis –

The Applicant is requesting a Conditional Use Permit (CUP) in the Agriculture (A) Zoning District on property of approximately five (5) acres to allow a Kennel. The property currently has a residence that is being occupied by the Applicant. The Kennel has been operating for approximately four (4) years without required approvals, according to the Applicants website. A neighbor complaint to the Code Enforcement Division, and subsequent investigation by Animal Services, led the Applicant to apply for CUP approval.

The subject property is located in the Lake Mack area, southeast of the SR 44 and SR 42 intersection, off of Cooter Pond Road. The property is located within the Rural Future Land Use Category (FLUC). The Land Development Regulations (LDR) requires a CUP for kennels in the Agriculture Zoning District.

According to LDR Sections 3.01.04 (1 and 18), the CUP must address the maximum number of animals to be permitted in the kennel, the required setbacks, the impacts from animal noise and odor that may affect adjacent property owned by others, and provisions for the removal of animal waste and sewage.

The property has an existing structure that the Applicant is using as a kennel to house roughly 80 animals on the property based on visits by Animal Services. The structure is approximately 30 feet from the south property line. The existing structure does not meet the required 200 feet and will require a variance from the Board of Adjustment (BOA) to allow a 170 foot setback reduction in the allow the continued use of this structure as a kennel.

The number of dogs on the property has been consistently increasing since code enforcement officers first visited the property. The latest visit by Animal Services revealed that the Applicant has over 80 animals on the property.

– STANDARDS OF REVIEW & ANALYSIS –

(Per Section 14.05.03 of the Land Development Regulations)

A. Consistency with the Comprehensive Plan and Local Code (Land Development Regulations).

The proposed use is consistent with the general purpose, goals, objectives and standards of Comprehensive Plan Policy 1-1.4.4, which promotes agricultural uses in the Rural FLUC.

The request is not consistent with LDR Table 3.01.03 Schedule of Permitted and Conditional Uses, which allows Kennel uses in the Agriculture (A) Zoning District with the issuance of a CUP, but requires that the conditions of Section 3.01.04(18) are met to ensure compatibility with surrounding uses. The structure proposed to be used as a kennel does not meet the required 200 foot setback and is only located approximately 30 feet from the front property line. If this Conditional Use is approved, a Variance will be required to allow the use of this structure as a kennel to continue. A Variance would not have been avoidable on this property since the property is less than 400 feet wide.

B. Effect on Adjacent Properties.

1. The proposed conditional use will not have an undue adverse effect upon nearby property.

The request was the result of a complaint; therefore the proposed use may have adverse impacts on adjacent properties. The attached CUP Ordinance contains provisions to possibly mitigate adverse impacts on adjacent properties through the implementation of setbacks, landscaping, buffering, and screening. The Applicant has not provided any documentation to demonstrate the noise from the animals will not affect adjacent property owners.

2. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.

The surrounding area is characterized by rural residential lots, vacant lands and agricultural uses. The current zoning of the subject parcel is Agriculture, thus approving the CUP will not change the nature of the surrounding area. The site proposed for the Kennel does not have sufficient setbacks to mitigate the expected impacts from the use. However, if approved conditions implemented by the conditional use permit would make the proposed Kennel more compatible with the surrounding land uses with.

3. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through design, landscaping, and screening.

If the Conditional Use Permit is granted, the attached ordinance contains conditions to limit impacts on the immediate vicinity. The proposed ordinance includes conditions on setbacks, landscaping, buffering and screening. These conditions are intended to minimize any adverse effects on property in the immediate vicinity of the proposed CUP. However, the structure proposed for use as a kennel is located approximately 30 feet from Roger Dale Lane and will require a variance to the 200 foot setback required for kennels if the CUP is granted. The conditions of the ordinance will be implemented in detail during the site plan process.

4. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development of the neighboring property, in accordance with applicable district regulations.

The CUP will not interfere with the development of neighboring property. The proposed ordinance addresses landscaping, buffering, and screening requirements. It is unclear whether the building materials used to construct the existing structure would adequately mitigate noise. The Applicant will be required to demonstrate that noise reducing materials are in place. The structure was never permitted by the Building Division.

C. Adequacy of Public Facilities.

The proposed conditional use will be served by adequate public facilities including but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, park and recreation, schools, and fire and emergency medical facilities. Levels of service established by the Comprehensive Plan shall be considered.

The proposed use of a kennel would not result in a significant additional demand on public facilities and services. Any additional impacts to roads, solid waste, etc. will be addressed during site plan review.

