

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

LAKE COUNTY ZONING BOARD
November 2, 2011



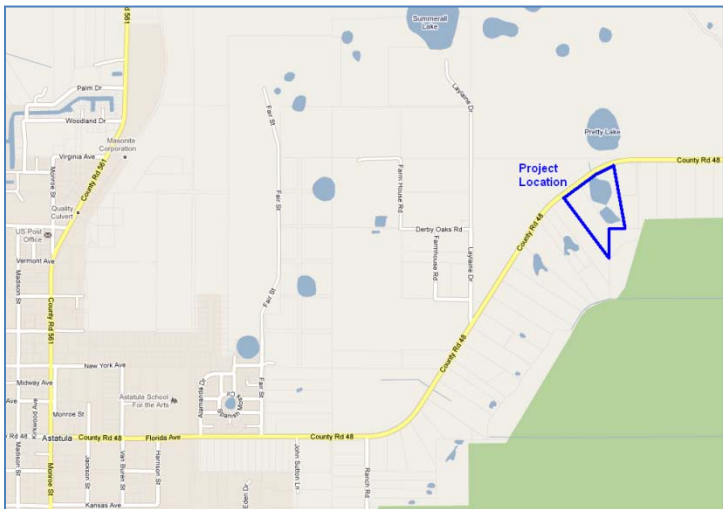
BOARD OF COUNTY COMMISSIONERS
November 15, 2011

CUP #11/12/1-3 Stanley Pond Farm	Case Manager: Melving Isaac, Planner	Agenda Item #3
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Applicant/Owner: Susan & Robert Denis (the "Applicant/Owner")

Requested Action: Amend Ordinance #2011-51 for CUP #11/3/1-3 to eliminate the one hour restriction for the airboat operation.

- Site Location & Information -



Approximate site location outlined in Blue

Site Visit October 14, 2011
Sign Posted October 14, 2011 (3 posted)

Size	23 +/- acres	
Location	Astatula area, South of CR 48, 2+/- miles east of the CR 48/ CR 561 intersection	
Alternate Key #	2915463 and 2873892	
Future Land Use & Maximum Density	Rural 1 du/5 acres	
	Existing	Proposed
Zoning District	A	No change
Density	1 du/5 ac	No change
Floor Area Ratio	.10	No change
Impervious Surface Ratio	.10	No change
Joint Planning Area	N/A	
Utility Area:	N/A	
Site Utilities	Existing well and septic system	
Road Classification	CR 48 - Rural Major Collector	
Flood Zone/ FIRM Panel	X/480	
Commissioner District	3 (Conner)	

Land Use Table

<u>Direction</u>	<u>Future Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>	<u>Comments</u>
North	Rural	Agriculture (A)	Wooded Area, Pasture	CR 48 along north property line
South	Public Resource Lands	Agriculture (A)	Lake Apopka Restoration Area	St. Johns River Water Management District
East	Rural	Agriculture (A)	Rural Residential	
West	Rural	Agriculture (A)	Rural Residential	

– Summary of Staff Determination –

STAFF RECOMMENDATION: Staff recommends **APPROVAL** of the request to eliminate the one hour restriction for the airboat operation and to rescind and replace Ordinance #2011-51 (CUP #11/3/1-3), with conditions set forth in the attached Ordinance.

ZONING BOARD RECOMMENDATION:

– Summary of Analysis –

The Applicant is requesting a text amendment to Ordinance #2011-51 of CUP #11/3/1-3 to eliminate the one hour restriction for the airboat operation.

The Lake County Board of County Commissioners approved Ordinance #2011-51 on August 23, 2011 for Conditional Use Permit (CUP #11/3/1-3) on property in the Agriculture (A) Zoning District to allow an agri-tourism operation including air boat rides, horticulture, aquaculture, animal husbandry, recreational activities, educational tours, training and meetings.

The approximately 23 acre subject property is located in the Astatula area, south of CR 48, approximately 2-miles east of the intersection of CR 48 and CR 561. The property is located within the Rural Future Land Use Category (FLUC). The request is consistent with the Land Development Regulations (LDR), which allow agri-tourism/recreational uses in the Agriculture (A) Zoning District with the issuance of a CUP.

– 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 text amendment has no bearing on consistency with the comprehensive plan and land development regulations. There is no change in use from what was previously approved.