The facility will be served by individual well and septic. The Environmental Health Department commented that based on current rules, domestic and commercial waste must be disposed into an approved Department of Health/Lake County Health Department system. This issue will be addressed in detail by the Health Department during the site plan review and approval process.

D. Adequacy of Fire Protection.

The Applicant shall obtain from the Lake County Emergency Services Division written confirmation, or has otherwise demonstrated by substantial credible evidence, that water supply, evacuation facilities, and emergency access are satisfactory to provide adequate fire protection.

Cooter Pond Road is approximately four (4) miles from Fire Station #15. Water source for the Stations is a tank about 3.25 miles from the property. Public Safety and Emergency Services will address fire protection and access in detail during site plan review.

FINDINGS OF FACT: Staff has reviewed the application for the proposed Conditional Use Permit and found:

1. The request is **inconsistent** with Section 3.01.04(1) LDRs as the request proposes a 30 foot setback where 200 feet is required for the kennel structure.
2. The request is **inconsistent** with Section 3.01.04(18) LDRs as suitable noise mitigation has not been proposed.
3. The request is **consistent** with the Comprehensive Plan Policy 1-1.4.4 relating to the general land use criteria and activities of the Rural Future Land Use Category.
4. The request is **consistent** with LDR Table 3.01.03, Schedule of Permitted and Conditional Uses, which allows Kennel uses in the Agriculture (A) Zoning District with the issuance of a CUP.

Therefore, based on these findings of fact, staff recommends **DENIAL** of the conditional use permit request, subject to the conditions as set forth in the attached Ordinance.

WRITTEN COMMENTS FILED: Supportive: -0-

Concern: -0-

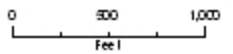
Opposition: -0-



CURRENT ZONING
AGRICULTURE



ADOPTED FUTURE LAND USE
RURAL



SHABAM'S PETS

CASE NO.
PH# 11/9/1-5

CASE LOCATION:
29-17-29

RE QUE STING:
CUP to allow kennel

- ZONING**
- LAND USE**
- SUBJECT PARCEL**

DISCLAIMER:
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MAP COMPOSITION
JANUARY, 2005

FOCUS AREA



ORDINANCE #2012-XX
Shabam's Pets
CUP #11/9/1-5

AN ORDINANCE OF THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Tammy Fisher Hobbs (the "Applicant") has made a request for a Conditional Use Permit (CUP) on property in the Agriculture (A) Zoning District to allow a Kennel; and

WHEREAS, the subject property consists of 5 +/- acres and is generally located in the Lake Mack area, State Road 42 East to Lake Mack Drive, South on Lake Mack Drive to Another Anna Road, East on Another Anna Road to Cooter Pond Road, South on Cooter Pond in Section 29, Township 17 South, Range 29 East, currently having Alternate Key Number 1599741, as described below:

LEGAL DESCRIPTION:

South 1/2 of Northwest 1/4 of Northeast 1/4 of Southeast 1/4 of Section 29, Township 17 South, Range 29 East LESS 25 feet along East side and 25 feet along South side for Road Easement, Lake County, FL

WHEREAS, the subject property is located within the Rural Future Land Use Category as shown on the Lake County Comprehensive Plan Future Land Use Map (FLUM); and

WHEREAS, the Lake County Board of County Commissioners deems it necessary and desirable in order to protect the public health, safety, and general welfare of the citizens of Lake County in accordance with the purpose and intent of the Land Development Regulations (LDR) to require compliance with the special conditions hereinafter set forth.

WHEREAS, this Conditional Use Permit was reviewed by Zoning Board on January 4, 2012 and by the Board of County Commissioners of Lake County, Florida on January 24, 2012; and

NOW, THEREFORE, BE IT RESOLVED BY THE LAKE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

Section 1 Permission is hereby granted to the Permittee for the operation of a Kennel as a Conditional Use within the Agriculture (A) Zoning District.

Section 2 Terms: This Ordinance shall mean and include the total of the following uses as included herein. The County Manager or designee shall amend the Lake County Zoning Map to reflect a CUP, in accordance with this Ordinance.

A. Land Uses: Use of the site shall be limited to the following:

- 1. All permitted uses within the Agriculture (A) Zoning District.
- 2. Kennel subject to the conditions below.