B. Effect on Adjacent Properties.

1. The proposed Conditional Use will not have an undue adverse effect upon nearby property.

The applicant has provided a Noise Study prepared by Ted Wicks, P.E. dated August 16, 2011 (Attachment #1) that indicates the noise level from the airboat operation (78 db maximum at property line is lower than the noise level of the equipment used in the daily operation of the farm (107 db maximum at property line, Attachment #2). The Applicant seeks to remove the one hour restriction for the airboat operation contained in Section 2B.7.b of Ordinance 2011-51. The airboat operating hours will remain from 11:30 a.m. to 3:30 p.m.

The approved and proposed CUP Ordinance contains provisions to ensure the mitigation of adverse impacts on adjacent properties through the implementation of landscaping, buffering, screening, hours of operation and noise attenuation for the airboat operation.

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

As this request pertains to a text amendment, and does not intend to add new uses that would affect the character of the neighborhood, compatibility analysis is not applicable.

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.

The conditions approved by the Ordinance #2011-51 remain in effect as evidenced in the proposed ordinance. The CUP Ordinance contains provisions to ensure the mitigation of adverse impacts on adjacent properties through the implementation of landscaping, buffering, screening, hours of operation and noise attenuation for the airboat operation.

The Noise Study indicates that the noise level from the airboat operation (78 db maximum at property line, Attachment #1) is lower than the noise level of the equipment used in the daily operation of the farm (107 db maximum at property line, Attachment #2). The Applicant seeks to remove the one hour restriction for the airboat operation contained in Section 2B.7.b of Ordinance 2011-51. The airboat operating hours will remain from 11:30 a.m. to 3:30 p.m.

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 request does not seek to add any uses to the property, therefore, this CUP criteria is not applicable to the text amendment.

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.

This proposed text amendment does not have any impact on the adequacy of public facilities.

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.

Not applicable to the text amendment.

FINDINGS OF FACT: Staff has reviewed the application for the proposed conditional use permit and found:

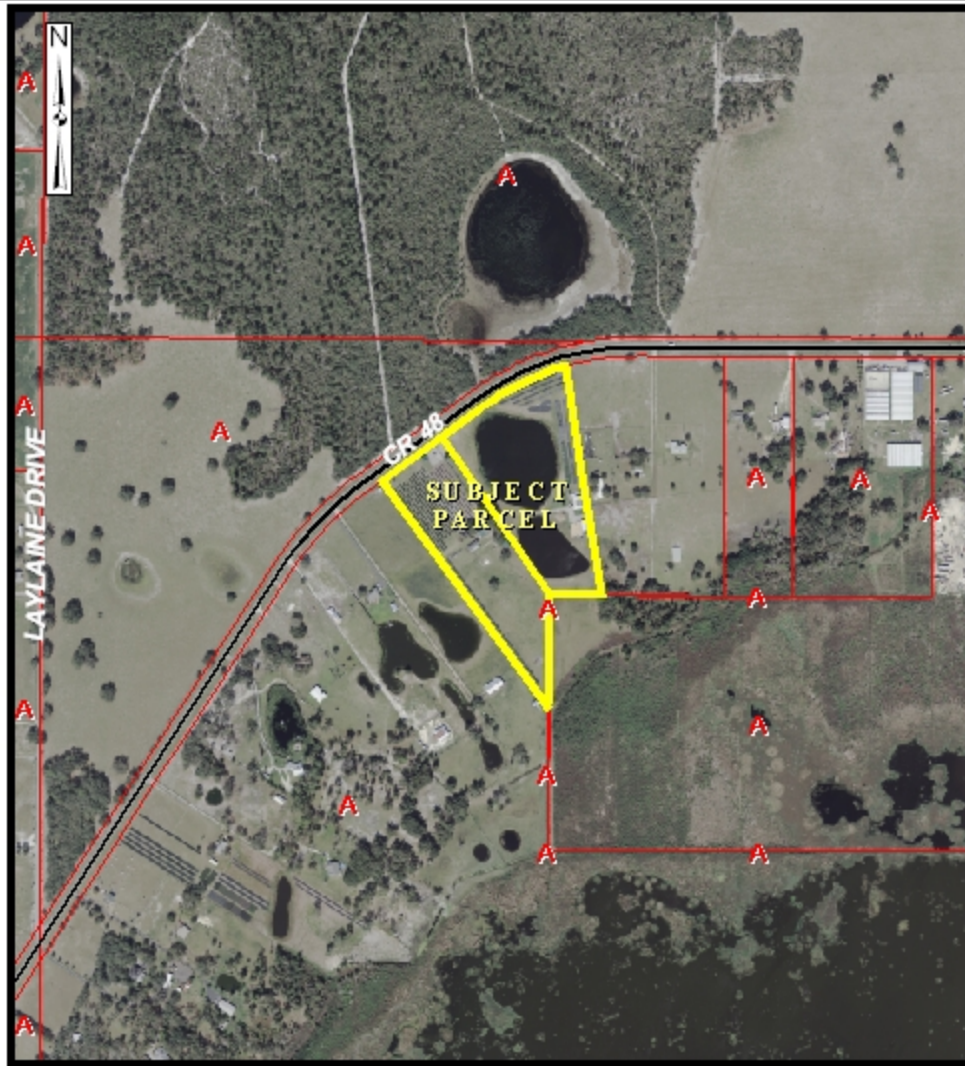
1. This application for a text amendment remains consistent with the Comprehensive Plan Policy I-1.4.4 and conforms to the general land use criteria and activities of the Rural Future Land Use Category.
2. This application for a text amendment remains consistent with LDR Table 3.00.03 that permits the Agriculture (A) Zoning District within the Rural Future Land Use Category.
3. This application for a text amendment remains consistent with LDR Table 3.01.03, *Schedule of Permitted and Conditional Uses*, which allow Riding Academies and similar uses to the proposed similar use of Agri-Tourism in the Agriculture (A) Zoning District, as a conditional use.
4. This application for a text amendment does not detract or alter the approved use of the property and remains consistent with LDR Section 14.05.00 for Conditional Uses.

Therefore, based on these findings of fact, staff recommends **APPROVAL with conditions**, as specified in the proposed ordinance.

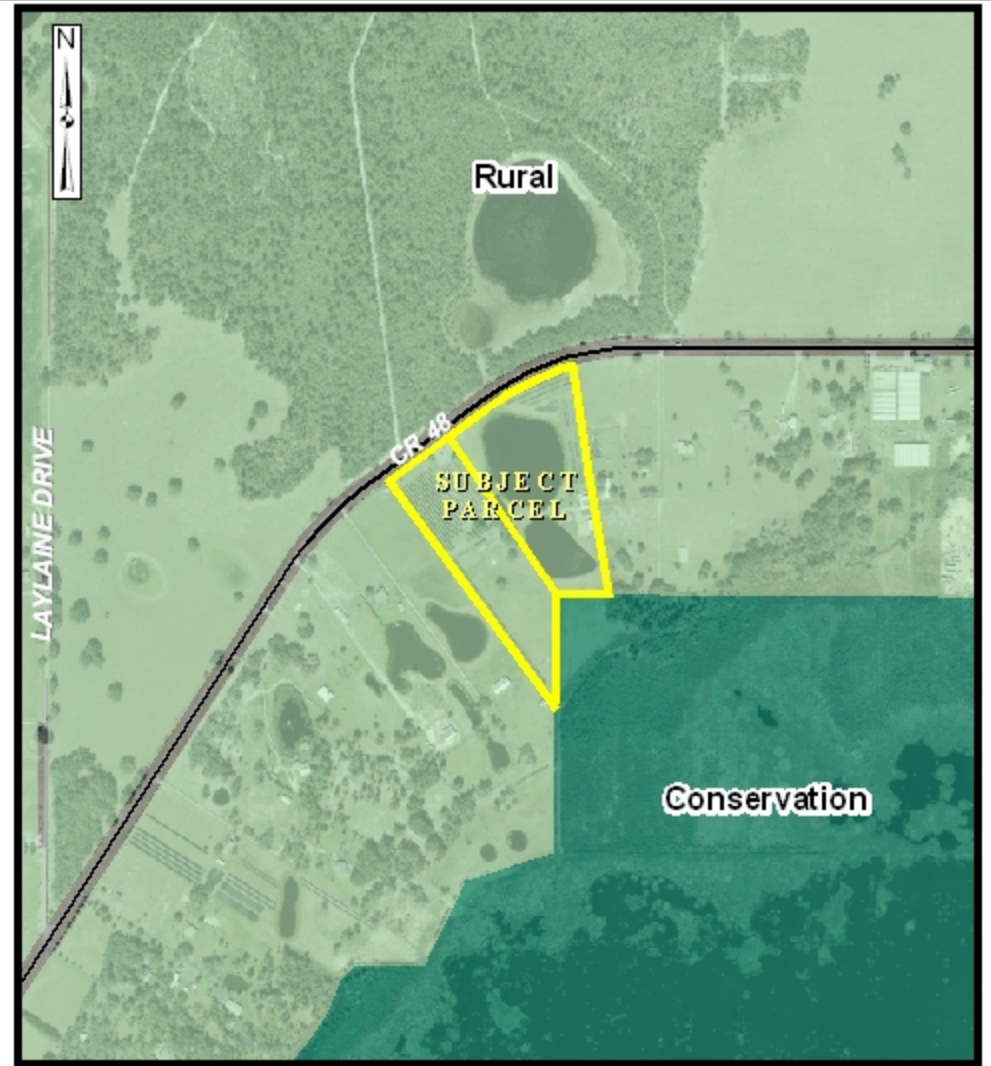
WRITTEN COMMENTS FILED: Supportive: -0-

Concern: -0-

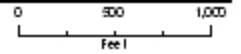
Opposition: -0-



CURRENT ZONING
AGRICULTURE (A)



ADOPTED FUTURE LAND USE
RURAL



STANLEY POND FARM

CASE NO.
CUP #11/12/1-3

CASE LOCATION:
T20S, R26E, S27

RE REQUESTING:
Text amendment to:
CUP #11/3/1-3 (Ordinance #2011-51)

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

REFERENCES:

Lake County GIS Department, Planning, 2008 Aerial Image;
Data Collection and Map production compliments of the
Growth Management Department, Planning/Community Design.

This map product was prepared from a Geographic Information System
maintained by the Lake County Board of County Commissioners, its
employees, agents and personnel, made no warranty as to its accuracy
and in particular its accuracy as to labeling, dimensions, contents, property
boundaries, or placement or location of any map features thereon. The Lake
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contained on this map product should be obtained by any user of this map.

MAP COMPOSITION
JANUARY, 2009



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

3 **Section 1** Permission is hereby granted for the operation of an Agri-tourism Recreational Facility, similar
4 to a Riding Academy, as a Conditional Use within the Agriculture (A) Zoning District.

5 **Section 2** Terms: This Ordinance shall supersede and replace Ordinance #2011-51, and revoke CUP
6 #11/3/1-3, and shall mean and include the total of the following uses as included herein. The
7 County Manager or designee shall amend the Lake County Zoning Map to reflect a CUP, in
8 accordance with this Ordinance.

9 A. Land Uses: Use of the site shall be limited to the use specified below and consistent with in
10 EXHIBIT "A", the Conceptual Plan:

- 11 1. Agricultural Attraction (Agri-Tourism) with functions including horticulture, aquaculture,