A setback variance to allow setbacks of approximately 130 feet from the east property line and 59 feet from the easement for the Kennel as shown in EXHIBIT "A" "Conceptual Plan" within 60 days of approval of this ordinance from the Lake

1 County Board of Adjustment (BOA). Failure to obtain this variance shall render
2 this ordinance null and void.

3 3. Accessory uses directly associated with these uses may be approved by the County
4 Manager or designee. Any other use of the site shall require an amendment to this
5 Ordinance as approved by the Board of County Commissioners.

6 4. To the extent where there are conflicts between the Conceptual Plan and this Ordinance,
7 this Ordinance shall take precedence.

8 B. Specific Conditions:

9 1. The Kennel shall be limited to a maximum of 30 animals (any combination of dogs and
10 cats) over the age of six (6) months at any time.

11 2. The Kennel shall be in conformity with all Federal, State and Local Regulations at all times.
12 The Permittee shall secure all applicable required State and Local Licenses including a
13 Lake County occupational tax receipt.

14 3. Site plan application is required for review and approval for the Kennel structure. The
15 Applicant shall submit site plan application and receive approval within six (6) months of
16 the effective date of this Ordinance; otherwise this Permit shall be null and void, and the
17 Permittee shall reapply for public hearing before the Zoning Board and the Board of
18 County Commissioners.

19 4. The Permittee shall acquire a Building Permit for the Kennel structure concurrent with the
20 site plan application demonstrating compliance with all requirements of the Florida Building
21 Code.

22 5. Kennel Configuration and Operation.

23 a) Kennel shelter shall be large enough so the dogs can sit, stand, lie down and/or
24 turn around comfortably.

25 b) Kennel shelter shall be constructed and maintained so that dogs are securely
26 confined and the shelter does not cause injury to the dogs as determined.

27 c) Cages shall be stacked in no more than two (2) rows high and the lowest level
28 may be no higher than four (4) feet from the floor or ground.

29 d) Protection from adverse weather conditions must be provided. All enclosures shall
30 be adequately ventilated and lighted. Protection from humidity and temperatures
31 below 50 degrees Fahrenheit and above 85 degrees Fahrenheit and all weather
32 events that may be hazardous or uncomfortable.

33 e) Dogs shall have access to exercise at least twice a day for at least twenty (20)
34 minutes.

35 f) Dogs shall have access to fresh water on a daily basis.

36 g) Food should be fresh and appropriate.

37 h) Feces shall be picked up and disposed of as necessary to protect the health of the
38 dogs.

39 i) Individual kennel enclosures shall be cleaned daily and dogs shall be moved out of
40 the enclosure during cleaning.

41 j) The front of each cage shall have the animals birth date. All dogs on the premises
42 shall be examined on an annual basis by a licensed veterinarian and kept up to

1 date on rabies, distemper, Bordetella and Parvovirus vaccines. Examination and
2 vaccination records shall be maintained on the premises.

3
4 C. Setbacks:

- 5 a. Dog runs shall be located outside the Kennel setbacks.
6 b. Other setbacks shall be in accordance with the Comprehensive Plan and LDR, as
7 amended.

8 D. Open Space, Impervious Surface Ratio, Floor Area Ratio, and Building Height shall be in
9 accordance with the Comprehensive Plan and LDR, as amended.

10 E. Landscaping, Buffering and Screening: Shall comply with the LDR, as amended.

11 Landscaping may be used for noise mitigation if recommended by accepted noise study.

12 F. Fire Protection and Emergency Services Access: Access to the property shall be provided in
13 accordance with the Florida Fire Prevention Code and/or the LDR, as amended.

14 G. Lighting: Exterior lighting shall be in accordance with the LDR, as amended, and consistent
15 with Dark-Sky Principles.

16 H. Signage: Signs shall be in accordance with the LDR, as amended.

17 I. Development Review and Approval: Prior to the issuance of any permits, the Applicant shall
18 be required to submit a site plan for review and approval in accordance with the
19 Comprehensive Plan and LDR, as amended.

20 J. Future Amendments to Statutes, Code, Plans, and/or Regulations: The specific references in
21 this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County
22 Comprehensive Plan, and Lake County Land Development Regulations shall include any
23 future amendments to the Statutes, Code, Plans, and/or Regulations.

24 K. After establishment of the facilities as provided herein, the aforementioned property shall only
25 be used for the purposes named in this Conditional Use Permit, unless a proposed use meets
26 every requirement of the zoning district in which the property is located. Any other proposed
27 use must be specifically authorized by the Board of County Commissioners.