12 animal husbandry, recreational activities, educational tours, training and meetings.
- 13 2. Accessory uses directly associated with these uses may be approved by the County
14 Manager or designee. Any other use of the site shall require an amendment to this
15 Ordinance as approved by the Board of County Commissioners.

16 To the extent where there are conflicts between the Conceptual Plan and this Ordinance,
17 the Ordinance shall take precedence.

18 B. Specific Conditions:

- 19 1. Site plan approval is required to continue the Agri-Tourism uses. The Applicant shall
20 submit a site plan application within six (6) months of the effective date of this Ordinance.
- 21 2. The use on the property shall be in conformance with all Federal, State and Local
22 Regulations at all times.
- 23 3. There shall be no storage of materials, equipment or vehicles within setbacks or buffers.
- 24 4. Noise: Public Address Systems or similar amplification devices shall not be installed.
- 25 5. Hours of Operation: The facility may be open to the public from 9:00 a.m. to 5:00 p.m. for
26 outdoor activities. Activities within enclosed structures or not requiring the operation of
27 farm vehicles, airboat or other farm equipment are not limited.
- 28 6. Parking:
- 29 a. Parking surfaces may be grass or other pervious material.
- 30 b. Accessible parking shall be provided in compliance with the Florida Accessibility Code.
- 31 7. Airboats Operation:
- 32 a. Airboats shall be provided with an automotive-style factory muffler, underwater
33 exhaust, or other manufactured device capable of adequately muffling the sound of the
34 exhaust of the engine in accordance with the Florida Statutes, as amended. The
35 Permittee shall demonstrate that the airboat noise levels at the property line do not
36 exceed 78 decibels at any time.
- 37 b. Airboats operation shall be limited to the hours from 11:30 a.m. to 3:30 p.m. ~~and the~~
38 ~~operation of the airboat shall not exceed a total of 1.0 hour per day.~~

- 1 C. Setbacks: Setbacks shall be in accordance with the Comprehensive Plan and LDR, as
2 amended, except as adjusted by the Lake County Board of Adjustment (BOA) through
3 variance BOA #3-11-3.
- 4 D. Open Space, Impervious Surface Ratio, Floor Area Ratio, and Building Height shall be in
5 accordance with the Comprehensive Plan and LDR, as amended.
- 6 E. Landscaping, Buffering and Screening: Shall comply with the LDR, as amended, except as
7 adjusted by the Lake County Board of Adjustment (BOA) through variance BOA #3-11-3.
- 8 F. Wetlands: The ponds will be recognized as surface waters and will require the appropriate
9 wetland buffers of 15 feet and setbacks of 50 feet. Wetlands buffers shall be maintained with
10 Florida friendly grasses, groundcovers, shrubs or trees.
- 11 G. Fire Protection and Emergency Services Access: Access and fire safety requirements of the
12 property shall be provided in accordance with the Florida Fire Prevention Code and LDR, as
13 amended.
- 14 H. Lighting: Exterior lighting shall be in accordance with the LDR, as amended, and consistent
15 with Dark-Sky Principles, and shall not illuminate adjacent properties or public right of ways.
- 16 I. Signage: Signs shall be in accordance with the LDR, as amended.
- 17 J. Development Review and Approval: Prior to the issuance of any permits, the Applicant shall
18 submit a site plan generally consistent with EXHIBIT "A" – CONCEPTUAL PLAN, for review
19 and approval in accordance with the Comprehensive Plan and LDR, as amended. Any
20 deviation that is not generally consistent with the Conceptual Plan may require an amendment
21 of the CUP Ordinance as determined by the County Manager or designee.
- 22 K. Future Amendments to Statutes, Code, Plans, and/or Regulations: The specific references in
23 this Ordinance to the Florida Statutes, Florida Administrative Code, Lake County
24 Comprehensive Plan, and Lake County Land Development Regulations shall include any
25 future amendments to the Statutes, Code, Plans, and/or Regulations.
- 26 L. After establishment of the facilities as provided herein, the aforementioned property shall only
27 be used for the purposes named in this Conditional Use Permit, unless a proposed use meets
28 every requirement of the zoning district in which the property is located. Any other proposed
29 use must be specifically authorized by the Board of County Commissioners.

30 **Section 3** Additional conditions of this permit shall mean:

- 31 A. In the event of any breach in any of the terms or conditions of this permit or any default or
32 failure of the Permittee or his successor to: Fulfill development in substantial accordance with
33 the conceptual plan as submitted to the Zoning Board and the Board of County
34 Commissioners; comply with the codes of the governmental agencies having lawful and
35 appropriate jurisdiction thereon; or comply with any of the terms of the Conditional Use
36 Permit; or this CUP is found to become a nuisance or safety hazard, the permit may be
37 revoked after due Public Hearing before the Zoning Board and the Board of County
38 Commissioners.
- 39 B. This Conditional Use Permit shall inure to the benefit of, and shall constitute a covenant
40 running with the land; and the purpose, terms, and conditions contained herein shall be
41 binding upon the Permittee or any successor and his interest hereto.

- 1 C. Action by the Lake County Code Enforcement Special Master. The Lake County Code
- 2 Enforcement Special Master shall have authority to enforce the terms and conditions set forth
- 3 in this ordinance and to recommend that the ordinance be revoked.
- 4 D. Inspection. This use shall be inspected by the Code Enforcement Division annually to ensure
- 5 compliance with the conditions of this Conditional Use Permit and the approved site plan. An
- 6 annual inspection fee will be assessed. If an emergency inspection is necessary during non-
- 7 operating hours, a fee shall also be assessed.

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

9
 10 ENACTED this _____ day of _____, 2011.
 11
 12 FILED with the Secretary of State _____, 2011.
 13
 14 EFFECTIVE _____, 2011.