28 L. Action by the Lake County Code Enforcement Special Master. The Lake County Code
29 Enforcement Special Master shall have the authority to enforce the terms and conditions set
30 forth in this ordinance and to recommend that the ordinance be revoked.

31 M. Inspection. This permit shall be inspected by the Code Enforcement and/or Animal Services
32 Division annually to ensure compliance with the conditions of this Conditional Use Permit and
33 the approved site/plot plan.

34
35 **Section 3** Additional conditions of this permit shall mean:

36 A. In the event of failure of the Permittee to fulfill development in substantial accordance with the
37 plans as submitted to the Zoning Board and the Board of County Commissioners; comply with
38 the codes of the governmental agencies having lawful and appropriate jurisdiction thereon; or
39 comply with any of the terms of the Conditional Use Permit, the permit may be revoked after

due Public Hearing before the Zoning Board and the Board of County Commissioners.

B. This Conditional Use Permit shall inure to the benefit of, and shall constitute a covenant running with the land; and the purpose, terms, and conditions contained herein shall be binding upon the Permittee or any successor and his interest hereto.

C. In addition to any other remedy by law, any breach in any of the terms or conditions of this permit or any default on the part of the Permittee or his successor in interest shall be deemed a material breach hereof, and this Ordinance for a Conditional Use Permit may be canceled or revoked. Cancellation or revocation of this Permit may be instituted by the County. The County Manager or designee shall set this matter for Public Hearing giving the same notice as provided in the Lake County Land Development Regulations, as amended.

Section 4. Effective Date. This Ordinance shall become effective as provided by law.

ENACTED this _____ day of _____, 2012.

FILED with the Secretary of State _____, 2012.

EFFECTIVE _____, 2012.

**BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA**

Leslie Campione, Chairman

ATTEST:

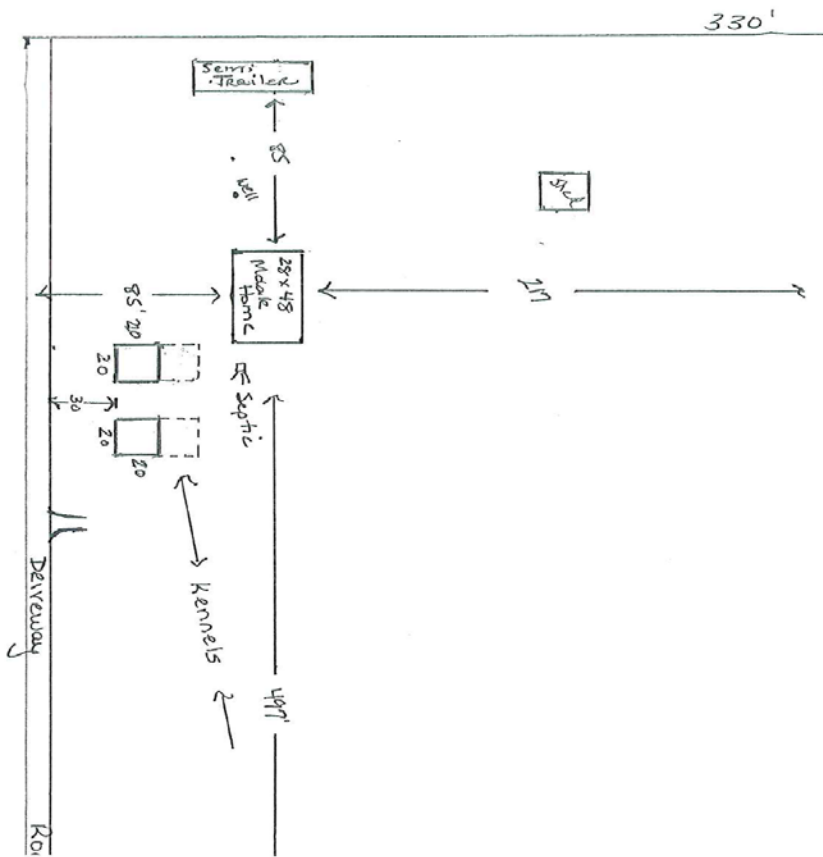
NEIL KELLY, Clerk of the
Board of County Commissioners
Lake County, Florida

APPROVED AS TO FORM AND LEGALITY

SANFORD MINKOFF, County Attorney

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EXHIBIT "A" "Conceptual Plan"



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OWNER: Tammy Fisher Hobbs
APPLICANT: Tammy Fisher Hobbs
PROJECT NAME: Shabam's Pets

Jennifer Cotch, Environmental Specialist, presented the case and staff's recommendation for denial. She stated that the Applicant is requesting a Conditional Use Permit (CUP) in the Agriculture (A) Zoning District to allow a kennel. She stated that the applicant is requesting the CUP for the kennel in order to bring her business into compliance with the County's rules and regulations. Ms. Cotch mentioned that according to the last inspection by animal services, there were approximately 80 animals residing on the property. She also pointed out that there is an existing structure on the property to house the majority of the animals. She noted that this structure is approximately 30 ft. off of Cooter Pond Rd. She stated that according to the LDR, section 3.01.4, a 200 ft setback is required for the kennel structure. Ms. Cotch stated that in order for the structure to remain in the same location, the Applicant will also need to obtain a variance. After reading some of the conditions in the proposed ordinance, she stated that the proposed request is not consistent with sections 3 of the LDRs that require the 200 ft. setback for a kennel structure and section 3 that also requires suitable noise mitigation.

Tammy Fisher Hobbs, the Applicant, stated that she has done animal rescue all her life and she has never had any animals taken from her. She stated that none of her animals have ever been neglected, abused, or underfed. She indicated that her request will have no impacts on the road. She also stated that no one has complained about noise, there are no bad odors, and there have not been any neighbor complaints. She provided two letters from neighboring properties who are in support of her application. Ms. Fisher Hobbs also mentioned that the structure for her animals is a wood building which has windows, heat, and air conditioning. She stated that she has drastically cut down the number of animals that she has, stating that she currently has approximately 45 animals on the property.

Mr. Gonzalez asked if the site is being used for rescue dogs and not a general kennel. Ms. Fisher Hobbs answered that she does have dogs that she puts into shows.

Ms. Fisher Hobbs stated that near the kennel there are woods buffering the area and that she will do anything necessary in order to provide more of a buffer. Mr. Gonzalez asked if the request is approved, could she move the kennel to comply with the 200 ft. setback. Ms. Cotch stated that the way Ms. Fisher Hobbs' 5-acre property is situated, there would be no way possible to meet the 200 ft. setback on all four sides. She mentioned that she could come close on three sides and have a setback of approximately 130 ft. on the fourth side.

Vice Chairman Morris asked about noise mitigation. Ms. Cotch replied that a noise study would have to be done.

Mr. Sheahan pointed out that the existing structure was built as an Agricultural building without permits. He stated that the Applicant will have to demonstrate that the structure meets Florida building code and has noise attenuation built into the walls. He commented that since the structure is already in existence, it wouldn't be practical to move the actual building.

Mr. DeWitt, seeking clarification, stated that this CUP is based on the existing building at the existing location and that the Applicant would have to demonstrate certain things in regards to the construction of the structure in order to move forward.

Mr. Sheahan clarified that if the CUP is ultimately approved by the BCC, the Applicant will be required to apply for and receive a variance to the 200 ft. setback requirement. He mentioned that in applying for a variance, hardship, among other things must be demonstrated, proving that the property in question is uniquely situated differently than any other as part of the criteria.

Mr. Gonzalez stated that the reasons for denial based on the findings of fact, referencing the setbacks and the noise mitigation, were things that could be resolved.

Marjorie Boyd, Animal Services Manager, stated that Animal Services did receive a complaint in reference to a puppy mill in February of 2011. She stated that at their last visit in July, there were over 80 animals on the property. She stated that the living conditions were poor, pointing out strong urine and feces. She stated that there were some violations in which the property owner did try to correct. She stated that the animal conditions were poor to fair and that the property owner did try to correct a lot of those issues too. She mentioned that the main concern was the actual living condition that the animals were in during their first visit. Ms. Boyd noted that to date, Ms. Fisher Hobbs still has not turned in some of the County licenses for some of her animals.

Vice Chairman Morris provided some clarification of some of the conditions in the proposed ordinance for Ms. Fisher Hobbs to make sure that she was fully aware of what would be required of her and to answer any questions she might have.

Mr. Gonzalez commented that he would be inclined to pass the CUP with the stipulation that she meet all of the requirements in order to bring her into compliance.

MOTION by Rick Gonzalez, SECONDED by L. G. John Ameri to APPROVE CUP #11/9/1-5, Shabam's Pets.

FOR: Gonzalez, Ameri, Morris

ABSENT: Bryan, Kesselring, Miller

AGAINST: DeWitt

NOT PRESENT: Childers

MOTION CARRIED: 3-1