15
 16 **BOARD OF COUNTY COMMISSIONERS**
 17 **LAKE COUNTY, FLORIDA**

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 19 _____
 20 **JENNIFER HILL, Chairman**

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ATTEST:

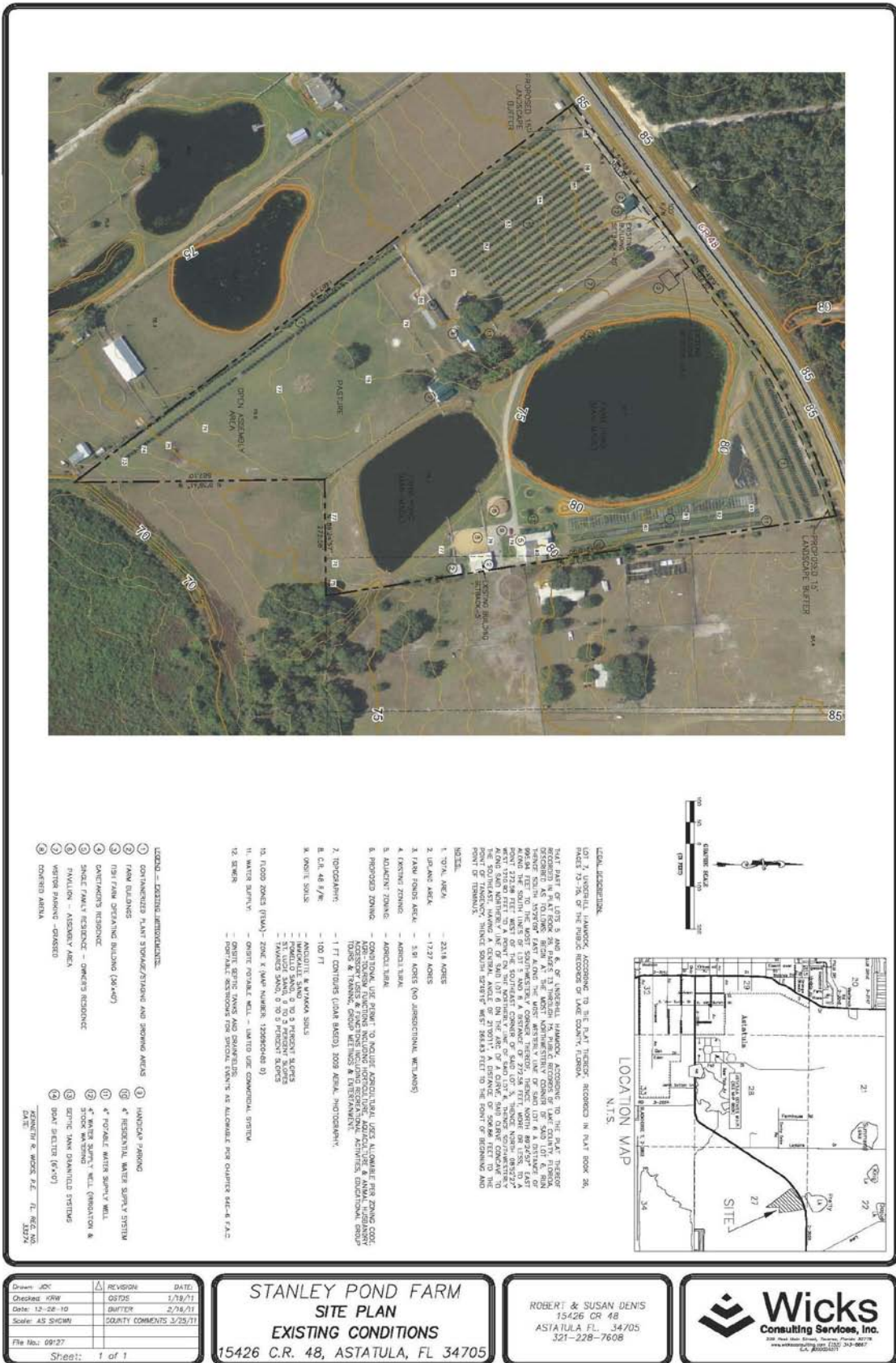
NEIL KELLY, Clerk of the
Board of County Commissioners
Lake County, Florida

APPROVED AS TO FORM AND LEGALITY

SANFORD A. MINKOFF, County Attorney

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2

EXHIBIT "A" - CONCEPTUAL PLAN



ATTACHMENT 1

STANLEY POND FARM

Sound Study

August 16, 2011

Introduction

The Stanley Pond Farm is an existing agricultural operation consisting of nursery plant growing, animal husbandry, aquacultural and other accessory uses. The Owners have requested a Conditional Use Permit in the Agricultural (A) zoning District to allow agritourism functions including the existing horticultural, aquacultural, and animal husbandry as well as recreational activities, educational tours, plant growing and management training and meetings (garden clubs, Scout Clubs, etc.).

Included in the recreational activities is the use of a small airboat. The airboat is powered by a 25 hp motor that is equipped with a factory type muffler. The airboat is used to provide a short tour ride around the northern lake that is contained entirely within the parent parcel. The tour is conducted at low speeds and safe conditions are observed at all times.

Due to concerns regarding sound generated by this airboat, a brief study was conducted to establish the sound levels generated during the normal operation of the unit.

On August 16, 2011, sound level measurements were performed at the Facility. Measurements were begun at approximately 8:30 AM. A position adjacent to the east property line closest to the pond where the airboat will be operated was selected. The position was also estimated to be the closest point between the residence on the adjacent property and the pond. An Extech 407730 sound level meter was used. This meter measures sound in decibels and has been Factory calibrated.

A hand sketch is attached that shows the approximate route that is used for the airboat tour. The location for the sound measuring is noted on the sketch.

Background

Several sound readings were taken to establish ambient or background conditions. The range of decibels for this condition was 45 – 55 db. Background sound included vehicles traveling on C-48 and from the dog kennel located on the adjacent property.

Operation Evaluation

As noted on the sketch, sound readings were taken along the three stages of the tour. Sound meter readings were recorded along with general observations with the airboat operating normally during each stage.

The Stage 1 airboat operation consisted of the startup and a short run to achieve the desired speed. The sound meter readings varied and the peak reading was recorded.

The Stage 2 operation was performed at the desired traveling speed with the airboat engine rpm's at mid range. The peak reading was recorded.

The Stage 3 operation of the airboat was done at the maximum rpm's needed to navigate the boat thru the remainder of the tour. The engine rpm's were gradually reduced to allow docking of the boat. The peak reading was recorded for Stage 3.

Stage 1	peak instantaneous	60 db
Stage 2	peak instantaneous	71 db
Stage 3	peak instantaneous	78 db

Additional sound meter readings were taken during maximum operation of the airboat to establish instantaneous peak sound. The airboat was operated at maximum rpm's along the tour route. Sound meter readings were taken when the boat was closest to the established collection point at the following intervals:

50 feet from east property line	peak instantaneous	81 db
20 feet from edge of pond	peak instantaneous	89 db
Edge of pond	peak instantaneous	95 db

Conclusions

The peak instantaneous sound levels observed and measured were of very short duration. Only a few seconds of time lapsed during the peaks. The peak sound levels generated during the tour were generally only 20 to 30 percent above the measured peak background sound. The sound generated during the airboat tour was not constant and varied as noted above. The entire tour lasted only 2.3 minutes; consequently, at the estimated number of trips, the airboat will run less than an hour per day. This limits the exposure times to off site and on site areas to only a fraction of that which is allowed under OSHA standards

Recommendation

Based upon the information obtained during the Study, the sound generated by the use of the airboat as discussed is well below the exposure levels and time that can be considered excessive. Even at the maximum rpm's, the sound generated was well within OSHA exposure levels.

The proposed CUP contains the following conditions:

- 7. Airboats shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine in accordance with the Florida Statutes, as amended. The Permittee shall demonstrate that the airboat noise levels at the property line do not exceed 70 decibels at any time.*

The proposed compliance level of 70 decibels should be increased based upon the results of the Study. A 78 db sound level would be more reasonable and will provide the needed sound control protection for off site areas and allows for operational flexibility by the Owner/Operator. The 78 decibels was the peak instantaneous sound measured during the routine operation of the airboat. Also, the Owner is willing to limit the use of the airboat to between 11 AM and 3 PM on days it is operated.

Prepared By:



Kenneth R. Wicks, P.E. , Fla Reg. #33274 Date 8/23/11

ATTACHMENT 2

From: [Tricia Merrill](#)
To: [Isaac, Melving](#)
Subject: dB levels
Date: Thursday, October 13, 2011 3:51:12 PM

<i>Equipment</i>	<i>Db Level</i>
John Deer Tractor 20Hp	88
910 Caterpillar Loader	98.6
4030 John Deer Tractor	99
John Deer-35 Hp	107
Zero Turn Mower-20Hp	99
120 Farm All	84

Tricia Merrill
Stanley Pond Adventure Farm
Operations Manager
352-516-4937
www.stanleypondfarm.net
info@stanleypondfarm.net